

**From:** [Jacob Patterson](#)  
**To:** [Gurewitz, Heather](#); [O'Neal, Chantell](#)  
**Cc:** [rhiannon.korhummel@wildlife.ca.gov](mailto:rhiannon.korhummel@wildlife.ca.gov)  
**Subject:** 420 North Harbor Drive Noyo Harbor Fence Project Comment  
**Date:** Tuesday, March 9, 2021 11:27:22 AM

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Heather & Chantell,

I reviewed Teresa Spade's report that was uploaded to the public agenda packet this morning along with the omitted email from CDFW but I don't see any updated correspondence with CDFW or other responsible agencies. In her report, Teresa specifically mentions that her review was a limited in scope and concludes her report with the following:

"The biological scoping survey has been conducted to facilitate the issuance of a permit to build within the Coastal Zone in the City of Fort Bragg. This limited analysis does not constitute a full floristic survey or formal wetland delineation, and no species-specific wildlife surveys were performed. The determinations outlined in this scoping reflect the professional opinion of Spade Natural Resources Consulting Agencies may need to be consulted to determine if they are in agreement."

Since I don't see any communication with CDFW after Teresa made her site visit and authored the report on February 26, 2021, I assume it was not distributed to the responsible agencies for their review and comment. I think Teresa's report should have been sent to CDFW for their review since the City is now proposing new protective/mitigation measures related to the ESHA, which are different from CDFW's original recommendation. Teresa's report supports this in her final sentence. When CDFW first had the opportunity to review this proposed permit, their comments did not have the benefit of an actual biological survey and report so they should have been consulted again (per Teresa's report). Luckily, I think there is time to do that prior to the Planning Commission hearing this week. Moreover, the responsible agencies should also have the opportunity to review the runoff control plan (also required by the Coastal General Plan) to make sure it is adequate to protect the wetland areas Teresa identified on the site and included in her report.

Thanks,

Jacob

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## § 15300.2. Exceptions.

14 CA ADC § 15300.2

### BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

Barclays Official California Code of Regulations [Currentness](#)

Title 14. Natural Resources

Division 6. Resources Agency

Chapter 3. Guidelines for Implementation of the California Environmental Quality Act

Article 19. Categorical Exemptions

14 CCR § 15300.2

## § 15300.2. Exceptions.

(a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

(b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

(d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

(e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

(f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Sections 21084 and 21084.1, Public Resources Code; *Wildlife Alive v. Chickering* (1977) 18 Cal.3d190; *League for Protection of Oakland's Architectural and Historic Resources v. City of Oakland* (1997) 52 Cal.App.4th 896; *Citizens for Responsible Development in West Hollywood v. City of West Hollywood* (1995) 39 Cal.App.4th 925; *City of Pasadena v. State of California* (1993)

**Gonzalez, Joanna**

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**From:** noreply@granicusideas.com  
**Sent:** Monday, February 08, 2021 10:50 AM  
**To:** Gonzalez, Joanna  
**Subject:** New eComment for Planning Commission - Video Conference



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## New eComment for Planning Commission - Video Conference

Mendocino Action Council for Accountable Government Organizations submitted a new eComment.

Meeting: Planning Commission - Video Conference

Item: 4A. 21-017 Conduct a Public Hearing and Consider Approval of Coastal Development Permit 2-20 (CDP 2-20) and Design Review 5-20 (DR 5-20) to construct a fence at 420 N. Harbor Drive

eComment: This staff report is confusing and doesn't make sense. Entire sections of the staff report include discussions that aren't even about what that section is supposed to address (e.g., no analysis of the applicable policies in the general plan in the section about consistency with the general plan).

[View and Analyze eComments](#)

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February 9, 2021

Dear Members of the Planning Commission,

We are in receipt of the Public Comment submitted to the Planning Commission on February 6, 2021 by Mr. Jacob Patterson pertaining to the proposed action to be discussed at the upcoming meeting on February 10, 2021 which is noted as Item 4A: CDP 2-20. In reading Mr. Patterson's comments, we felt it important for us to address a number of his concerns.

In his lengthy comments Mr. Patterson makes numerous erroneous and unsubstantiated claims as to the proper interpretation of The California Environmental Quality Act (CEQA) and to the proper role of the Ft. Bragg Planning Department in making both recommendations and providing guidance to the Planning Commission.

The California Environmental Quality Act (CEQA) has been both a shining example to much of the country as a model for how to implement and determine proper environmental controls throughout the state, and as a model for creating a way for the state to control potential "renegade" projects that would have a significant adverse impact on the environment. It has been litigated literally hundreds of times as to the proper role of local authorities and how they interpret and implement (CEQA). Overwhelmingly the courts have sided both on the side of conservation and environmental concerns, but also on the authority of local planning departments and commissions to determine what is in the best interests of both their local communities and the state.

Courts have interpreted CEQA to afford the fullest protection of the environment within the reasonable scope of the statutes. Certain types of projects, such as construction of small structures or minor changes to existing structures are considered "categorically exempt" from the often time-consuming and expensive process of CEQA review. The reasoning behind these exemptions is that projects in the specified categories are limited in nature and ordinarily do not pose a risk of causing adverse environmental impacts.

Mr. Patterson cites the project at issue in *Berkeley Hillside* which involved demolition of an existing single-family home and construction of a new 6,478 square foot single-family residence with an attached 3,394 square-foot, 10-car garage, situated on property with a relatively steep slope. The City concluded the project was categorically exempt pursuant to the In-fill exemption (CEQA Guidelines § 15332) and the "New Construction or Conversion of Small Structures" exemption (CEQA Guidelines § 15303(a)). Opponents alleged reliance on the categorical exemptions was improper given that (1) the combined size of the residence and garage, (2) the "massive grading" that would be required given the steep slopes, and (3) the potential "seismic lurching" given its purported location near a major earthquake trace and

within a State-designated landslide hazard zone, would result in the project having significant environmental impacts.

The decision the Court held was that *whenever* there is substantial evidence of a fair argument that a significant environmental impact may occur, this *automatically* satisfies the “unusual circumstances” exception.

In a nutshell, if there is evidence that a project in the usually-exempt category will have significant environmental impacts, that evidence may be enough to suggest that some unusual circumstance is involved and therefore precludes reliance on a categorical exemption. The exemption before the planning commission for 420 North Harbor Drive is not such a case. There is simply no correlation in scope between the case Mr. Patterson cites and our request to build a fence alongside and adjacent to a current city fence.

In another case, *CREED-21 v. City of San Diego* (2/18/2015, 4th Civil No. D064186), the Fourth District Court of Appeal upheld a CEQA exemption related to the City of San Diego’s approval of a project comprising emergency storm drainage repair and site revegetation. The decision addressed various CEQA issues, including the environmental baseline determination, the “common sense” exemption, and the “unusual circumstances” exception.

In 2011, the City proposed a revegetation plan for restoration of the area impacted by the storm drain. The goal of the plan was “to restore the area entirely with native vegetation and thereby biologically improve on the current post-impact conditions of the site.” Therefore, the City had concluded based on an initial study that the project qualified for the “common sense” exemption because the project obviously would not result in significant environmental impacts. This is another case where we believe our building of a fence meets the “common sense doctrine.

In submitting our request for a building permit, we are asking for permission to build a fence, where one year ago a building stood. The location of the fence follows much the same footprint where the old building stood. We would note, we are not looking to erect a nuclear power plant, but a 90-foot fence, six feet high, made from old growth redwood. I would also note that in looking carefully at the submitted fence design you will note that it is attractive and well designed. The same cannot be said of the fence which is located directly across the street.

Although we agree that not all projects should be exempt from CEQA, the argument made by Mr. Patterson is that the City of Fort Bragg does not have discretion to use exemptions on any project that would fall into one of the exemption categories, no matter the scope, size and most importantly regardless of environmental impact. If in Mr. Patterson’s argument the Planning Commission does not have this discretion for a project as minor as a fence that will act to prevent the area from becoming a local dumping ground, then when? The (CEQA) specifically carves out specific projects and classes of projects for just such exemptions. Furthermore, if the objective of (CEQA) is to minimize damage, then there is room to argue that not having the fence would be far more detrimental to environment.

For over 80 years the Figueredo Family have been valued members of the Ft. Bragg community. From our Grandfather Manuel Figueredo, to his siblings, to our cousins, the family have been active and stalwart contributors to the community we believe in and love. As long-standing members of the community, the last thing we would want is to harm the Ft. Bragg community in any way. We strongly believe that this simple, elegant fence will not only do no harm, but will prevent the area in which it will go up from becoming a dumping ground and eyesore.

With thanks and appreciation for your consideration of our permit request.

Tracy Kane & Constance Lyons

Additional Note:

The width of a buffer zone is based on the necessary distance to ensure that the most sensitive species of plants and animals will not be disturbed significantly. The scope and scale of this project is not expected to reduce or devalue the quality of habitat of either.

The recently demolished building was already located entirely within the required 100-foot buffer and the fence line will be not be any closer to ESHA than the previously existing building. As such, the project will not result in new ESHA impacts.

## Gonzalez, Joanna

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**From:** Jacob Patterson <jacob.patterson.esq@gmail.com>  
**Sent:** Saturday, February 06, 2021 12:40 PM  
**To:** Gonzalez, Joanna  
**Cc:** Gurewitz, Heather; O'Neal, Chantell  
**Subject:** Public Comment -- 2/10/21 PC Mtg., Item 4A: CDP 2-20  
**Attachments:** CEQA Guidelines 15300.2.pdf

Planning Commission,

As has been the case for nearly every staff report coming from the Community Development Department in the last few meetings, there are significant flaws in the analysis and recommendations for proposed CDP 2-20 and DR 5-20, including not providing support for all of the required findings in the administrative record, a chronic yet easily avoidable problem. These significant defects extend to the CEQA determination and attempted reliance on a categorical exemption to avoid environmental review. City staff has selected the Class 3 categorical exemption for small structures. The staff report states "The City of Fort Bragg is Lead Agency for California Environmental Quality Act purposes, and this project is exempt from CEQA per Section 15303(e): accessory structures, including fences." First of all, this statement is patently false because even applicable categorical exemptions don't make a project "exempt from CEQA", a categorical exemption only makes a project exempt from further environmental review, avoiding the need for an Initial Study or more comprehensive CEQA document. Putting that technical defect aside, the City's attempt to avoid normally necessary environmental review for this CDP fails because it cites a categorical exemption that doesn't apply to this project. CEQA Guidelines section 15300.2, subd. (a) and (c), which is attached to this comment, demonstrate that the location of a project that includes a sensitive habitat or protected natural resource, or if a project site or surrounding area presents "unusual circumstances" compared to other sites or projects that would normally qualify for a categorical exemption, then the categorical exemption does not apply to the project and further environmental review is necessary.

The applicability of and exceptions to categorical exemptions have been litigated and the case law governs the City's actions in addition to the CEQA Guidelines themselves. The California Supreme Court case that confirmed the applicability of categorical exemptions absent unusual circumstances (*Berkeley Hillside Preservation v. City of Berkeley*), specifically talked about what could constitute unusual circumstances and prevent reliance on a normally applicable categorical exemption. One of the specific examples used in that opinion to illustrate when "unusual circumstances" might apply was a normally exempt structure that was proposed to be constructed within an ESHA. (That example in the court's opinion cited part (a) of the same Class 3 exemption Heather mentions in the staff report; part (a) applies to construction of one single-family residence but the subdivision Heather cites, part (e), applies to small accessory structures, including accessory fences). The California Supreme Court explained that the presence of an ESHA on the site of a proposed project may provide the "unusual circumstances" necessary to prevent reliance on a Class 3 categorical exemption, particularly when specific potentially significant impacts are identified and even proposed to be mitigated. In this case, CDFW and the staff report both acknowledge that this property includes an identified ESHA. If the presence of an ESHA presents an unusual circumstance preventing reliance on a normally-applicable Class 3 categorical exemption, and ESHAs are on this proposed project site, and CDFW recommended a mitigation measure to avoid what would be significant impacts of the project to the onsite ESHAs, then trying to rely on a Class 3 categorical exemption for this project is a mistake and would constitute an abuse of discretion. The Planning Commission should not make that mistake despite staff recommending that you do so.

If the Planning Commission wishes to approve the permits for this proposed project, you should continue the item to another meeting and direct staff to prepare adequate supporting analysis and documentation, including an MND as the CEQA document for this project based on the documented ESHAs on the project site and the mitigation measures recommended by CDFW. If the City took the time to prepare and circulate an MND for the Halsey Way subdivision even though no ESHA or native habitat was present on that site, there is no reason we would not have prepared and circulated an MND for this project that actually has documented ESHA on the site (other than a lack of experience and competence in planning reviews). The CEQA Guidelines make clear that even if a categorical exemption superficially appears to apply to a project, it cannot be relied on to avoid further environmental review for a project where the location of, or unusual circumstances concerning, the site of the proposed project suggest the project will have potentially significant impacts.

The exceptions in CEQA Guidelines section 15300.2 apply to this project because of the location of the site and the documented ESHA on the site, which have specifically been identified as a concern for this project in a way that is different for other projects proposed in different locations and without identified ESHA or mitigation measures addressing the impacts to those ESHA. Moreover, the proposed mitigation measures should be strengthened because of the prior unpermitted tree removal activities on the site. I believe the prior unpermitted cutting already had a negative impact on the Coast Live Oak trees (part of the identified ESHA) and this project could contribute to those impacts in a cumulatively considerable way without effective mitigation measures. The cumulative impacts of this project from further damage to the on-site ESHA are significant but the mitigation measure only addresses avoidance techniques based on future actions but which do not include any follow-up or monitoring mechanisms to ensure compliance.

Finally, the staff report refers to CDFW's recommendation but does not quote the actual recommendation (much like how Heather misrepresented the actual language and focus of the Planning Commission's motion to deny the Sunshine Holistic permits when she prepared the staff report for the appeal with the City Council). In fact, Special Condition #1 (purportedly addressing CDFW's recommendation) is significantly abbreviated from their actual recommendation. CDFW actually stated the following: "CDFW Recommendation 1: Vegetation mowing should occur from August 16 through January 31, outside the nesting bird season, if feasible. **If vegetation removal/mowing during this time is not feasible, a pre-construction bird survey should be performed by a qualified biologist no more than 14 days prior to the initiation of vegetation clearing. The survey should cover the project area and vegetated areas within 100-feet. If active nests are found, an appropriate no-disturbance buffer should be established by the qualified biologist. Once it is determined that the young have fledged or the nest otherwise becomes inactive, the buffer may be lifted and work may be initiated within the buffer**" (emphasis added). As you can see, CDFW recommended more significant mitigation for this project than what staff is presenting for your consideration. The Planning Commission should reject what appear to be staff's attempted manipulations and lack of transparency and demand an honest presentation of all relevant information and the actual recommendations of the responsible agencies reviewing the details of this proposed project. (This is particularly true for a project in an area with a past history of unpermitted vegetation removal and impacts to ESHA, which suggests that merely stating that no mowing will occur other than between August 16 through January 31 when we are in the middle of the bird nesting season and the permitted time period for moving and removal will not start until August 16, over six months from the date of this public hearing!)

I understand that this is only a permit for a fence but strongly believe we cannot continue to ignore (for convenience sake) bad practices and inadequate procedures for permit reviews even if we did so in the past. All of the recent staff changes have actually made these problems and defects worse, with the quality of work plummeting to all-time lows under the current team. Even though the Planning Commission cannot reasonably approve these permits at this time based on the staff report and "analysis" that has been presented, I am not recommending that you deny these permits. Instead, the Planning Commission should continue the item and direct staff to bring it back for your likely approval after it has been processed according to legal requirements and all findings and determination are adequately supported by substantial evidence in the record, including

incorporating the complete mitigation measure recommended by CDFW. To take any other path would harm the applicant who only wants to build her fence but who would likely be subjected to appeals, avoidable delays, and unnecessary expenses due entirely to staff's inadequate work which does not demonstrate any competence. This permit applicant and the community deserve far better than what they are receiving from City staff.

Best regards,

--Jacob

**Gonzalez, Joanna**

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**From:** Jacob Patterson <jacob.patterson.esq@gmail.com>  
**Sent:** Wednesday, February 10, 2021 3:53 PM  
**To:** CDD User; Gonzalez, Joanna  
**Subject:** Public Comment -- 2/10/21 PC Mtg., Item 4A: CDP 2-20

Per Chantell's request, I thought I would forward my original email to you to be included as a public comment tonight. I did not intend it to be a public comment and it is somewhat duplicative from the official public comment I did send in but it doesn't hurt to include it anyway.

----- Forwarded message -----

**From:** O'Neal, Chantell <[COneal@fortbragg.com](mailto:COneal@fortbragg.com)>  
**Date:** Wed, Feb 10, 2021 at 2:00 PM  
**Subject:** RE: Implied CEQA mishap for coastal zone fence CDP  
**To:** Jacob Patterson <[jacob.patterson.esq@gmail.com](mailto:jacob.patterson.esq@gmail.com)>

Jacob,

Agendas for regular meetings publish at least 72 hours before that scheduled meeting. Please submit Public Comments using those methods defined in the Hearing Notice.

*Chantell O'Neal*

Assistant Director, Engineering Division

Public Works

(707) 961-2823 ext. 133



**From:** Jacob Patterson [mailto:[jacob.patterson.esq@gmail.com](mailto:jacob.patterson.esq@gmail.com)]  
**Sent:** Friday, February 5, 2021 10:00 AM  
**To:** O'Neal, Chantell <[COneal@fortbragg.com](mailto:COneal@fortbragg.com)>  
**Subject:** Implied CEQA mishap for coastal zone fence CDP

Chantell,

I was reviewing some records requests with my associates at S.C.R.A.M. and we found the email below about the upcoming agenda item. CDFW's recommendation is clearly a mitigation measure that likely cannot be implemented solely as a special condition of the permit, it is required to be included as a mitigation measure in an MND because of the unusual circumstances that applies to the project site compared to other locations where vegetation removal and installation of a fence would probably be exempt due to an applicable categorical exemption, including its location in the harbor on a parcel in the Coastal Zone containing significant cover of native plant populations (e.g., Coast live oak trees) and wildlife habitat. (In fact, there were unpermitted native tree removals in this area that resulted in code enforcement and stop work order a little more than a year ago.) This is a similar procedural situation to the Halsey Way subdivision, where there was a single mitigation measure MND. The City imposed a mitigation measure for that project so an MND needed to be prepared and circulated for public comment prior to any public hearing, which has not happened for this permit even though the public hearing notice already went out. We have applied mitigation measures to other CDPs for fences, including elevating the fence panels or wire at least 6 inches off the ground to permit wildlife movement.

These parts of the review process apparently were not done in this case, and an MND likely needs to be prepared and circulated for public review and comment, which will necessarily delay the public hearing date. When can the public expect an agenda and staff report for this item? You sent out a notice requesting public comments but no information on the project has been made available to the public (despite that notice calling for comments) and inquiries with Heather, the designated staff contact, have not been responded to at all, let alone in a timely manner. These issues raise numerous red flags about the likely (in)adequacy of the review for this CDP that will need to be addressed during the public hearing.

--Jacob

Hi Connie,

The good news, they aren't requiring a biological study, however, CDFW has the following recommendation. I also received a response from the building inspector, and you will not need a building permit. However, you may need something else because that small section of road is partially owned by the county and their department of transportation could potentially require something:

Thank you for the referral and the opportunity for CDFW to comment on CDP 2-20 OR3-20. We offer the following informal comments and recommendations on this Project in our role as a Trustee Agency under the California Environmental Quality Act (CEQA; California Public Resource Code section 21000 et seq.). These comments are intended to help the Lead Agency in making informed decisions early in the review process.

The Small Construction Site Stormwater Erosion and Sediment Control Plan requires work to be done from April 1 through October 31 to avoid the wet season. This period is within the nesting bird season which is February 1 through August 15. Based on familiarity with the parcel, shrubs and trees which may provide nesting habitat for birds is known to be present.

**CDFW Recommendation 1:** Vegetation mowing should occur from August 16 through January 31, outside the nesting bird season, if feasible. If vegetation removal/mowing during this time is not feasible, a pre-construction bird survey should be performed by a qualified biologist no more than 14 days prior to the initiation of vegetation clearing. The survey should cover the project area and vegetated areas within 100-feet. If active nests are found, an appropriate no-disturbance buffer should be established by the qualified biologist. Once it is determined that the young have fledged or the nest otherwise becomes inactive, the buffer may be lifted and work may be initiated within the buffer.

Heather Gurewitz

Associate Planner

City of Fort Bragg

416 N. Franklin St.  
Fort Bragg, CA 95437

(707) 961-2827 x118

*\*\*\* Due to COVID-19 City Hall is currently closed to the Public except by appointment. I will respond to emails in the order they are received. Thank you for your patience during these difficult times.\*\*\**

Email correspondence with the City of Fort Bragg (and attachments, if any) may be subject to the California Public Records Act, and as such may therefore be subject to public disclosure unless otherwise exempt under the Act.

## **4. CONSERVATION, OPEN SPACE, ENERGY, AND PARKS ELEMENT**

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### **A. Purpose**

The Conservation, Open Space, Energy, and Parks Element of the Coastal General Plan combines two State-mandated elements, Conservation and Open Space. It also includes policies and programs addressing energy conservation, Environmentally Sensitive Habitat Areas, water quality, public access, and recreation.

Open space is defined by Government Code Section 65561 as “any area of land or water which is essentially unimproved and devoted to open space use and which is designated on local, regional or a State open space plan for the preservation of natural resources, the managed production of resources, outdoor recreation, or for public health and safety.” Fort Bragg’s open space includes lands which are publicly-owned and operated for active or passive recreational use and land which is in private ownership but is either undeveloped or managed for the protection and enhancement of natural resources. Open space in Fort Bragg provides for coastal access, recreational uses, scenic and aesthetic resources, and habitat preservation.

The City wishes to create a sustainable environment by conserving natural resources, reducing anthropogenic greenhouse gases, and encouraging its citizens to reduce their carbon footprint. The City also wishes to preserve as much open space as feasible to provide habitat for native species of plants and wildlife, reduce sprawl, and maintain the aesthetic benefits of undeveloped land, and to provide its residents with a full range of recreational opportunities. The City seeks to conserve natural resources and provide its residents with a full range of recreational opportunities. The goals, policies, and programs of this Element address these aims by establishing the framework for the protection and enhancement of natural resources, reduction of greenhouse gas emissions, protection of water quality, and enhancement of open space, and for the provision of coastal access and recreational opportunities for Fort Bragg residents and visitors.

The Draft EIR for the General Plan contains a full description of the natural resources, parks, trails, and recreational facilities existing within the Planning Area. The Draft EIR also contains a full description of natural resources occurring within the Planning Area. See Map OS-1 for a depiction of Environmentally Sensitive Habitat Areas, Map OS-2 for a depiction of Special Review Areas, Map OS-3 for a listing of existing trails, and Map OS-4 for a depiction of existing parks and recreational facilities.

### **B. Goals, Policies, and Programs**

The following policies demarcated with the Fort Bragg City seal:  are not part of the certified LCP and do not govern the review and approval of coastal development permits: Policy OS-7.1, Policy OS-7.2, Policy OS-8.1, Policy OS-17.4, Policy OS-17.5, Policy OS-17.7, Policy OS-18.2, and Policy OS-18.3,

# Environmentally Sensitive Habitat Areas and Conservation

## Goal OS-1 Preserve and Enhance the City's Environmentally Sensitive Habitat Areas

Policy OS-1.1: Definition of ESHA. "Environmentally sensitive habitat area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Protection of environmentally sensitive habitat areas is one of the essential aspects of the Coastal Act. Fort Bragg has several environmentally sensitive habitat areas including, but not limited to, portions of coastal bluffs, biologically rich tide pools, nesting grounds, kelp beds, wetlands, riparian habitats, and rare, threatened, or endangered plants or plant communities.

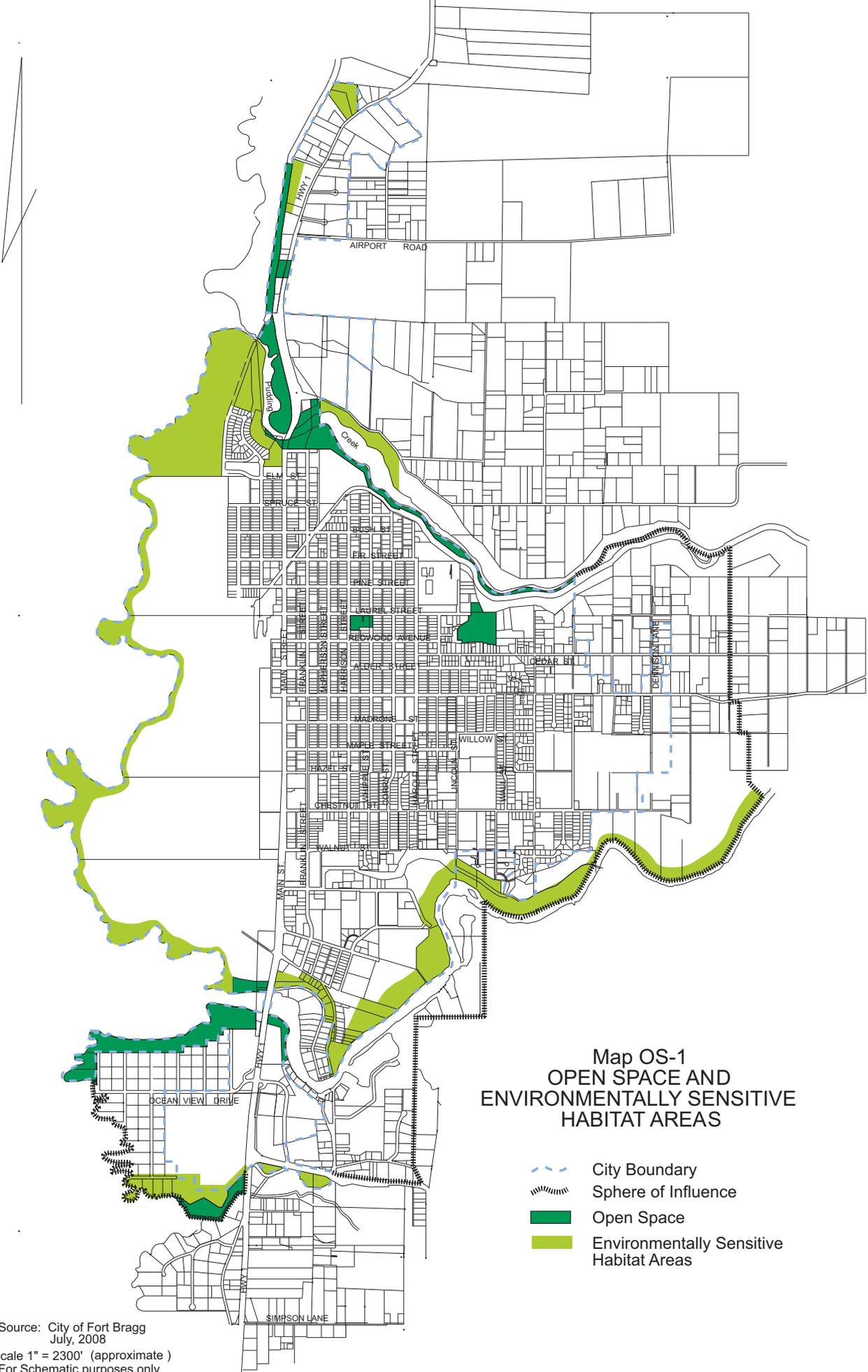
Areas that may contain environmentally sensitive habitat areas include, but are not limited to, areas indicated by Map OS-1: Open Space and Environmentally Sensitive Habitat Areas. The environmentally sensitive habitat areas shown on Map OS-1 are based on the best information available at the time mapping was done. The boundaries of environmentally sensitive habitat areas identified in Map OS-1 are not intended to be definitive, but to identify the general location of sensitive environmental resources. Detailed locations and boundaries of these resources shall be obtained by the preparation of biological reports described in Policy OS-1.7.

Policy OS-1.2: Determination of ESHA. The determination of what constitutes ESHA shall not be limited by what is mapped and not all parcels that are mapped necessarily contain ESHA. Map OS-1 serves to identify those general areas known to potentially contain ESHA and for which a biological report is required consistent with Policy OS-1.7 to substantiate the presence or absence of ESHA on any particular parcel. Any area not designated on LUP Map OS-1 that meets the ESHA definition is ESHA and shall be accorded all the protection provided for ESHA in the LCP. All habitat maps shall include a note that states that "the maps may be updated as appropriate and may not include all areas that constitute ESHA." The following areas shall be considered ESHA:

- Any habitat area that is rare or especially valuable because of their special nature or role in an ecosystem and is easily degraded or disturbed by human activities or developments.
- Any habitat area of plant or animal species designated as rare, threatened, or endangered under State or Federal law.
- Any habitat area of species designated as Fully Protected or Species of Special Concern under State law or regulations.
- Any habitat area of plant species for which there is compelling evidence of rarity, for example, those designated 1b (Rare or endangered in California and elsewhere) or 2 (rare, threatened or endangered in California but more common elsewhere) by the California Native Plant Society.

Program OS-1.2.1: Update the mapping of environmentally sensitive habitat areas as new information becomes available.

Policy OS-1.3: Development in ESHA Wetlands: Diking, Filling, and Dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted where there is no feasible less



**Map OS-1  
OPEN SPACE AND  
ENVIRONMENTALLY SENSITIVE  
HABITAT AREAS**

- City Boundary
- Sphere of Influence
- Open Space
- Environmentally Sensitive Habitat Areas

Source: City of Fort Bragg  
July, 2008  
Scale 1" = 2300' (approximate)  
For Schematic purposes only

environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following uses:

- a. New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.
- b. Maintaining existing or restoring previously dredged depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.
- c. New or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.
- d. Incidental public service purposes, including but not limited to burying cables and pipes or inspection of piers and maintenance of existing intake and outfall pipelines.
- e. Restoration purposes.
- f. Nature study, aquaculture, or similar resource dependent activities.

Policy OS-1.4: The more specific permissible use provisions for wetlands identified in Policy OS-1.3 shall control over the more general permissible use provisions for other types of ESHA identified in Policy OS-1.5 and Policy OS-1.6.

Policy OS-1.5: Development in Rivers and Streams with ESHA. Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to:

- a. Necessary water supply projects,
- b. Flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or
- c. Developments where the primary function is the improvement of fish and wildlife habitat.

Policy OS-1.6: Development within Other Types of ESHA shall protect ESHA against any significant disruption of habitat values and shall be limited to the following uses:

- a. Resource Dependent Uses. Public nature trails within riparian ESHA are considered a resource dependent use provided that: (1) the length of the trail within the riparian corridor shall be minimized; (2) the trail crosses the stream at right angles to the maximum extent feasible; (3) the trail is kept as far up slope from the stream as possible; (4) trail development involves a minimum of slope disturbance and vegetation clearing; and (5) the trail is the minimum width necessary. Interpretive signage may be used along permissible nature trails accessible to the public to provide information about the value and need to protect sensitive resources.
- b. Restoration projects where the primary purpose is restoration of the habitat.
- c. Invasive plant eradication projects if they are designed to protect and enhance habitat values.
- d. Pipelines and utility lines installed underneath the ESHA using directional drilling techniques designed to avoid significant disruption of habitat values.

Policy OS-1.7 Development in areas adjacent to Environmentally Sensitive Habitat Areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

Policy OS-1.8: Development adjacent to ESHA shall provide buffer areas to serve as transitional habitat and provide distance and physical barriers to human intrusion. The purpose of this buffer area is to provide for a sufficient area to protect environmentally sensitive habitats

from significant degradation resulting from future development. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the ESHA they are designed to protect. The width of the buffer area shall be a minimum of 100 feet, unless an applicant can demonstrate, after consultation with the California Department of Fish and Game, other relevant resource agencies, and the City, that 100 feet is not necessary to protect the resources of that particular habitat area and the adjacent upland transitional habitat function of the buffer from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the environmentally sensitive habitat areas and in no event shall be less than 30 feet in width.

Policy OS-1.9: Utilize the following criteria to establish buffer areas:

- a. **Biological Significance of Adjacent Lands.** Lands adjacent to a wetland, stream, or riparian habitat area vary in the degree to which they are functionally related to these habitat areas. Functional relationships may exist if species associated with such areas spend a significant portion of their life cycle on adjacent lands. The degree of significance depends upon the habitat requirements of the species in the habitat area (e.g., nesting, feeding, breeding, or resting).  
Where a significant functional relationship exists, the land supporting this relationship shall also be considered to be part of the ESHA, and the buffer zone shall be measured from the edge of these lands and be sufficiently wide to protect these functional relationships. Where no significant functional relationships exist, the buffer shall be measured from the edge of the ESHA that is adjacent to the proposed development.
- b. **Sensitivity of Species to Disturbance.** The width of the buffer zone shall be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development. Such a determination shall be based on the following after consultation with the Department of Fish and Game or others with similar expertise:
  - (i) Nesting, feeding, breeding, resting, or other habitat requirements of both resident and migratory fish and wildlife species;
  - (ii) An assessment of the short-term and long-term adaptability of various species to human disturbance;
  - (iii) An assessment of the impact and activity levels of the proposed development on the resource.
- c. **Erosion susceptibility.** The width of the buffer shall be based, in part, on an assessment of the slope, soils, impervious surface coverage, runoff characteristics, erosion potential, and vegetative cover of the parcel proposed for development and adjacent lands. A sufficient buffer to allow for the interception of any additional material eroded as a result of the proposed development shall be provided.
- d. **Use natural topography.** Where feasible, use hills and bluffs adjacent to Environmentally Sensitive Habitat Areas, to buffer these habitat areas. Where otherwise permitted, locate development on the sides of hills away from Environmentally Sensitive Habitat Areas. Include bluff faces in the buffer area.
- e. **Use existing man-made features.** Where feasible, use man-made features such as roads and dikes to buffer environmentally sensitive habitat areas.
- f. **Lot Configuration and Location of Existing Development.** Where an existing subdivision or other development is largely built-out and the buildings are a uniform distance from a habitat area, at least that same distance shall be required as a buffer zone for any new development permitted. However, if that distance is less than one hundred (100) feet, additional mitigation measures (e.g., planting of native vegetation) shall be provided to ensure additional protection.

- g. Type and Scale of Development Proposed. The type and scale of the proposed development will, to a large degree, determine the size of the buffer zone necessary to protect the ESHA. Such evaluations shall be made on a case-by-case basis depending upon the resources involved, the degree to which adjacent lands are already developed, and the type of development already existing in the area.

Required buffer areas shall be measured from the following points as applicable:

- The outer edge of the canopy of riparian vegetation for riparian ESHA, or from the top of stream bank where no riparian vegetation exists.
- The upland edge of a wetland for a wetland ESHA.
- The outer edge of the plants that comprise the rare plant community for rare plant community ESHA.

Policy OS-1.10: Permitted Uses within ESHA Buffers. Development within an Environmentally Sensitive Habitat Area buffer shall be limited to the following uses:

- a. Wetland Buffer.
  - i. Uses allowed within the adjacent Wetland ESHA pursuant to Policy OS-1.3.
  - ii. Nature trails and interpretive signage designed to provide information about the value and protection of the resources
  - iii. Invasive plant eradication projects if they are designed to protect and enhance habitat values.
- b. Riparian Buffer.
  - i. Uses allowed within the adjacent River and Stream ESHA pursuant to Policy OS-1.5.
  - ii. Uses allowed within the adjacent ESHA pursuant to Policy OS-1.6.
  - iii. Buried pipelines and utility lines.
  - iv. Bridges.
  - v. Drainage and flood control facilities.
- c. Other types of ESHA Buffer.
  - i. Uses allowed within the adjacent ESHA pursuant to Policy OS-1.6.
  - ii. Buried pipelines and utility lines.
  - iii. Bridges.
  - iv. Drainage and flood control facilities.

Policy OS-1.11: Land Divisions and ESHA. Prohibit new land divisions creating new parcels located entirely within an environmentally sensitive habitat area or buffer area unless the parcel to be created is restricted at the time of its creation solely for open space, public recreation, or conservation.

Policy OS-1.12: Drainage and Erosion Control Plan. Permissible development on all properties containing environmentally sensitive habitat, including but not limited to those areas identified as ESHA Habitat Areas on Map OS-1, shall prepare a drainage and erosion control plan for approval by the City. The plan shall include measures to minimize erosion during project construction, and to minimize erosive runoff from the site after the project is completed. Any changes in runoff volume, velocity, or duration that may affect sensitive plant and animal populations, habitats, or buffer areas for those populations or habitats, shall be reviewed by a qualified biologist to ensure that there will not be adverse hydrologic or erosion, or sedimentation impacts on sensitive species or habitats. Mitigation measures shall be identified and adopted to minimize potential adverse runoff impacts. All projects resulting in new runoff to

any streams in the City or to the ocean shall be designed to minimize the transport of pollutants from roads, parking lots, and other impermeable surfaces of the project.

Policy OS-1.13: Landscaping Adjacent to ESHA. All development located within or adjacent to environmentally sensitive habitat areas shall be conditioned to:

- a) Require all proposed plantings be obtained from local genetic stocks within Mendocino County. If documentation is provided to the review authority that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside the local area, but from within the adjacent region of the floristic province, may be used; and if local genetic stocks within the floristic province are unavailable, the Director may authorize use of a commercial native mix, provided it is clear of invasive seed. Director may also authorize use of a seed mix that is selected for rapid senescence and replacement with native stock; and
- b) Require an invasive plant monitoring and removal program; and
- c) Prohibit the planting of any plant species on the property that is (a) listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, and/or by the State of California, or (b) listed as a 'noxious weed' by the State of California or the U.S. Federal Government.

Policy OS-1.14: Vegetation Removal in ESHA. Prohibit vegetation removal in Environmentally Sensitive Habitat Areas and buffer areas except for:

- a) Vegetation removal authorized through coastal development permit approval to accommodate permissible development,
- b) Removal of trees for disease control,
- c) Vegetation removal for public safety purposes to abate a nuisance consistent with Coastal Act Section 30005, or
- d) Removal of firewood for the personal use of the property owner at his or her residence to the extent that such removal does not constitute development pursuant to Coastal Act Section 30106.

Such activities shall be subject to restrictions to protect sensitive habitat values.

Policy OS-1.15: Implement the following measures when a project involves dredging, filling or diking of open coastal waters, wetlands, estuaries, or lakes:

- a) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and to water circulation to the maximum extent feasible. Avoiding significant disruption means, in part, that the functional capacity of the wetland is maintained to the maximum extent feasible.
- b) Limitations may be imposed, including but not limited to, limitations on the timing of the operation, the type of operation, the quantity of dredged material removed, and the location of the spoils site.
- c) Dredge spoils suitable for beach replenishment shall, where feasible, be transported to appropriate beaches or into suitable longshore current systems.
- d) Other mitigation measures may include opening areas to tidal action, removing dikes, improving tidal flushing, or other restoration measures.

Program OS-1.15.1: Consult with the Department of Fish and Game, California Coastal Commission, and U.S. Army Corps of Engineers, as applicable, on the review of dredging, filling and diking plans in, or adjacent to wetlands or estuaries to establish mitigating measures.

Policy OS-1.16: Biological Report Required.

- a) Permit applications for development within or adjacent to Environmentally Sensitive Habitat Areas including areas identified in Map OS-1 or other sites identified by City staff which have the possibility of containing environmentally sensitive habitat shall include a biological report prepared by a qualified biologist which identifies the resources and provides recommended measures to ensure that the requirements of the Coastal Act and the City of Fort Bragg's Local Coastal Program are fully met. The required content of the biological report is specified in the Coastal Land Use and Development Code.
- b) Submittal of Biological Reports. These biological reports shall be reviewed by the City and approving agencies. The biological reports described above shall be submitted prior to filing as complete a coastal development permit application and may also be submitted as a part of any environmental documentation required pursuant to CEQA. The selection of the professional preparing the report shall be made or approved by the City or the agency approving the permit and paid for by the applicant.
- c) Biological reports shall contain mitigating measures meeting the following minimum standards:
  - i. They are specific, implementable, and, wherever feasible, quantifiable.
  - ii. They result in the maximum feasible protection, habitat restoration and enhancement of sensitive environmental resources. Habitat restoration and enhancement shall be required wherever feasible, in addition to the applicable baseline standard of either avoiding or minimizing significant habitat disruption.
  - iii. They are incorporated into a Mitigation Monitoring Program; and
  - iv. They include substantial information and analysis to support a finding that there is no feasible, less environmentally damaging alternative.

**Goal OS-2      Preserve and enhance the City's other natural resources.**

Policy OS-2.1 Riparian Habitat: Prevent development from destroying riparian habitat to the maximum feasible extent. Preserve, enhance, and restore existing riparian habitat in new development unless the preservation will prevent the establishment of all permitted uses on the property.

Program OS-2.1.1: To the maximum extent feasible, preserve, protect, and restore streams and creeks to their natural state.

Program OS-2.1.2: Work with organizations and private property owners to enhance the City's watercourses for habitat preservation and recreation.

Program OS-2.1.3: Develop additional guidelines for the maintenance of watercourses to further assure that native vegetation is not unnecessarily removed and that maintenance minimizes disruption of wildlife breeding activities and wildlife movement. Incorporate these guidelines, where appropriate, into the City's maintenance procedures.

Program OS-2.1.4: Seek Federal and State funding for the repair of streambank erosion, planting of riparian vegetation to stabilize creek banks, and removal of debris obstructing waterflow.

Policy OS-2.2: Protect Aquifers: Protect groundwater aquifers.

Program OS-2.2.1: Continue to require the preparation of a hydrologic study prior to approving new wells for domestic use in the City.

Program OS-2.2.2: Prior to consideration of any new development on the Todd Point aquifer, a project-specific hydrologic design analysis shall be prepared by the project applicant to recommend specific mitigation measures to minimize runoff from the site in order to retain existing levels of groundwater recharge. (Examples of such measures include establishment of retention basins, establishment of percolation chambers, use of permeable paving materials, etc.)

If the design analysis concludes that the project will result in a net decrease in groundwater recharge from the project site, then a supplemental hydrologic analysis shall be prepared by the applicant which evaluates cumulative hydrologic impacts. The study shall establish a baseline of aquifer supply to existing residential wells on Todd Point and evaluate cumulative impacts to aquifer recharge from all projected development on Todd Point.

If the supplemental hydrologic analysis shows that the cumulative development would adversely impact existing Todd Point wells, then the study shall establish the nexus for new development, both in the City and in the County, to pay its pro rata share of the costs of extending City water service to the affected existing residences.

Prior to new development, the City will establish a program that identifies how fees will be collected to extend City water, what existing residences will be served, and when the water service would be extended.

The cost of preparing the cumulative hydrologic study will be borne by the first application received which triggers this requirement, and all future applicants for new development on Todd Point will be required to reimburse the original applicant their fair share of the hydrologic study.

**Goal OS-3      Protect and preserve soil as a natural resource.**

Policy OS-3.1 Soil Erosion: Minimize soil erosion to prevent loss of productive soils, prevent landslides, and maintain infiltration capacity and soil structure.

**Goal OS-4      Protect and preserve Cultural Resources.**

Policy OS-4.1. Preserve Archaeological Resources. New development shall be located and/or designed to avoid archaeological and paleontological resources where feasible, and where new development would adversely affect archaeological or paleontological resources, reasonable mitigation measures shall be required.

Policy OS-4.2: Archaeological Resources Report Required.

- A) Development located within areas of known or potential archaeological or paleontological resources included in (i) – (iv) shall be required to submit a report consistent with the requirements of section B below prior to approval of a building, grading, or coastal development permit for the development.
- i. Former Georgia Pacific timber mill. The entire property which comprises the former Georgia-Pacific timber mill site;
  - ii. Noyo Bay. The area located along the south side of Noyo Bay (e.g., Todd Point);
  - iii. Noyo River. All of the areas located adjacent to the north side of the Noyo River;
  - iv. North Fort Bragg Coast. All of the areas located west of Highway 1 and north of Pudding Creek;
  - v. Special Review Areas. All Special Review Areas identified on Map OS-2 in the Coastal General Plan; and
  - vi. Other areas identified by the Director. Other areas identified by the environmental review process (Chapter 18.72), or brought to the attention of the City through special studies performed after the enactment of this Section, as having the potential for containing archaeological or paleontological resources.
- B) Report required. A project specific report shall be prepared by a qualified archaeologist and shall be submitted prior to filing as complete a coastal development permit application. The permit review authority may waive the requirement for a project specific report if the Director determines that an existing report satisfies the requirements of this section. The report shall be prepared consistent with the requirements of Section 18.50.030 of the Coastal Land Use & Development Code.

Policy OS-4.3: Halt all work if archaeological resources are uncovered during construction. Require an evaluation by a qualified archaeologist before recommencing construction.

Policy OS-4.4: Locate and/or design new development to avoid archaeological resources where feasible.

Policy OS-4.5: Mitigation shall be designed in compliance with the guidelines of the State Office of Historic Preservation and the State Native American Heritage Commission.

**Goal OS-5     Preserve areas with other biotic resources.**

Policy OS-5.1 Native Species: Preserve native plant and animal species and their habitat.

Policy OS-5.2: To the maximum extent feasible and balanced with permitted use, require that site planning, construction, and maintenance of development preserve existing healthy trees and native vegetation on the site.

Policy OS-5.3: Require site planning and construction to maintain adequate open space to permit effective wildlife corridors for animal movement between open spaces.

Policy OS-5.4: Condition development projects, requiring discretionary approval to prohibit the planting of any species of broom, pampas grass, gorse, or other species of invasive non-native plants deemed undesirable by the City.

Program OS-5.4.1: Request that Caltrans, PG&E, and the County of Mendocino remove pampas grass and broom from their rights-of-way. The City shall strive to remove these plants from City-owned rights-of-way.

**Goal OS-6     Reduce dependence on non-renewable energy and materials.**

Policy OS-6.1 Energy Conservation Measures in Buildings: Continue to require structures to comply with State energy conservation standards and encourage owners of existing dwellings to retrofit with energy-saving features.

Program OS-6.1.1: Require retrofitting of energy-saving features in existing dwellings as a part of the City's Housing Rehabilitation Program by providing information, technical assistance, and other incentives.

Program OS-6.1.2: Review and revise the Zoning and Subdivision Ordinances to incorporate standards for energy-efficient development, including site orientation, building design, use of materials, landscaping, solar access, and solar space and water heating.

Policy OS-6.2 Development Review Process: Make energy conservation an important criterion in the development review process.

Program OS-6.2.1: Adopt a solar access ordinance which would require development applications to be reviewed for potential energy conservation measures and designs including site orientation, building design and use of materials, landscaping, and solar access.

Program OS-6.2.2: Include a section on energy-efficient features in the Design Review Guidelines.

Program OS-6.2.3: Obtain PG&E assistance in reviewing commercial buildings and major subdivisions during the design and approval process to incorporate energy-efficient design suggestions into the plans.

Policy OS-6.3 Alternative Energy: Encourage the development and use of alternative sources of energy such as wind, solar, and waves to meet Fort Bragg's energy needs.

Program OS-6.3.1: Revise the Coastal LUDC to allow alternative energy facilities for on-site use as a conditional use in all zones within the City. Solar energy facilities for on-site use shall be allowed as a permitted use in all zoning districts.

**Goal OS-7 Improve air quality.**



Policy OS-7.1 Participate in Regional Planning to Improve Air Quality: Continue to cooperate with the Mendocino County Air Quality Management District (MCAQMD) in implementing the *Regional Clean Air Plan*.



Policy OS-7.2 Air Quality Standards: Seek to comply with State and Federal standards for air quality.

Program OS-7.2.1: Adopt a plan and timelines to reduce greenhouse gas emissions for City operations through the establishment and implementation of a Greenhouse Gas Reduction Action Plan.

Program OS-7.2.2: Consider adopting a plan and timeline to eliminate emissions from the City's transportation sector by replacing internal combustion vehicles with zero emission vehicles (ZEV) to maintain compliance with AB 32, the California Global Warming Solutions Act passed in September 2006.

Program OS-7.2.3: Review new project proposals for consistency with MCAQMD regulations and guidelines.

Program OS-7.2.4: Revise the Coastal LUDC to require that all new woodburning stoves and heaters meet current EPA standards for woodburning devices. Do not allow woodburning devices in commercial or industrial development (except for use in operating the existing or an upgraded powerhouse on the Georgia-Pacific property solely for processing forest products).

Program OS-7.2.5: Work with the Mendocino County Air Quality Management District to ensure that all new industrial projects include Best Available Control Technologies (BACTs) to control emissions of air pollutants to the maximum extent permitted by law.

Program OS-7.2.6: Require that proposed new asphalt plants undergo an air quality analysis that includes analysis of emissions, dispersion modeling, risk analysis, and mitigation required to reduce pollution and risk.

Program OS-7.2.7: Include thorough dust control provisions in the Grading Ordinance.

Program OS-7.2.8: The City will prohibit unpaved driveways of more than 50 feet and unpaved roads in all new development.

**Goal OS-8 Reduce, recycle, and reuse solid waste generated in the City.**



Policy OS-8.1 Recycling and Reuse of Solid Waste: Comply with State requirements to reduce the volume of solid waste through recycling and reduction of solid waste.

Program OS-8.1.1: Enact ordinances requiring recycling, reuse, and waste reduction, including recycling of green waste and construction debris.

Program OS-8.1.2: Require on-site areas for recycling in commercial, office, multi-family residential developments, and all municipal facilities.

Program OS-8.1.3: Continue to participate in the County's Integrated Waste Management Plan operated by the Mendocino Solid Waste Management Authority.

## **C. Water Quality**

### **Goal OS-9 Improve water quality.**

Policy OS-9.1: Minimize Introduction of Pollutants. Development shall be designed and managed to minimize the introduction of pollutants into coastal waters (including the ocean, estuaries, wetlands, rivers, streams, and lakes) to the extent feasible.

Policy OS-9.2: Minimize Increases in Stormwater Runoff. Development shall be designed and managed to minimize post-project increases in stormwater runoff volume and peak runoff rate, to the extent feasible, to avoid adverse impacts to coastal waters.

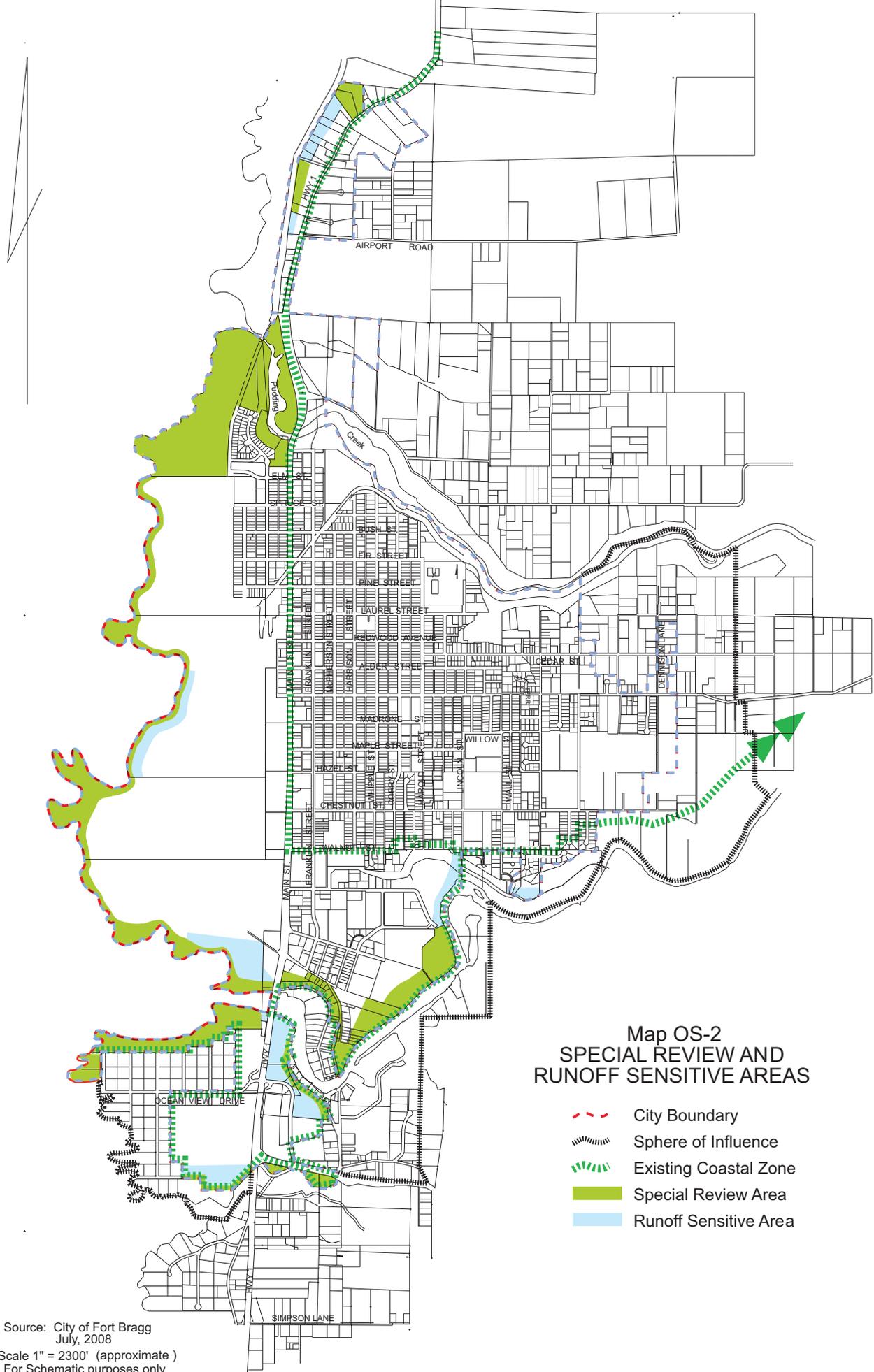
Policy OS-9.3: Maintain Biological Productivity and Quality of Coastal Waters. Development shall be designed and managed to maintain, and restore where feasible, the biological productivity and quality of coastal waters, consistent with sections 30230, 30231, and other relevant sections of the California Coastal Act. The Coastal Act sections set forth below are incorporated herein as policies of the Land Use Plan:

Policy OS-9.4: Maintain, Enhance, and Restore Marine Resources. Marine resources shall be maintained, enhanced, and, where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Policy OS-9.5: Maintain and Restore Biological Productivity and Water Quality. The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

### **Goal OS-10 Improve water quality through the Selection and Design of Appropriate Best Management Practices (BMPs)**

Policy OS-10.1: Construction-phase Stormwater Runoff Plan. All development that requires a grading permit shall submit a construction-phase erosion, sedimentation, and polluted runoff control plan. This plan shall evaluate potential construction-phase impacts to water quality and coastal waters, and shall specify temporary Best Management Practices (BMPs) that will be implemented to minimize erosion and sedimentation during construction, and prevent contamination of runoff by construction chemicals and materials.



Map OS-2  
**SPECIAL REVIEW AND  
 RUNOFF SENSITIVE AREAS**

- - - City Boundary
- Sphere of Influence
- - - Existing Coastal Zone
- Special Review Area
- Runoff Sensitive Area

Source: City of Fort Bragg  
 July, 2008  
 Scale 1" = 2300' (approximate)  
 For Schematic purposes only

Policy OS-10.2: Post-Construction Stormwater Runoff Plan. All development that has the potential to adversely affect water quality shall submit a post-construction polluted runoff control plan ("Runoff Mitigation Plan"). This plan shall specify long-term Site Design, Source Control, and, if necessary, Treatment Control BMPs that will be implemented to minimize stormwater pollution and erosive runoff after construction, and shall include the monitoring and maintenance plans for these BMPs.

Policy OS-10.3: Emphasize Site Design and Source Control BMPs. Long-term post-construction Best Management Practices (BMPs) that protect water quality and control runoff flow shall be incorporated in the project design of development that has the potential to adversely impact water quality in the following order of emphasis:

- A) Site Design BMPs: Any project design feature that reduces the creation or severity of potential pollutant sources, or reduces the alteration of the project site's natural flow regime. Examples include minimizing impervious surfaces, and minimizing grading.
- B) Source Control BMPs: Any schedules of activities, prohibitions of practices, maintenance procedures, managerial practices, or operational practices that aim to prevent stormwater pollution by reducing the potential for contamination at the source of pollution. Examples include covering outdoor storage areas, use of efficient irrigation, and minimizing the use of landscaping chemicals.
- C) Treatment Control BMPs: Any engineered system designed to remove pollutants by simple gravity settling of particulate pollutants, filtration, biological uptake, media adsorption, or any other physical, biological, or chemical process. Examples include vegetated swales, and storm drain inserts.

Site Design BMPs may reduce a development's need for Source and/or Treatment Control BMPs, and Source Control BMPs may reduce the need for Treatment Control BMPs. Therefore, all development that has the potential to adversely affect water quality shall incorporate effective post-construction Site Design and Source Control BMPs, where applicable and feasible, to minimize adverse impacts to water quality and coastal waters resulting from the development. Site Design and Source Control BMPs may include, but are not limited to, those outlined in the City's Storm Water Management program.

Policy OS-10.4: Incorporate Treatment Control BMPs if Necessary. If the combination of Site Design and Source Control BMPs is not sufficient to protect water quality and coastal waters consistent with Policy OS-9.3, as determined by the review authority, development shall also incorporate post-construction Treatment Control BMPs. Projects of Special Water Quality Concern (see Policy OS-12.1) are presumed to require Treatment Control BMPs to meet the requirements of OS-9.3. Treatment Control BMPs may include, but are not limited to, those outlined in the City's Storm Water Management program, including biofilters (e.g., vegetated swales or grass filter strips), bioretention, infiltration trenches or basins, retention ponds or constructed wetlands, detention basins, filtration systems, storm drain inserts, wet vaults, or hydrodynamic separator systems.

Policy OS-10.5: Guidance on BMP Selection and Design. Where BMPs, are required, BMPs shall be selected that have been shown to be effective in reducing the pollutants typically generated by the proposed land use. The strategy for selection of appropriate BMPs to protect

water quality and coastal waters shall be guided by Chapter 18.64.070, Tables 1-3, of the Land Use & Development Code, or equivalent tables which list pollutants of concern for each type of development or land use.

The design of BMPs shall be guided by the California Stormwater Quality Association (CASQA) Stormwater BMP Handbooks dated January 2003 (or the current edition), or an equivalent BMP manual that describes the type, location, size, implementation, and maintenance of BMPs suitable to address the pollutants generated by the development. Caltrans' 2007 "Storm Water Quality Handbook: Project Planning and Design Guide" (or the current edition) may also be used to guide design of construction-phase BMPs.

Policy OS-10.6: Water Quality Checklist. A water quality checklist shall be developed and used in the permit review process to evaluate a proposed development's potential impacts to water quality and coastal waters, and proposed mitigation measures.

### **Goal OS-11 Improve water quality through Site Design and Source Control BMPs**

Development shall be sited and designed to protect water quality and minimize impacts to coastal waters by incorporating BMPs designed to ensure the following:

Policy OS-11.1: Use Integrated Management Practices in Site Design. The city shall require, where appropriate and feasible, the use of small-scale integrated management practices (e.g., Low Impact Development techniques) designed to maintain the site's natural hydrology by minimizing impervious surfaces and infiltrating stormwater close to its source (e.g., vegetated swales, permeable pavements, and infiltration of rooftop runoff).

Policy OS-11.2: Preserve Functions of Natural Drainage Systems. Development shall be sited and designed to preserve the infiltration, purification, detention, and retention functions of natural drainage systems that exist on the site, where appropriate and feasible. Drainage shall be conveyed from the developed area of the site in a non-erosive manner.

Policy OS-11.3: Minimize Impervious Surfaces. Development shall minimize the creation of impervious surfaces (including pavement, sidewalks, driveways, patios, parking areas, streets, and roof-tops), especially directly connected impervious areas, where feasible. Redevelopment shall reduce the impervious surface site coverage, where feasible. Directly connected impervious areas include areas covered by a building, impermeable pavement, and/or other impervious surfaces, which drain directly into the storm drain system without first flowing across permeable land areas (e.g., lawns).

Policy OS-11.4: Infiltrate Stormwater Runoff. Development shall maximize on-site infiltration of stormwater runoff, where appropriate and feasible, to preserve natural hydrologic conditions, recharge groundwater, attenuate runoff flow, and minimize transport of pollutants. Alternative management practices shall be substituted where the review authority has determined that infiltration BMPs may result in adverse impacts, including but not limited to where saturated soils may lead to geologic instability, where infiltration may contribute to flooding, or where regulations to protect groundwater may be violated.

Policy OS-11.5: Divert Stormwater Runoff into Permeable Areas. Development that creates new impervious surfaces shall divert stormwater runoff flowing from these surfaces into permeable areas, where appropriate and feasible, to enhance on-site stormwater infiltration capacity.

Policy OS-11.6: Use Permeable Pavement Materials. To enhance stormwater infiltration capacity, development shall use permeable pavement materials and techniques (e.g., paving blocks, porous asphalt, permeable concrete, and reinforced grass or gravel), where appropriate and feasible. Permeable pavements shall be designed so that stormwater infiltrates into the underlying soil, to enhance groundwater recharge and provide filtration of pollutants. All permeable pavement that is not effective in infiltrating as designed will be replaced with effective stormwater detention and infiltration methods.

Policy OS-11.7: Avoid Steep Slopes with Highly Erodible Soil. Where feasible, development shall be sited and designed to avoid areas on steep slopes (i.e., 12% or greater) with highly erodible soil. Developments on these hillside areas are considered Developments of Special Water Quality Concern, and are subject to additional requirements (see Policies OS-12.1 and OS-12.2).

Policy OS-11.8: Landscape with Native Plant Species. The City shall encourage development to use drought-resistant native plant species for landscaping, to reduce the need for irrigation and landscaping chemicals (e.g., pesticides and fertilizers).

Policy OS-11.9: Provide Storm Drain Inlet Markers. Markers or stenciling shall be required for all storm drain inlets constructed or modified by development, to discourage dumping and other illicit discharges into the storm drain system.

Policy OS-11.10: Continue Operation and Maintenance of Post-Construction BMPs. Permittees shall be required to continue the operation, inspection, and maintenance of all post-construction BMPs as necessary to ensure their effective operation for the life of the development.

## **Goal OS-12 Improve water quality through additional requirements for Developments of Special Water Quality Concern**

Policy OS-12.1: Developments of Special Water Quality Concern. The categories of development listed below have the potential for greater adverse coastal water quality impacts, due to the development size, type of land use, impervious site coverage, or proximity to coastal waters. A development in one or more of the following categories shall be considered a "Development of Special Water Quality Concern," and shall be subject to additional requirements set forth in Policy OS-12.2 below to protect coastal water quality. Developments of Special Water Quality Concern include the following:

- a) Housing developments of ten or more dwelling units.
- b) Hillside developments on slopes greater than 12 percent, located in areas with highly erodible soil.
- c) Developments that result in the creation, addition, or replacement of 10,000 square feet or more of impervious surface area.
- d) Parking lots with 5,000 square feet or more of impervious surface area, potentially exposed to stormwater runoff.
- e) Heavy industrial developments.
- f) Vehicle service facilities (including retail gasoline outlets, service stations, commercial car washes, and vehicle repair facilities).
- g) Commercial or industrial outdoor storage areas of 5,000 square feet or more, or as determined by the review authority based on the use of the storage area, where used for storage of materials that may contribute pollutants to the storm drain system or waterbodies.

- h) All developments within 125 feet of the ocean or a coastal waterbody (including estuaries, wetlands, rivers, streams, and lakes), or that discharge directly to the ocean or a waterbody, if such development results in the creation, addition, or replacement of 2,500 square feet or more of impervious surface area.
  - a. "Discharge directly to" the ocean or a waterbody means outflow from a drainage conveyance system that is composed entirely of flows from the subject development or redevelopment site, and not commingled with flows from adjacent lands.
- i) Any other development determined by the review authority to be a Development of Special Water Quality Concern.

Policy OS-12.2: Additional Requirements for Developments of Special Water Quality Concern. All Developments of Special Water Quality Concern (as identified in Policy OS-12.1, above) shall be subject to the following four additional requirements to protect coastal water quality:

- 1) Water Quality Management Plan. The applicant for a Development of Special Water Quality Concern shall be required to submit for approval a Water Quality Management Plan (WQMP), prepared by a qualified licensed professional, which supplements the Runoff Mitigation Plan required for all development. The WQMP shall include hydrologic calculations per City standards that estimate increases in pollutant loads and runoff flows resulting from the proposed development, and specify the BMPs that will be implemented to minimize post-construction water quality impacts.
- 2) Selection of Structural Treatment Control BMPs. As set forth in Policy OS-10.4, if the review authority determines that the combination of Site Design and Source Control BMPs is not sufficient to protect water quality and coastal waters as required by Policy OS-9.3, structural Treatment Control BMPs shall also be required. The WQMP for a Development of Special Water Quality Concern shall describe the selection of Treatment Controls BMPs, and applicants shall first consider the BMP, or combination of BMPs, that is most effective at removing the pollutant(s) of concern, or provide a justification if that BMP is determined to be infeasible.
- 3) 85th Percentile Design Standard for Treatment Control BMPs. For post-construction treatment of runoff in Developments of Special Water Quality Concern, Treatment Control BMPs (or suites of BMPs) shall be sized and designed to treat, infiltrate, or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event (with an appropriate safety factor of 2 or greater) for flow-based BMPs.
- 4) Goal for Runoff Reduction. In Developments of Special Water Quality Concern, the post-development peak stormwater runoff discharge rate shall not exceed the estimated pre-development rate for developments where an increased discharge rate will result in increased potential for downstream erosion or other adverse habitat impacts.

### **Goal OS-13 Improve water quality through Municipal Activities to Protect Water Quality**

Policy OS-13.1: Municipal Activities to Protect and Restore Water Quality. The City shall promote both the protection and restoration of water quality and coastal waters. Water quality degradation can result from a variety of factors, including but not limited to the introduction of

pollutants, increases in runoff volume and rate, generation of non-stormwater runoff, and alteration of physical, chemical, or biological features of the landscape.

Program OS-13.1.1: Water Quality Public Education and Outreach. The City shall continue to encourage public outreach and education about the water quality impacts of development. The City shall continue to coordinate with other agencies in the watershed area, as feasible, to develop public education programs on urban runoff issues and the appropriate roles of individuals, businesses, and government in the implementation of BMPs for pollution prevention.

Program OS-13.1.2: BMPS for Municipal Maintenance Activities. The City shall ensure that municipal maintenance activities and other public projects not requiring a Coastal Development Permit also integrate appropriate BMPs to protect water quality and coastal waters.

### **Goal OS-14 Improve water quality through Construction-Phase Pollution Control**

Policy OS-14.1: Minimize Polluted Runoff and Pollution from Construction. All development shall minimize erosion, sedimentation, and the discharge of other polluted runoff (e.g., chemicals, vehicle fluids, concrete truck wash-out, and litter) from construction activities, to the extent feasible.

Policy OS-14.2: Minimize Land Disturbance During Construction. Land disturbance activities during construction (e.g., clearing, grading, and cut-and-fill) shall be minimized, to the extent feasible, to avoid increased erosion and sedimentation. Soil compaction due to construction activities shall be minimized, to the extent feasible, to retain the natural stormwater infiltration capacity of the soil.

Policy OS-14.3: Minimize Disturbance of Natural Vegetation. Construction shall minimize the disturbance of natural vegetation (including significant trees, native vegetation, and root structures), which are important for preventing erosion and sedimentation.

Policy OS-14.4: Stabilize Soil Promptly. Development shall implement soil stabilization BMPs (including, but not limited to, re-vegetation) on graded or disturbed areas as soon as feasible.

Policy OS-14.5: Grading During Rainy Season. Grading is prohibited during the rainy season (from November 1 to March 30), except in response to emergencies, unless the review authority determines that soil conditions at the project site are suitable, and adequate erosion and sedimentation control measures will be in place during all grading operations.

## **D. Open Space**

There are three categories of open space in the Fort Bragg Planning Area: 1) publicly-owned land, such as Ocean Front Park, Pomo Bluffs Park, and MacKerricher State Park, 2) dedicated land, which is privately-owned and maintained and has a recorded open space or conservation easement, and 3) land which has a trail easement permitting public use.

### **Goal OS-15 Conserve and enhance a variety of open space features including creeks, wildlife habitats, scenic view corridors, and other amenities.**

Policy OS-15.1: Open Space: Plan for and condition new development to implement the City's priorities for open space. Refer to the Community Design Element for specific policies and programs dealing with scenic view corridors.

Program OS-15.1.1: Use conservation easements wherever possible to protect environmentally sensitive open space areas.

Program OS-15.1.2: Continue to work with local and regional agencies and interest groups, in conjunction with the Mendocino Coast Recreation and Park District Master Plan, to develop an open space preservation strategy.

Program OS-15.1.3: Develop additional standards in the Coastal LUDC for further public access to open space areas.

Policy OS-15.2 Protect and Restore Open Space: During the development review process, protect and restore open space areas such as wildlife habitats, view corridors, coastal areas, and watercourses as open and natural.

Program OS-15.2.1: Require that projects on parcels 5 acres or larger, requesting a rezoning to a higher density, include dedications for open space or parkland as needed.

Program OS-15.2.2: Maintain an inventory of vacant parcels that could potentially be purchased and developed as public open space.

Policy OS-15.3 Trails in Open Space: Wherever feasible, plan and construct trails through the greenbelts and open space that connect to the City's trail system and that of Mendocino Coast Recreation Park District (MCRPD) as defined in its Master Plan.

## **E. Public Access and Recreation**

Public access to the shoreline is guaranteed by the California Constitution and is further defined by standards established by the Coastal Act to recognize the shoreline as a public resource which is available for viewing, recreation, and scientific research at the water's edge and along tidal rivers.

As development in the Fort Bragg area and elsewhere increases, there will be an increased need for public access. Access to the coastline is dependent on the right of the public to cross public and private land. Access across private land generally is obtained through purchase of an easement, or obtained as a condition of development approval.

**Goal OS-16 Maximize public access to and along the coast consistent with sound resources and conservation principles and constitutionally protected rights of private property owners.**

Policy OS-16.1 Coastal Access: Maximum access and recreational opportunities shall be provided consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. Provide public open space

and shoreline access in the Coastal Zone. Acquisitions for coastal access shall not preclude the potential development of necessary infrastructure to support coastal-dependent uses.

Program OS-16.1.1: Provide shoreline access in the Coastal Zone along the vertical and lateral access routes as described in Table OS-2 and Map OS-3.

Program OS-16.1.2: Acquire additional public access to the shoreline by:

- a) accepting Offers To Dedicate (OTDs) that will increase opportunities for public access and recreation;
- b) actively seeking public agency, community non-profit, or other private offers of dedication and offers to assume the liability and maintenance responsibilities; and
- c) requiring public access as a condition of development consistent with the Coastal Act, the Coastal Commission's Statewide Interpretive Guidelines, and the findings required to support an Offer to Dedicate (OTD); and
- d) creating a partnership with the State Coastal Conservancy and other funding agencies to purchase and develop public access to and along the coast, with the City assuming responsibility for management and maintenance of the public open space.

Program OS-16.1.3: Work with the California Coastal Conservancy to assure that the proposed access improvements and public facilities identified in the Noyo Harbor Plan are provided on the banks of the Noyo River.

Program OS-16.1.4: Work with the appropriate State agencies to preserve and improve the existing coastal access north of Airport Road (i.e., Access "Q" on Map OS-3). Parking or recreational facilities shall not be required on the west side of Highway One in this area due to the fragile nature of the coastal terrace prairie habitat.

Program OS-16.1.5: Acquisitions of coastal land and easements for public access purposes shall not preclude the potential development of necessary infrastructure to support coastal-dependent uses.

Policy OS-16.2 Right of Public Access: Development in the Coastal Zone shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. Public prescriptive rights must be protected wherever they exist.

Policy OS-16.3: Unless a landowner chooses to adjudicate any existing prescriptive rights issue, where there is substantial evidence that prescriptive rights of access to the beach exist on a parcel, development on that parcel must be designed, or conditions must be imposed, to avoid interference with the prescriptive rights that may exist or to provide alternative, equivalent access.

Policy OS-16.4 New Development: Require public access from the nearest public roadway to the shoreline and along the coast in new development except where:

- a) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources;
- b) adequate access exists within 500 feet of the site; or

- c) access at the site would be inconsistent with other LCP policies, including but not limited to, expanded or new coastal-dependent industry or the protection of environmentally sensitive resources.

**TABLE OS-1: COASTAL ZONE PUBLIC ACCESS**

| <b>Map Key</b> | <b>Access Point/Area</b>                                      | <b>Description of Proposed Access and Related Programs</b>  |
|----------------|---|---|
| A              | Pudding Creek sand bar – Vertical Access                      | Existing access from Highway One to the sand bar located at the northern bank of Pudding Creek where it joins the ocean.  |
| B              | Old Haul Road   | Existing lateral access from the Pudding Creek Trestle to northern City Limits.   |
| C              | Bluff Access on the South Bluff of the Mouth of Pudding Creek | Lateral access shall be provided on the south bluff of the mouth of Pudding Creek. Bluff top access as indicated in Map OS-3 shall be required as a condition of permit approval from Glass Beach Drive westerly to the point above the mouth of the river, and then southwesterly to Glass Beach. Other General Plan policies regarding protection of environmentally sensitive areas shall apply to the development of bluff access in this area. |
| D              | Glass Beach - Vertical Access                                 | Vertical access from west end of Elm Street to Glass Beach shall be required as a condition of permit approval. Funding shall be sought by a public agency or private association for additional parking at the end of Elm Street and for directional signs at the site and on Main Street. Directional signs that may tend to increase utilization at the site shall be provided only after additional parking is provided.                        |
| E              | Glass Beach   | Beach and bluff lateral access to the area shall be required as a condition of permit approval on this site.  |
| F              | Glass Beach South   | Public access south of Glass Beach shall be permitted in a manner that does not adversely impact environmentally sensitive areas.   |
| G              | South Side of Noyo Bridge – Vertical Access                   | Vertical access shall be required as mapped as a condition of permit approval. Minor signing and path improvements shall be accomplished by a public agency or private association.   |
| H              | South Side of Noyo Bridge - Lateral Access                    | Lateral access along the south bank of the Noyo River within the City Limits shall be acquired. This access shall be connected to the trail system leading from the southern bluff of the Noyo Headlands to South Harbor Drive as indicated in Map OS-3.  |
| I              | North Harbor Drive – Vertical Access                          | A vertical access from the bottom of North Harbor Drive to the proposed lateral access along the north bank of the Noyo River shall be required as a condition of permit approval.  |

**Note:** The Map Key refers to the letter code indicating the general location of the public ACCESS on Map OS-3: Coastal Land Use and Environment.

| <b>Map Key</b> | <b>Access Point/Area</b>                                  | <b>Description of Proposed Access and Related Programs</b>   |
|----------------|---|--|
| J              | North Bank of the Noyo – Lateral Access                   | Require public access along the entire length of the City's frontage on the north bank of the Noyo River as a condition of permit approval, except where physical conditions make access infeasible due to topography and/or safety considerations.  |
| K              | South Street – Vertical Access                            | Require a vertical access from the end of South Street to the north bank of the Noyo River as a condition of permit approval. This access may be in conjunction with any street required for access to development. Public parking may be provided by a public agency or private association.                                  |
| L              | Pomo Bluffs Overlook                                      | Develop signage and trails to accommodate public use of the Noyo Bluffs Overlook park for passive recreation.  |
| M              | North Shore of Noyo Bay                                   | Rights for access and recreation shall be required as a condition of approval or through acquisition by a public or private organization for the north shore of the Noyo Bay, west of the Bridge, labeled “Open Space” as indicated on Map OS-3.   |
| N              | Cypress Street - Vertical Access                          | Require a vertical access from the end of Cypress Street to the north bank of the Noyo River as a condition of permit approval. This access may be in conjunction with any street required for access to development. If the area is developed, then public parking may be provided by a public agency or private association. |
| O              | Highway One and MacKerricher State Park – Vertical Access | A vertical access between Highway One and MacKerricher State Park.   |
| P              | Todd Point  | Recognize that prescriptive rights may exist on the portion of Todd Point labeled “PD” on Map OS-3. Require public access as a condition of permit approval in this area. Soil and vegetation restoration work shall be part of any acquisition and a paved parking area shall be developed.                                   |
| Q              | Airport Road/Highway One                                  | Acquire and improve the current unimproved dirt trail to the coast. Major parking facilities and restrooms are not recommended due to the fragile nature of the coastal bluffs.  |
| R              | Central Business District to Glass Beach Parking area     | Proposed vertical access to start at Pine Street, along railroad right-of-way to Glass Beach   |
| S              | Pine Street to Bluff edge                                 | Proposed vertical access from Pine Street to Glass Beach   |

**Note:** The Map Key refers to the letter code indicating the general location of the public ACCESS on Map OS-3: Coastal Land Use and Environment.

Policy OS-16.6: Easement Requirements. In order to avoid or offset a project's significant adverse impacts on public access, and consistent with the provisions of Section 18.56.070, the City shall require a 25-foot-wide easement along all trails designated on Map OS-3 "Coastal Zone, Coastal Access, and City Trail System," as a condition of approval to mitigate impacts of development that requires a coastal development permit where such impacts cannot be avoided. For any project where such mitigation is required, the preferred implementation should be through a recorded grant of easement to the City or to a designated private nonprofit association acceptable to the City who is willing to accept the easement and willing to operate and maintain the public accessway or trail. Where grants of easement are not feasible because neither the City nor private nonprofit association is willing to accept, maintain and operate the accessway, implementation of required access mitigation shall be implemented through a recorded Offer to Dedicate (OTD) an easement to a public agency or a designated private nonprofit association acceptable to the City. Offers of dedication shall last for a period of 21 years from the date of recordation of the offer.

Policy OS-16.7: Mitigation measures required for impacts to public access and recreational opportunities shall be implemented prior to or concurrent with construction of the approved development. Mitigation shall not substitute for implementation of a feasible project alternative that would avoid impacts to public access.

Policy OS-16.8: Public Access as a Permitted Use. Public accessways and trails to the shoreline and public parklands shall be a permitted use in all land use and zoning designations. Where there is an existing, but unaccepted and/or unopened public access Offer to Dedicate (OTD), easement, or deed restriction for lateral, vertical or trail access or related support facilities (e.g. parking), construction of necessary access improvements shall be permitted to be constructed, opened and operated for its intended public use.

Policy OS-16.9: Review new development to prevent siting of structures that encroach on coastal access routes where prescriptive easements may exist so as to provide the opportunity to acquire the access through a conservation easement, adjudication, or other means, as appropriate.

Policy OS-16.10: Require, as a condition of development for projects which create significant adverse impacts on public access and where discretionary approval by the City is required, lateral access along the bluffs of the Georgia-Pacific property and adjacent properties, north of the Noyo Harbor area to Pudding Creek as indicated in Map OS-3.

Program OS-16.10.1: Consider the establishment of an ocean front park connecting to bicycle trails and rest areas from Hare Creek to MacKerricher State Park.

Policy OS-16.11 Use of Public Accesses: Dedicated accesses shall not be required to be opened for public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the access.

Policy OS-16.12: Open the Easement. For all grants of easement to the City, the City shall open the easement to the public as soon as is feasible, and shall be responsible for operating and maintaining the accessway, or the City shall grant the easement to a private nonprofit association that is willing to accept, maintain and operate the accessway.

Policy OS-16.12: Easements to Non Profits. For all grants of easement from the City to a private non-profit association, the Executive Director of the Commission must review and approve a management plan submitted by the private non-profit association that indicates that the association will open, operate, and maintain the easement in accordance with terms of the recorded grant of easement, and that the association will open the easement to the public as soon as is feasible.

Program OS-16.12.1: Work with the Coastal Conservancy and other organizations to accept liability for and maintain public accesses.

Program OS-16.12.2: Facilitate the acceptance of Offers to Dedicate (OTDs) as a means of obtaining additional public access.

Policy OS-16.13: Offers to Dedicate. Any government agency may accept an offer to dedicate an easement if the agency is willing to operate and maintain the easement. For all offers to dedicate an easement that are required as conditions of Coastal Development Permits approved by the City, the Executive Director of the Commission must approve any private non-profit association that seeks to accept the offer. In order for the Executive Director of the Commission to approve any private association, the non-profit association must submit a management plan that indicates that the association will open, operate, and maintain the easement in accordance with terms of the recorded offer to dedicate the easement.

Policy OS-16.14: Acquire OTDs for access easements for all areas designated on Map OS-3 in conjunction with new development which will adversely impact public access, unless other sites exist within 500 feet which provide sufficient access, parking, and other related facilities.

Policy OS-16.15: In coordination with the Executive Director of the Coastal Commission, the City shall establish a procedure for acceptance of OTDs and management of public accesses prior to their expiration.

Policy OS-16.16 Priority to Beach Rather than Bluff Access North of Glass Beach: Where public access to both beach and blufftop areas is feasible, give a higher priority to public use of the beaches rather than to the bluffs in the design and development of accesses and the location and placement of directional signs. This policy applies to bluffs north of Glass Beach to the mouth of Pudding Creek and then easterly to the Pudding Creek Trestle.

Policy OS-16.17 Coastal Trails: Develop a continuous trail system throughout the City which connects to the California Coastal Trail system.

Program OS-16.17.1: Ensure that City trails connect with the California Coastal Trails system, as shown on Map OS-3. Acquire rights-of-way through Offers to Dedicate; easements; land transfers; and land acquisition, as appropriate.

Program OS-16.17.2. California Coastal Trail (CCT)

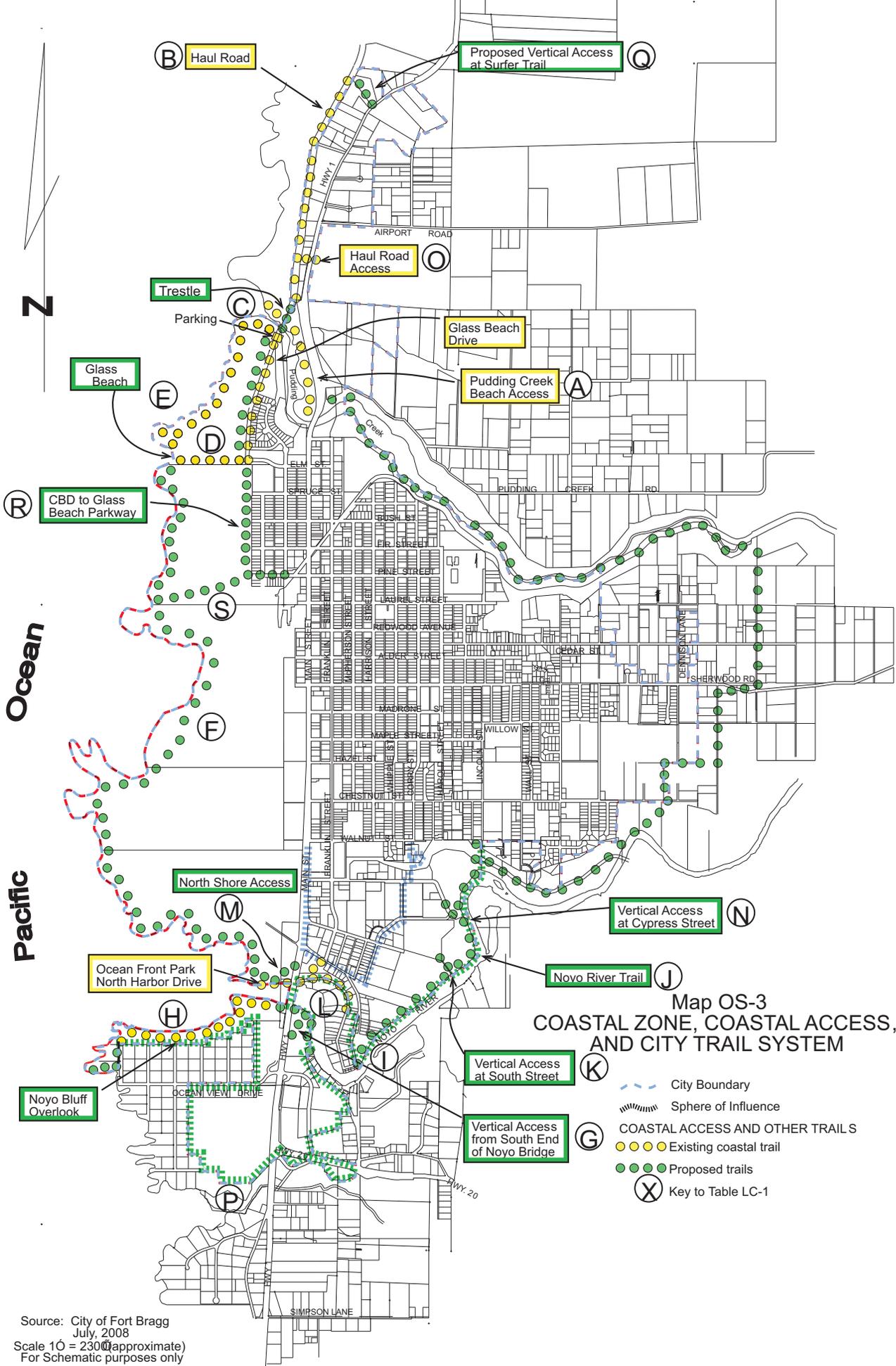
1. The City shall strive to complete the links in the California Coastal Trail (CCT) by participating and consulting with the National Park Service, the State Department of Parks & Recreation, the State Coastal Conservancy, Mendocino County, and other appropriate public and private entities and interested parties in designing, locating, funding, acquiring, and implementing the Fort Bragg California Coastal Trail (CCT)

segment, including opening trails for vertical access designated on Map OS-3, "Coastal Zone, Coastal Access, and City Trail System."

- a) The CCT shall be identified and defined as a continuous trail system traversing the length of the state's coastline and designed and sited as a continuous lateral trail traversing the length of the City's Coastal Zone and connecting with contiguous trail links in adjacent Coastal jurisdictions (Mendocino County).
- b) The CCT shall be designed and implemented to achieve the following objectives:
  - Provide a continuous walking and hiking trail as close to the ocean as possible;
  - Provide maximum access for a variety of non-motorized uses by utilizing alternative trail segments where feasible;
  - Maximize connections to existing and proposed local trail systems;
  - Ensure that all segments of the trail have vertical access connections at reasonable intervals;
  - Maximize ocean views and scenic coastal vistas;
  - Provide an educational experience where feasible through interpretive facilities.
- c) Ensure that shoreline and blufftop trail segments that may not be passable at all times provide inland alternative routes.

## 2. CCT Siting and Design Standards:

- a) The trail should be sited and designed to be located along or as close to the shoreline where physically and aesthetically feasible. Where it is not feasible to locate the trail along the shoreline due to natural landforms or legally authorized development that prevents passage at all times, inland bypass trail segments located as close to the shoreline as possible should be utilized. Shoreline and blufftop trail segments that may not be passable at all times shall provide inland alternative routes.
- b) Where gaps are identified in the trail, interim segments should be identified to ensure a continuous coastal trail. Interim segments should be noted as such, with provisions that as opportunities arise, the trail shall be realigned for ideal siting. Interim trail segments should meet as many of the CCT objectives and standards as possible.
- c) The CCT should be designed and located to minimize impacts to environmentally sensitive habitat areas to the maximum extent feasible. Where appropriate, trail access should be limited to pass and repass. Where necessary to prevent disturbance of nesting birds, sections of the trail may be closed on a seasonal basis. Alternative trail segments shall be provided where feasible.
- d) The CCT should be located to incorporate existing oceanfront trails and paths and support facilities of public shoreline parks and beaches to the maximum extent feasible.
- e) To provide a continuously identifiable trail along the base and shoreline of Mendocino County, the trail should be integrated with the CCT in Mendocino County which borders the City.
- f) The CCT should be designed to avoid being located on roads with motorized vehicle traffic where feasible. In locations where it is not possible to avoid siting the trail along a roadway, the trail should be located off of the pavement and within the public right-of-way, and separated from traffic by a safe



Map OS-3  
COASTAL ZONE, COASTAL ACCESS,  
AND CITY TRAIL SYSTEM

- City Boundary
- Sphere of Influence
- COASTAL ACCESS AND OTHER TRAILS**
- Existing coastal trail
- Proposed trails
- Key to Table LC-1

Source: City of Fort Bragg  
July, 2008  
Scale 1" = 2300' (approximate)  
For Schematic purposes only



distance. In locations where the trail must cross a roadway, appropriate directional and traffic warning signing should be provided.

3. CCT Acquisition and Management:

- a) Trail easements should be obtained by encouraging private donation of land, by public purchase, or by dedication of trail easements. Trail easement dedications shall be required as a condition of approval of a Coastal Development Permit for development on property located on the CCT route or on designated vertical accessways to the route, when the dedication will mitigate adverse impacts on public access and/or recreation by the project.
- b) The CCT plan should identify the appropriate management agency(s) to take responsibility for trail maintenance.

4. CCT Signage Program Standards:

- a) The trail should provide adequate signage at all access points, trailheads, parking lots, road crossings, and linkages or intersections with other trails or roads which incorporate the CCT logo (to be designed).
- b) The trail should provide adequate safety signage, including but not limited to, road crossing signs and yield/warning signs on multi-use trail segments. Where appropriate signs should be developed in coordination with Caltrans and/or City and County Public Works Departments and any other applicable public agencies.
- c) Signs shall be posted in Spanish and in English.

5. CCT Support Facilities:

- a) To maximize access to the CCT, adequate parking and trailhead facilities should be provided.

6. CCT Mapping:

- a) The final CCT map shall identify all planned or secured segments, including existing segments, all access linkages and planned staging areas, public and private lands, existing easements, deed restricted sections and sections subject to an Offer-to-Dedicate (OTD). The map shall be updated on a regular basis.
- b) The CCT shall be identified on all applicable City Trail Maps contained in the LCP Access Component.

7. Inclusion of CCT in LCP:

- a) The LCP shall be amended to incorporate all plans and designs for locating and implementing the CCT within the City including the final mapped alignment.

Policy OS-16.18 General Standards: Require that all public access easements offered for dedication to public use be a minimum of 25 feet wide. The area where public access is allowed within the easement may be reduced to the minimum necessary to avoid:

- a) adverse impacts on sensitive environmental areas;
- b) encroachment closer than 20 feet from an existing residence; and/or
- c) hazardous topographic conditions.

Policy OS-16.19 Standards for Lateral Shoreline Access Easements: Lateral shoreline access easements shall extend landward 25 feet from mean high tide to the toe of the bluff or the first line of terrestrial vegetation if the width of the beach is greater than 25 feet. Lateral blufftop easements shall be at least 25 feet in width. The area where public access is allowed within the easement may be reduced consistent with Policy OS-16.18 above. The average annual bluff retreat (erosion) shall be taken into account when planning lateral accesses. Shoreline and blufftop trail segments that may not be passable at all times shall provide inland alternative routes.

Policy OS-16.20 Visitor Accommodations and Services: In order to avoid or offset a project's significant adverse impacts on public access and consistent with the provisions of Section 18.56.070, require public access to the blufftop and/or shoreline for visitor serving uses, as a condition of permit approval, or by other methods such as OTDs, specified by the City. Access shall be available to the public at large as well as to guests.

Policy OS-16.21 Safety and Environmental Protection: Permanent closure of any existing public accessway shall require an amendment to the Local Coastal Program.

Policy OS-16.22: Unless immediate action by a person or a public agency performing a public service is required to protect life and property from imminent danger, the City shall not close, abandon, or render unusable by the public any existing accessway which the City owns, operates, maintains, or is otherwise responsible for, without first obtaining a Coastal Development Permit. Any accessway which the City or any other managing agency or organization determines cannot be maintained or operated in a condition suitable for public use shall be offered to another public agency or qualified private association that agrees to open and maintain the accessway for public use.

Program OS-16.22.1: Request the California Department of Fish and Game monitor public accesses adjoining or near sensitive environmental resources such as wetlands, dunes, tide pools, and other sensitive wildlife habitats to determine whether they are being adversely impacted or degraded. Request that regulations governing use of accesses be implemented and posted as needed. Limit public use, as needed, to allow resource recovery and restoration.

## **F. Parks and Recreation**

**Goal OS-17 Provide an attractive system of parks and recreation facilities throughout the City to meet the needs of all age groups and capabilities.**

Policy OS-17.1 Parkland Standard: Use the standard of three acres of parkland per 1,000 residents for the acquisition of additional parkland pursuant to the provisions of the Quimby Act (Government Code Section 66477).

Program OS-17.1.1: Establish a parkland dedication ordinance that provides standards and a process for dedication of parkland and/or payment of in-lieu fees.

Program OS-17.1.2: Establish a Park and Open Space Trust Fund as required by the Quimby Act and Government Code Sections 66000-66011.

Policy OS-17.2 Neighborhood Parks: Acquire and develop new neighborhood parks, in concert with other local recreation agencies, to meet the needs of the existing population and consistent with growth of the City's population.

Program OS-17.2.1: Acquire and develop additional neighborhood parks as shown on Map OS-4.

Policy OS-17.3 Recreational Facilities: Provide recreational facilities to meet the needs of all Fort Bragg citizens, especially children and teenagers.

Program OS-17.3.1: Consider teen recreation needs when planning new or redesigned parks.

Program OS-17.3.2: Consider building a skateboard facility in an existing or newly developed park as deemed feasible.

Program OS-17.3.3: Work with other agencies to develop an inventory of recreational facilities and programs available to young people. Seek to implement joint programs and identify additional facilities that are necessary to meet the recreational needs of youth.



Policy OS-17.4 Playground Facilities: Add or upgrade playground facilities at existing neighborhood parks.

Program OS-17.4.2: Provide additional playground facilities and basketball courts at appropriate locations within neighborhoods.



Policy OS-17.5 Ballfields: Develop additional baseball, softball, and other ballfields.

Program OS-17.5.1: Work with the School District and other agencies to develop additional sports field facilities.

Policy OS-17.6 Prioritize Park Acquisitions: Use the following criteria to prioritize acquisition of parkland and open space:

- a) distribution of neighborhood parks/playground facilities and ballfields on a neighborhood basis;
- b) scenic beauty;
- c) relationship to the existing and proposed trail systems and parks; and
- d) natural resource protection.
- e) appropriateness (physical characteristics) of the site to meet specific recreational needs.

Program OS-17.6.1: Consider the acquisition of strategically located vacant lots for the development of neighborhood parks using the criteria listed in Policy OS-17.6.

Program OS-17.6.2: Adopt a management plan that analyzes geoseismic and other related potential hazards before City acceptance of dedications of land for park or open space. Identified hazards shall be fully repaired and/or financial protection provided to the City for liability before acceptance of land. The management plan shall also specify funding for ongoing maintenance.



Policy OS-17.7 Financing Parks: Consider methods of increasing revenues for the acquisition and development of parkland and open space areas and supporting recreational facilities.

Program OS-17.7.1: Consider the following potential funding sources for the acquisition of park and trails and development of recreation facilities:

- a) Establish a Park Improvement Fee pursuant to Government Code Section 66000;
- b) Place an advisory measure on the ballot for a tax proposal or assessment; and/or
- c) Pursue available grants.

Program OS-17.7.2: Include in the Capital Improvement Program the schedule and costs of expanding and improving the City's parks and recreation facilities as deemed appropriate by the City Council.

**Goal OS-18 Develop park and recreation facilities with the coordination of other agencies and the public.**

Policy OS-18.1 Coordinate with Other Agencies: Coordinate with other governmental entities to procure and develop additional park and recreational facilities.

Program OS-18.1.1: Consider establishing joint powers agreements with the Mendocino Coast Recreation and Parks District (MCRPD), Fort Bragg Unified School District (FBUSD), and Mendocino County to coordinate planning and development of recreation facilities.

Program OS-18.1.2: Continue to coordinate with State Department of Parks and Recreation regarding development adjacent to MacKerricher State Park.

Program OS-18.1.3: In reviewing development applications adjacent to MacKerricher State Park, the City shall confer with the State Department of Parks and Recreation to determine if additional mitigation measures regarding access to the park, or protection of park resources, are warranted. If feasible, these additional measures will be required.

Program OS-18.1.4: Support public acquisition of land along the eastern boundary of MacKerricher State Park as indicated in Map OS-3: Coastal Zone, Coastal Access, and City Trail System which would be donated to the State Parks.



Policy OS-18.2 City/School/Recreation District Cooperation: Continue to encourage City/School/Recreation District cooperation in developing and maintaining park and recreation facilities.

Program OS-18.2.1: Develop joint use agreements with the School District.

Program OS-18.2.2: Continue to cooperate with the FBUSD, MCRPD, and Timberwolf Stadium to develop playfield improvements and maintenance programs.



Policy OS-18.3 Public Participation: Actively solicit public participation in the selection, design, and facilities planning for existing and future park sites.

Program OS-18.3.1: Utilize local volunteer efforts and fund-raising to cover the "match" costs needed to secure rehabilitation or purchase grants for public parks.

**Goal OS-19 Provide a comprehensive trail system in Fort Bragg.**

Policy OS-19.1 Multiple Use Trail System: Develop a multiple use trail system.

Program OS-19.1.1: Identify potential additions to the trail system which increase access to rivers and the coastline with cross linkages through to the eastern parts of Fort Bragg. Work with the MCRPD to seek funding and to acquire rights-of-way.

Program OS-19.1.2: Establish an integrated trail system serving both inland hiking and trail needs as well as the coastal trail programs as shown on Map OS-3 utilizing existing rights-of-way, City streets, and river front property.

Policy OS-19.2: Review development applications and require a trail easement dedication for locations where trails are shown on Map OS-3 where an appropriate nexus is established consistent with the provisions of Chapter 18.56 (Public Access) of the Coastal Land Use & Development Code.

Policy OS-19.3: Require new development to provide direct pedestrian connections, such as sidewalks, trails, and other rights-of-way to the existing and planned network of parks and trails wherever feasible.

Program OS-19.3.1: Consider the access needs of a variety of users, including school-age children, the elderly, and those with handicaps or disabilities when developing trails and recreation facilities.

Program OS-19.3.2: Support efforts to extend the existing trail from the end of Cypress Street east adjacent to the Georgia-Pacific haul road.



## Gonzalez, Joanna

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**From:** Jacob Patterson <jacob.patterson.esq@gmail.com>  
**Sent:** Wednesday, March 10, 2021 6:02 PM  
**To:** Gonzalez, Joanna  
**Subject:** Fwd: Continued Public Hearing for CDP 2-20.

Joanna,

I intended to draft more detailed public comments about the following (and perhaps a little nicer in tone) but did not have the time so I am forwarding this email to include in the record. It is up to you but I am fine with it simply being added to the record electronically rather than read into the record tonight because I already submitted other written comments, which would extend beyond the three-minute time limit and I also expect to make oral comments tonight myself. Please note that my last paragraph talks about the Drainage and Erosion Control Plan, which is not mentioned in the staff report nor is the project analyzed for consistency with Policy OS-1.10. That said, I think I should acknowledge that the plan is indirectly referenced in the draft resolution because it is mentioned as in Permit Special Conditions Nos. 8 and 9. The Coastal General Plan Consistency analysis should have included discussion about this applicable CGP policy but the requirement appears likely to be met at some point in the future, provided that such a plan is, in fact, submitted to the city and approved by the City. That said, the issue is that the Planning Commission needs to be able to determine that the project is consistent with the CGP tonight (or at least before they make a final decision on the permits) and they can't reasonably do so if everything is deferred into the future and delegated to staff-level review. This is true because CGP Policy OS-1.12, which requires the plan in the first place, also requires that the plan is reviewed by a qualified biologist, the City has no qualified biologists on staff, and Teresa Spade's biology report doesn't indicate that such a plan was provided for her review or that her review satisfied these requirements. Since none of that is in the record now, there is no substantial evidence to support that this project is consistent with CGP Policy OS-1.12.

Best,

--Jacob

----- Forwarded message -----

**From:** Jacob Patterson <[jacob.patterson.esq@gmail.com](mailto:jacob.patterson.esq@gmail.com)>  
**Date:** Fri, Mar 5, 2021 at 6:03 PM  
**Subject:** Continued Public Hearing for CDP 2-20.  
**To:** O'Neal, Chantell <[coneal@fortbragg.com](mailto:coneal@fortbragg.com)>

Chantell,

This is NOT an official public comment for the meeting next week, although I will prepare and submit at least one per the means described in the agenda. However, here is a preview for you to avoid any surprises...

Effectively, there still isn't any Coastal General Plan (CGP) consistency analysis in Heather's staff report because she literally only references a single CGP goal. So far as I can tell, the sum total of Heather's analysis is the following: "Coastal General Plan Yes Goal OS-1 Preserve and enhance the City's Environmentally Sensitive Habitat Areas. The fence will preserve wetland and riparian habitat." That isn't actually any analysis, only a conclusion that doesn't include an explanation of how the conclusion is connected to the CGP

requirement. In fact, she doesn't discuss that a biological report was required to be prepared even though the reason is that it was required by CGP Policy OS-1.7 in addition to the Coastal Land Use Development Code Section 17.50.050(B), which she mentioned. She mentions a couple of topics that show up in the CGP but fails to cite the applicable policies or to discuss how the project is consistent with those policies. That is precisely what is required for general plan consistency analysis, which you already know from your own experience reviewing permit applications so I shouldn't have to mention it here.

More importantly, Heather fails to analyze several applicable policies in the CGP that present consistency issues for these project details. In one instance, she appears to rely on the recommendations of the biological report to justify permitting development that is not explicitly permitted based on CGP policies, including but not limited to OS-1.10, even though there is no flexibility built into the language of these policies to justify any variances (nor is a variance requested as part of this entitlement review).

Although it is certainly good that Heather apparently read the CGP to see that a biological report was required, having the required report doesn't negate the requirement to still make sure the project is consistent with all applicable policies in the CGP. Heather did not do this in her staff report or presentation. Further, the City is required to make specific findings in order to approve this project. She lists what the findings need to establish in the draft resolution and even attempts to describe why the findings might be justified but her draft text still doesn't actually include the necessary explanation of the basis for several of the findings. Most obvious are the findings of consistency with the LCP and consistency with the CGP. Does Heather not recognize that the project is required to be consistent with all applicable CGP policies, not just Goal OS-1. Goals are one step higher in the hierarchy within the CGP and one cannot establish consistency without evaluating the specific requirements of each applicable policy under each applicable Goal. Heather did not do this in the staff report or in the draft resolution.

For example, I see no discussion of CGP Policy OS-1.12: Drainage and Erosion Control Plan, which states "Permissible development on all properties containing environmentally sensitive habitat, including but not limited to those areas identified as ESHA Habitat Areas on Map OS-1, shall prepare a drainage and erosion control plan for approval by the City." This project is to construct a fence within a wetland ESHA buffer area and this policy states that the development "shall prepare a drainage and erosion control plan for approval by the City" but I see no mention of the required drainage and erosion control plan. Where is this required plan and where is Heather's consistency analysis concerning CGP Policy OS-1.10? [This is but one example but there are others which I will address in my official public comments. This is a permit for a simple fence so I am not sure why staff appears intent on punishing the applicant by subjecting them to unnecessary delays and additional expenses due to inadequate review and screening of issues during the staff review process. (At least the other staff report for the residential use conversion appears to be OK.)

Regards,

--Jacob

## Gonzalez, Joanna

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**From:** Jacob Patterson <jacob.patterson.esq@gmail.com>  
**Sent:** Wednesday, March 10, 2021 5:28 PM  
**To:** Gonzalez, Joanna  
**Subject:** Fwd: CDP 2-20 General Plan Consistency Analysis follow-up comments for the record

I forgot to CC you on my original email comments for Item 6A tonight. Please include this email in the public comments tonight, although you probably need not read them into the record because it would take more than 3 minutes to do so.

----- Forwarded message -----

From: **Jacob Patterson** <[jacob.patterson.esq@gmail.com](mailto:jacob.patterson.esq@gmail.com)>  
Date: Thu, Feb 11, 2021 at 1:12 PM  
Subject: CDP 2-20 General Plan Consistency Analysis follow-up comments for the record  
To: O'Neal, Chantell <[conéal@fortbragg.com](mailto:conéal@fortbragg.com)>, Gurewitz, Heather <[hgurewitz@fortbragg.com](mailto:hgurewitz@fortbragg.com)>

Chantell & Heather,

I am glad to hear the item last night was continued, including specifically to perform some Coastal General Plan Consistency analysis, which was lacking in the original staff report and agenda packet. I didn't make additional public comments last night on this topic so I am now relaying some of what I would have addressed during my planned oral comments via this email comment. For example, you can see many applicable Coastal General Plan policies below that I believe should be addressed in the permit analysis and review for this project. There are other applicable policies that need to be reviewed for consistency but I found the following policies particularly relevant to this review because of the identified and documented ESHA on the project site. (I added the bold and underlined emphasis below; some of the listed policies are abbreviated from the original but you can find the complete language in the Coastal General Plan.)

### **Coastal General Plan Policies Applicable to CDP 2-20 & DR 5-20:**

Policy OS-1.1: Definition of ESHA...

Policy OS-1.2: Determination of ESHA...

Policy OS-1.6: Development within Other Types of ESHA ***shall protect*** ESHA against any significant disruption of habitat values ***and shall be limited to the following uses:***

- a. Resource Dependent Uses. Public nature trails within riparian ESHA are considered a resource dependent use provided that: (1) the length of the trail within the riparian corridor shall be minimized; (2) the trail crosses the stream at right angles to the maximum extent feasible; (3) the trail is kept as far up slope from the stream as possible; (4) trail development involves a minimum of slope disturbance and vegetation clearing; and (5) the trail is the minimum width necessary. Interpretive signage may be used along permissible nature trails accessible to the public to provide information about the value and need to protect sensitive resources.
- b. Restoration projects where the primary purpose is restoration of the habitat.
- c. Invasive plant eradication projects if they are designed to protect and enhance habitat values.
- d. Pipelines and utility lines installed underneath the ESHA using directional drilling techniques designed to avoid significant disruption of habitat values.

Policy OS-1.7 Development in areas adjacent to Environmentally Sensitive Habitat Areas ***shall be sited and designed to prevent impacts*** which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

Policy OS-1.8: Development adjacent to ESHA ***shall provide buffer areas...***

Policy OS-1.9: Utilize the following criteria to establish buffer areas...

Policy OS-1.10: Permitted Uses within ESHA Buffers. ***Development*** within an Environmentally Sensitive Habitat Area buffer ***shall be limited to the following uses:...***

Policy OS-1.12: Drainage and Erosion Control Plan. Permissible development on all properties containing environmentally sensitive habitat, including but not limited to those areas identified as ESHA Habitat Areas on Map OS-1, ***shall prepare a drainage and erosion control plan*** for approval by the City...

Policy OS-1.14: Vegetation Removal in ESHA. ***Prohibit vegetation removal in Environmentally Sensitive Habitat Areas and buffer areas*** except for:

- a) Vegetation removal authorized through coastal development permit approval to accommodate permissible development,
- b) Removal of trees for disease control,
- c) Vegetation removal for public safety purposes to abate a nuisance consistent with Coastal Act Section 30005, or
- d) Removal of firewood for the personal use of the property owner at his or her residence to the extent that such removal does not constitute development pursuant to Coastal Act Section 30106.

Such activities shall be subject to restrictions to protect sensitive habitat values.

Policy OS-1.16: Biological Report Required.

- a) ***Permit applications for development within or adjacent to Environmentally Sensitive Habitat Areas*** including areas identified in Map OS-1 or other sites identified by City staff which have the possibility of containing environmentally sensitive habitat ***shall include a biological report*** prepared by a qualified biologist which identifies the resources and provides recommended measures to ensure that the requirements of the Coastal Act and the City of Fort Bragg's Local Coastal Program are fully met. ***The required content of the biological report*** is specified in the Coastal Land Use and Development Code.
- b) Submittal of Biological Reports. These biological reports shall be reviewed by the City and approving agencies. ***The biological reports described above shall be submitted prior to filing as complete a coastal development permit application and may also be submitted as a part of any environmental documentation required pursuant to CEQA.*** The selection of the professional preparing the report shall be made or approved by the City or the agency approving the permit and paid for by the applicant.
- c) ***Biological reports shall contain mitigating measures meeting the following minimum standards:***
  - i. They are specific, implementable, and, wherever feasible, quantifiable.
  - ii. They result in the ***maximum feasible protection***, habitat restoration and enhancement of sensitive environmental resources. Habitat restoration and enhancement shall be required wherever feasible, in addition to the applicable baseline standard of either avoiding or minimizing significant habitat disruption.
  - iii. They are ***incorporated into a Mitigation Monitoring Program***; and
  - iv. They ***include substantial information and analysis to support a finding that there is no feasible, less environmentally damaging alternative.***

Policy OS-5.1 Native Species: Preserve native plant and animal species and their habitat.

Policy CD-1.3: Visual Analysis Required. A *Visual Analysis shall be required* for all development located in areas designated "Potential Scenic Views Toward the Ocean or the Noyo River" on Map CD-1 except development listed in below...

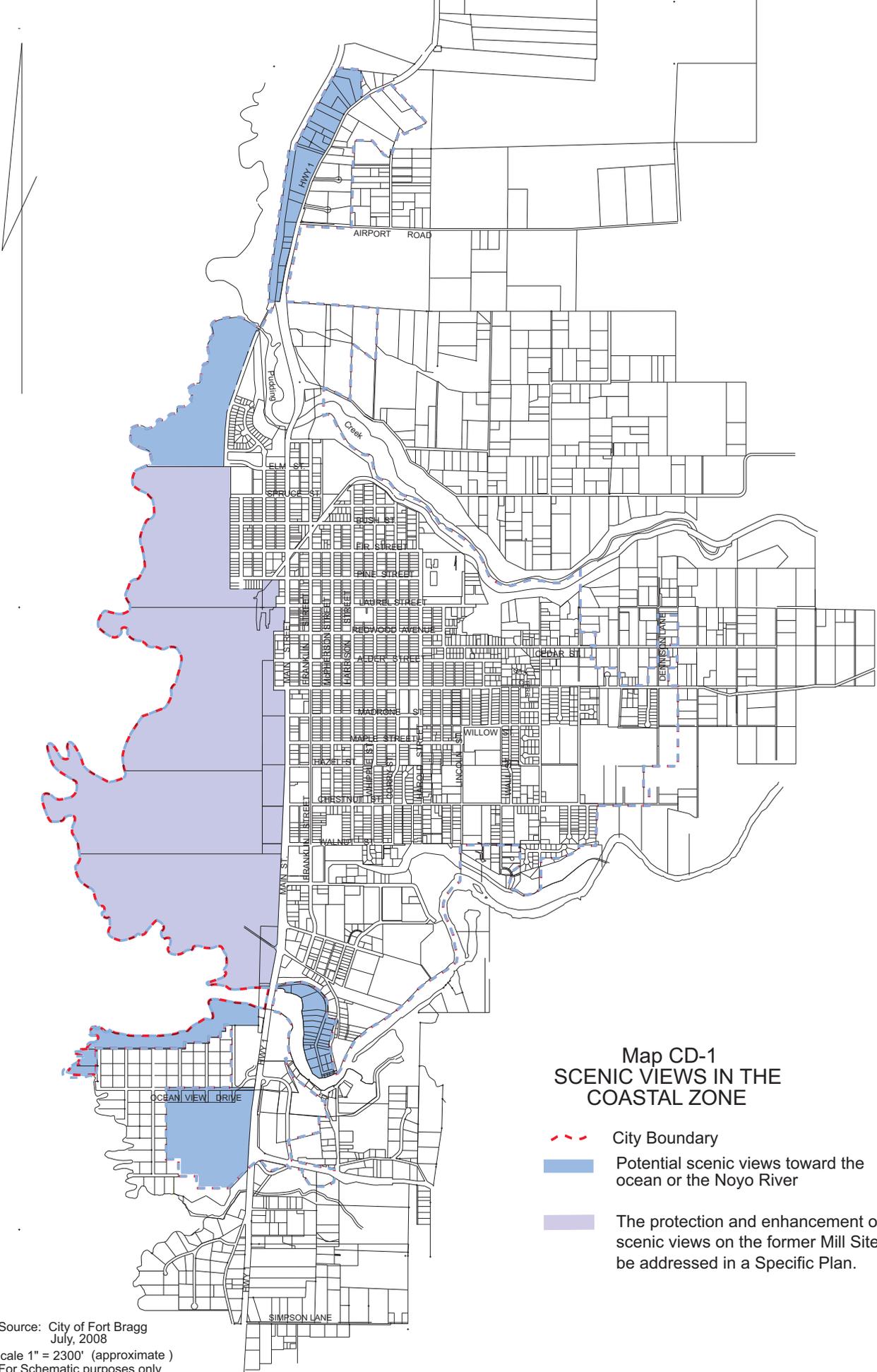
Policy CD-1.6: **Fences, walls, and landscaping shall minimize blockage of scenic areas from roads, parks, beaches, and other public viewing areas.**

Policy CD-2.5 Scenic Views and Resource Areas: Ensure that development does not adversely impact scenic views and resources as seen from a road and other public rights-of-way.

Please keep in mind that even though some of these policies are very strict and will restrict a lot of desired development, they remain policies in the Coastal General Plan applicable to this project unless or until they are revised as part of the next LCP update. Many of these policies are not discretionary (e.g., note the frequent use of the term "shall") so even if staff thinks they might not make sense or are too onerous, they still apply and the project is required to meet all such requirements in the Coastal General Plan as well as the land use regulations in the CLUDC. Coastal Zone projects have a lot of requirements and studies/analysis, many of which cannot be waived even if there might be logical reasons to not go through all the requirements. That said, some policies include language that permits the CDD Director (or Acting Director) to determine they do not have to apply to a particular project but such a determination would require written support and justification in the record.

Regards,

--Jacob



**Map CD-1  
SCENIC VIEWS IN THE  
COASTAL ZONE**

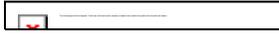
- - - City Boundary
- Potential scenic views toward the ocean or the Noyo River
- The protection and enhancement of scenic views on the former Mill Site will be addressed in a Specific Plan.

Source: City of Fort Bragg  
July, 2008  
Scale 1" = 2300' (approximate)  
For Schematic purposes only

**Gonzalez, Joanna**

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**From:** noreply@granicusideas.com  
**Sent:** Wednesday, March 10, 2021 5:25 PM  
**To:** Gonzalez, Joanna  
**Subject:** New eComment for Planning Commission - Via Webinar



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## New eComment for Planning Commission - Via Webinar

Scrutiny Coalition Repudiating Administrative Mediocrity submitted a new eComment.

Meeting: Planning Commission - Via Webinar

Item: 6A. 21-017 Conduct a Public Hearing and Consider Adoption of a Resolution to Approve Coastal Development Permit 2-20 (CDP 2-20) and Design Review 5-20 (DR 5-20) to construct a fence at 420 N. Harbor Drive

eComment: SCRAM opposes granting these permits at this time because they are not consistent with the Coastal General Plan, including but not limited to failing to meet the requirements listed in the attached file.

[View and Analyze eComments](#)

This email was sent from <https://granicusideas.com>.

[Unsubscribe](#) from future mailings

**Gonzalez, Joanna**

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**From:** SCR AM <scramfb@gmail.com>  
**Sent:** Wednesday, March 10, 2021 5:14 PM  
**To:** Gonzalez, Joanna  
**Cc:** O'Neal, Chantell; Gurewitz, Heather  
**Subject:** Public Comment on 3/10/21 PC Mtg., Item 6A  
**Attachments:** CGP Map CD-1, Scenic Views.pdf; Chapter 4 Conservation Open Space Eney and Parks Element.pdf

Planning Commission,

Among other reasons raised during public comments, SCRAM objects to the City's potential approval of CDP 2-20 and DR 5-20 because the City has not performed the necessary visual analysis that is required by Coastal General Plan (CGP) Policy CD-1.3. This project is on a parcel that is included in the City's Coastal General Plan Map CD-1 (attached) as an area requiring visual analysis and no such visual analysis has been prepared for these permits. (This is similar to the requirement for a biological report that had not been prepared and which necessitated continuing the public hearing to obtain the necessary report because such a report is required by and to implement the following CGP policies: OS-1.1, OS-1.2, OS-1.6, OS-1.7, OS-1.8, OS-1.9, OS-1.10, OS-1.12, OS-1.14, OS-1.16.) Unfortunately, staff has yet again failed to conduct a proper and complete permit review to the detriment of the community and the permit applicant. Moreover, because the visual analysis has not been prepared, this project will remain inconsistent with the City's Local Coastal Program and Coastal General Plan until such analysis has been prepared and presented to the Planning Commission for its consideration.

Thank you for your consideration of this important matter.

Sincerely,

S.C.R.A.M.

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Policy CD-1.3: Visual Analysis Required. A Visual Analysis shall be required for all development located in areas designated "Potential Scenic Views Toward the Ocean or the Noyo River" on Map CD-1 except development listed in below. Development exempt from Visual Analysis includes the following:

1. The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure.
2. The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.

3. Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.

4. The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not seaward of the location of the former structure.

5. Any repair or maintenance activity for which the Director determines has no potential for impacts to visual resources.

Definitions as used in this subsection:

1. "Disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.
2. "Bulk" means total interior cubic volume as measured from the exterior surface of the structure.
3. "Structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

## Gonzalez, Joanna

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**From:** SCR AM <scramfb@gmail.com>  
**Sent:** Wednesday, March 10, 2021 6:26 PM  
**To:** Gonzalez, Joanna  
**Subject:** we also submitted an eComment for this item

just in case you didn't notice it