

MEETING DATE: March 14, 2012
PREPARED BY: Teresa Spade
PRESENTED BY: Teresa Spade

AGENDA ITEM SUMMARY REPORT

APPLICATION NO.: CDP 2-12, 2-3-12

APPLICANT Mendocino Land Trust

OWNER: Allan & Lois Carlson

REQUEST: Coastal Development Permit to construct a public access trail within an existing public access easement. Associated development includes fencing to delineate the easement boundary, and directional signs.

LOCATION: 1250 Del Mar Drive; APN 018-450-41. The property is in the Coastal Zone.

ASSESSOR'S PARCEL NO.: 018-450-41

ZONING: Highway Visitor Commercial (CH), Very High Density Residential (RVH) and a portion of Public Facilities and Services (PF) where the parcel meets Bay View Avenue (County Road).

ENVIRONMENTAL DETERMINATION: Exempt from CEQA per Section 15303 of the Public Resources Code, Class 3(e) for the new construction or conversion of small structures, including accessory structures such as fences.

SURROUNDING LAND USES: NORTH: Highway Visitor Commercial (CH) - Emerald Dolphin Inn

EAST: General Commercial (CG) - Highway One and Boatyard Shopping Center

SOUTH: County RR-5[RR-1] - Hare Creek Beach

WEST: Public Facilities (PF) - College of the Redwoods

- APPEALABLE PROJECT:**
- Can be appealed to City Council
 - Can be appealed to California Coastal Commission – the project is located between the sea and the first public road.

ASSOCIATED PERMITS:

LCP A 1-11 & Zon 1-11 is currently in progress to reduce the residential density of the subject parcel and increase the commercial acreage as shown in Table 1.

Table 1. Existing and proposed acreage by zoning district.

Land use classification	Existing acres	Proposed acres
Highway Commercial	10.66	11.67
High Density Residential	8.00	--
Low Density Residential	--	6.99
Total Acreage	18.66	18.66

If approved, the LCP Amendment to rezone this parcel may have the potential to increase the width of the existing public access easement from 10 feet to 25 feet per Chapter 17.56 of the Coastal Land Use and Development Code.

DIV 2-05 & CDP 10-05 approved a lot split of the subject parcel, creating the 2.42 acre parcel adjacent to the north, which is now the location of the Emerald Dolphin Inn.

SCR 10-00 approved removal of major vegetation consisting of invasive scotch broom and Monterey pine seedlings.

DIV 1-83 approved a lot split between the subject parcel and the College of the Redwoods parcel.

CDP 1-81-148A was processed by the California Coastal Commission in conjunction with DIV 1-83 which separated the subject parcel from the College of the Redwoods parcel. It required in part that the subject 10 foot public access easement be recorded and offered for dedication. That offer was accepted by the Mendocino Land Trust in February of 2005, record number 2005-03492.

PROJECT DESCRIPTION

The applicant, Mendocino Land Trust proposes improvements within existing public access easements to establish a public access trail from Bay View Drive (County Road) to Hare Creek Beach, a public beach managed by Mendocino Land Trust. The trail and improvements would allow for: 1) a trail for formalized access to the beach on the north side of the creek; 2) signage that informs the public of trail rules, encourages the public to protect the natural environment, and encourages the public to respect adjacent property; and 3) fencing to delineate the boundaries of the public access trail through otherwise private property. The trail would be located both within City limits and outside of City limits within the unincorporated areas. Portions of trail within unincorporated areas will be addressed for Coastal Act Compliance by the County of Mendocino. When completed, this new ½ mile section of trail will become a part of the California Coastal Trail.

Portions of the project within the City limits are confined to parcel APN 018-450-41 (see Attachment One for parcel location), a relatively flat 18 acre undeveloped property along the north side of Hare Creek. Approximately 1,200 linear feet, or roughly ¼ mile of trail section would occur within City limits, along the southern boundary of the property, within the existing 10 foot wide access easement (see Attachment Two for project plans). Trail improvements will require minor vegetation removal and placement of four signs and fencing to delineate trail boundaries.

CONSISTENCY WITH PLANNING POLICIES

Land Use. The existing public access trail was approved in conjunction with subdivision DIV 1-83, which separated the subject parcel from College of the Redwoods property. The Coastal Development Permit (CDP) associated with that division was processed by the Coastal Commission as the City's Local Coastal Program (LCP) had not yet been approved. A requirement of that CDP was to record and offer to dedicate the subject 10 foot wide public access easement. That easement was recorded and offered, and Mendocino Land Trust accepted the offer in 2005, becoming the management entity for the public access easement.

The Coastal Land Use and Development Code delineates appropriate land uses for each zoning district and includes the use type "hiking/riding trail," which is allowable in Open Space, Parks and Recreation, Public Facilities, and Timber Resources Industrial Districts. This use type is not indicated in residential or commercial districts. As the subject trail easement is located in portions of the property zoned commercial and residential as well as public facilities, assigning

the public access trail the "hiking/riding trail" use would prohibit its allowance in the residential and commercial portions of the property.

Since maximization of public access to and along the ocean is a primary goal of our LCP, inclusion of public access trails within the use type "hiking/riding trail" would result in an inconsistency between the Coastal General Plan and Coastal Land Use and Development Code.

Regarding consistency between the Coastal Land Use & Development Code (CLUDC) and the Coastal General Plan/Local Coastal Program, Section 17.10.020 of the CLUDC states:

This Development Code is a primary tool used by the City to carry out the goals, programs, and policies of the Fort Bragg Coastal General Plan. The Fort Bragg City Council intends that all provisions of this Development Code be consistent with the Coastal General Plan. Any development approved in compliance with these regulations shall be consistent with this Development Code, the Coastal General Plan, and all other components of the Local Coastal Program (LCP).

In order to resolve the matter, staff recommends a differentiation of use types between "coastal access trail" and "hiking/riding trail." In order for consistency with the LCP including specific policies outlined in Chapter 17.56 of the CLUDC, coastal access trails must be allowable in all zoning districts.

Fencing. The applicant proposes fencing in the southwest portion of the main part of the parcel to encourage pedestrians to stay within the easement, as cutting across the parcel outside of the easement area is otherwise probable given the openness of the property and the angle of the trail alignment. A natural wood split rail fence, approximately four to five feet high is proposed between the easement and the inner portions of the parcel (Attachment 3). An existing fence is present along the property line on the south side, which is in a state of disrepair. The applicant would replace damaged sections of this existing fence with wire fencing (Attachment 4) to delineate the easement boundary on the south side in this section. Fences would not be within a traffic safety visibility area, would not be view obscuring, and would be less than 6 feet in height. The proposed fencing would be in compliance with zoning standards.

Parking. Parking is to be located outside of City limits on College of the Redwoods property off Del Mar Drive. County of Mendocino General Plan Coastal Element Policy 4.4.12 requires:

Public access to Hare Creek beach shall be an important feature of the local coastal plan in this area which is subject to rapidly increasing urbanization. A proposed shoreline access trail to Hare Creek Beach is indicated on the land use map.

As part of its planned development, the College of the Redwoods shall be required to provide for an internal pedestrian pathway and a public parking area conveniently situated on its property.

Signs. The applicant will be placing one management and three "please stay on trail" signs on the subject parcel within City limits. All signs will be freestanding and will not exceed a height of five feet. The "please stay on trail" signs will either state "Please respect landowner privacy by staying on the designated trail" or "Private Property." The "please stay on trail" signs would be 8"x12" in size, brown aluminum background with white vinyl letters. The management sign will be placed where the trail easement meets Bay View Drive. The management sign would be 24"x36" and would be brown aluminum with white lettering. An example of the sign is included as Attachment 5.

Although there are no size requirements outlined for signs associated with public access trails, the management signs indicate the property is conserved and managed by Mendocino Land Trust, Coastal Conservancy and Coastal Commission, and outline rules to abide by, and the directional signs are provided to remind people to respect private property boundaries. As such these signs are appropriate for proper management of a public access trail. The proposed size and number of signs is reasonable given the context. The proposed signs comply with all other standards as outlined in Section 17.38.060 of the Coastal Land Use and Development Code, including height and color requirements.

Cultural Resources. The property was surveyed for archaeological resources by Thad Van Bueren in April of 2007. No archaeological sites or other kinds of historical resources were identified. The City's standard cultural resource protective condition will protect any archaeological deposits in the event they are uncovered during development activities.

Public Access. As outlined in the Introduction, Section B of the Coastal General Plan, the Coastal Act sets goals for Local Coastal Plans including this primary goal of the Coastal Act:

Maximize public access to and along the coast and maximize public recreational opportunities in the Coastal Zone consistent with sound resource conservation principles and constitutionally protected rights of property owners.

The proposed improvements to the approved public access easement illustrate the balance of property rights protection through placement of signs and fencing to delineate boundaries, while facilitating public access to Hare Creek beach in a way that treads lightly on coastal resources. In this manner, the project achieves the intent of the Coastal General Plan.

Environmentally Sensitive Habitat Areas. The project area was surveyed for botanical and biological resources by Matt Richmond of Redwood Coast Associates in association with developments proposed by Group II Commercial Real Estate, Inc. in 2007. No botanical or biological resources were found on the subject property. The closest edge of riparian vegetation associated with Hare Creek is approximately 75 feet south of the proposed portions of trail within City limits, and the lower portion of the trail, to be considered by the County, lies between the riparian vegetation and the portions of trail within City limits. Since activities in this area within City limits do not constitute development as minor vegetation is to be removed and no grading is proposed, a buffer analysis is not warranted. The closest development to the riparian area would be approximately 250 feet northwest of the riparian edge. No detrimental impacts would occur to the riparian area as a result of the proposed development.

Geologic, Flood, and Fire Hazard. The project does not consist of major vegetation removal or grading and all trail portions within City limits would be contained to slopes of 10% or less. The project is not subject to nor would it contribute towards erosion damage.

The proposed development within City limits is not located in an area subject to tsunami inundation according to maps provided by the California Department of Conservation.

According to Federal Emergency Management Agency (FEMA) flood insurance maps, the project site is located outside the 500-year flood plains associated with Hare Creek.

The project site is not located in a moderate or high fire hazard area and is not of special concern to the City Fire Department.

Visual Analysis. The project is located in an area designated "Potential Scenic Views Toward the Ocean or the Noyo River" as shown on Map CD-1 of the Coastal General Plan (Attachment 1). Accordingly, the project must conform with visual analysis requirements outlined in Section 17.50.070 of the CLUDC including development standards and general findings for project approval.

The project is consistent with development standards as follows:

Development shall be sited and designed to minimize adverse impacts on scenic areas visible from scenic roads or public viewing areas to the maximum feasible extent.

The proposed trail enhancements including signs and fencing have been sited and designed to minimize visual impacts. They do not block views to the ocean.

Fences, walls, and landscaping shall minimize blockage of views of scenic areas from roads, parks, beaches, and other public viewing areas.

Proposed fences are designed to minimize blockage of views. Fences do not block public views.

- 1. Development shall minimize removal of natural vegetation. Existing native trees and plants shall be preserved on the site to the maximum extent feasible.**

Vegetation removal is minimal. Some trimming of native and non-native vegetation will be needed to keep the trail within the approved easement. Such removal will not constitute major vegetation removal and will be the minimum necessary to achieve adequate passage.

- 2. Exterior lighting (except traffic lights, navigational lights, and other similar safety lighting) shall be minimized, restricted to low intensity fixtures and shielded so that no light shines beyond the boundaries of the property.**

No lighting is proposed.

Consistent with Section 17.50.070(J) of the CLUDC, the project is designed to minimize alteration of natural landforms. No grading is proposed. Vegetation will simply be cleared within the trail alignment.

The findings required for project approval are included with Coastal Development findings at the end of this summary. The proposed project conforms with all development standards and findings as outlined in the Visual Resources section of the CLUDC.

Environmental Determination. The project is Categorically Exempt from the California Environmental Quality Act (CEQA), meeting the Section 15303 of the Public Resources Code, Class 3(e) exemption for the new construction or conversion of small structures, including accessory structures such as fences.

PLANNING COMMISSION ACTION

- 1. Hold a hearing, close the hearing, deliberate, and make a decision at this Planning Commission meeting.**

ALTERNATIVE ACTION

- 2. Hold a hearing, close the hearing, deliberate without a decision, and revisit the application at the next scheduled meeting for a decision and the addition of any new findings.**

3. Hold the hearing, and continue the hearing to a date certain if there is insufficient time to obtain all input from all interested parties. At the date certain the Commission may then deliberate, and make a decision.

RECOMMENDATION

Staff recommends approval of CDP 2-12 based on the following findings and subject to the conditions cited below:

GENERAL FINDINGS

1. The proposed project is consistent with the purpose and intent of the zoning district, as well as all other provisions of the Coastal General Plan, Coastal Land Use and Development Code (CLUDC) and the Fort Bragg Municipal Code in general;
2. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;
3. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.), to ensure that the type, density, and intensity of use being proposed would not endanger, jeopardize, or otherwise constitute a hazard to the public interest, health, safety, convenience, or welfare, or be materially injurious to the improvements, persons, property, or uses in the vicinity and zoning district in which the property is located;
4. The project complies with Specific Use Regulations established for the project; and
5. For the purposes of the environmental determination, the project is considered exempt from further environmental review pursuant to the California Environmental Quality Act (CEQA Guidelines Section 15303 –New Construction or Conversion of Small Structures).

COASTAL DEVELOPMENT PERMIT FINDINGS

1. The proposed development as described in the application and accompanying materials, as modified by any conditions of approval, is in conformity with the City of Fort Bragg's certified Local Coastal Program and will not adversely affect coastal resources;
2. The project is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code);
3. Feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment;

4. The proposed use is consistent with the purposes of the zone in which the site is located;
5. The proposed development is in conformance with the City of Fort Bragg's Coastal General Plan;
6. The proposed location of the use and conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity;
7. Services, including but not limited to, water supply, sewage disposal, solid waste, and public roadway capacity have been considered and are adequate to serve the proposed development;
8. The project, as proposed, will neither be subject to nor increase instability of the site or structural integrity from geologic, flood, or fire hazards due to project design, location on the site, or other reasons;
9. The project, as conditioned, will not have significant adverse impacts on site stability or structural integrity from geologic, flood, or fire hazards due to required project modifications, landscaping, or other conditions;
10. There are no alternatives to development that would avoid or substantially lessen impacts on site stability or structural integrity;
11. The resource as identified will not be significantly degraded by the proposed development;
12. There is no feasible less environmentally damaging alternative;
13. All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted; and
14. Consistent with visual resources analysis as outlined in Section 17.50.070 of the Coastal Land Use and Development Code, the project: 1) will minimize alteration of natural landforms; 2) is visually compatible with the character of the surrounding area; 3) is sited and designed to protect views to and along the ocean and scenic coastal areas; and 4) restores and enhances visual quality in visually degraded areas, where feasible.

STANDARD CONDITIONS

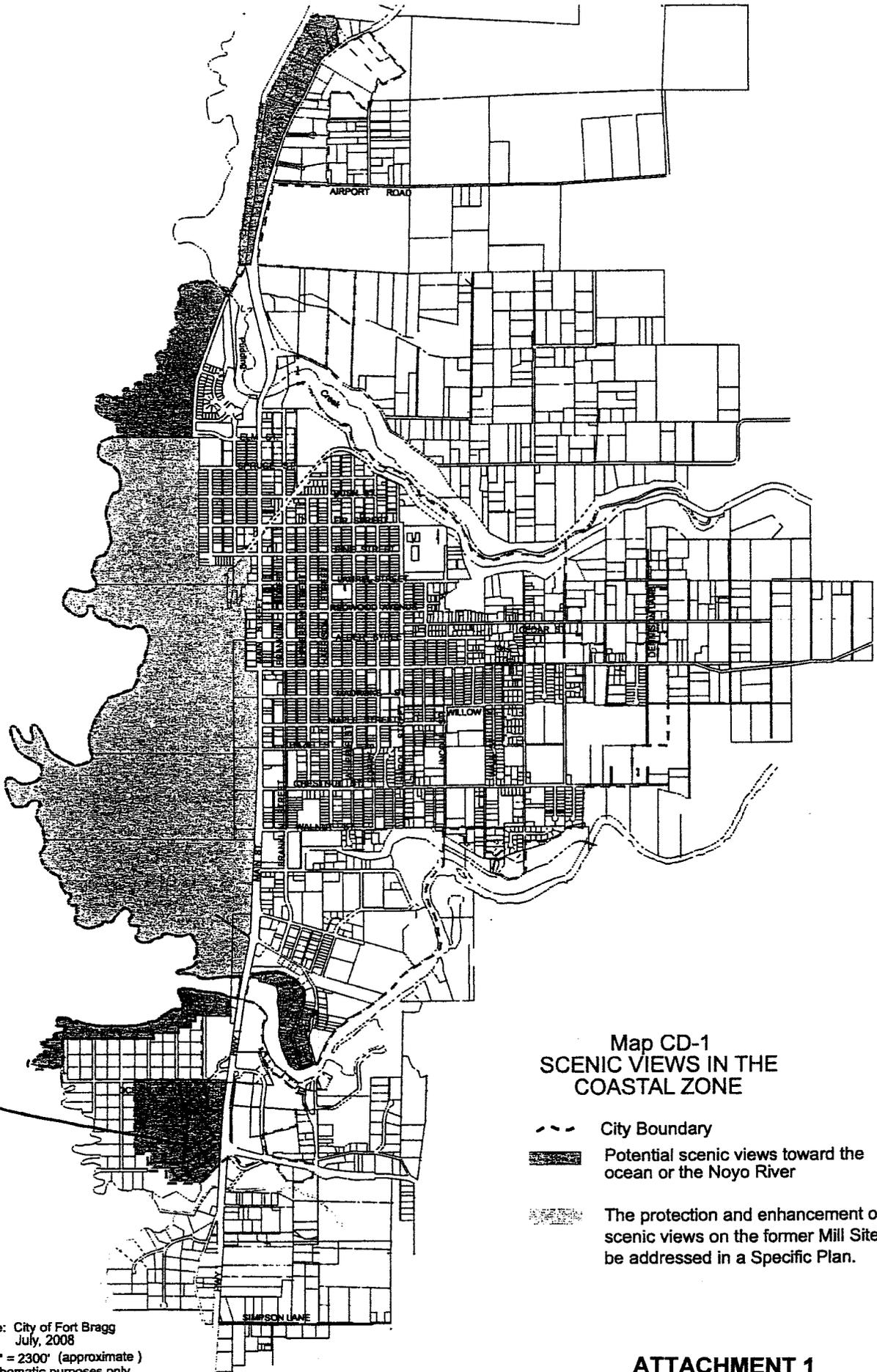
1. This action shall become final on the 11th day following the decision unless an appeal to the City Council is filed pursuant to Coastal Land Use & Development Code (CLUDC) Chapter 17.92 - Appeals.
2. The use and occupancy of the premises shall be established and maintained in conformance with the requirements of this permit and all applicable provisions of the CLUDC.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and compliance therewith is mandatory, unless an amendment has been approved by the City.
4. This permit shall be subject to the securing of all necessary permits for the proposed development from City, County, State, and Federal agencies having jurisdiction. All plans submitted with the required permit applications shall be consistent with this approval. All construction shall be consistent with all

Building, Fire, and Health code considerations as well as other applicable agency codes.

5. The applicant shall secure all required building permits for the proposed project as required by the Mendocino County Building Department.
6. If any person excavating or otherwise disturbing the earth discovers any archaeological site during project construction, the following actions shall be taken: 1) cease and desist from all further excavation and disturbances within 100 feet of the discovery; and 2) notify the Director of Public Works within 24 hours of the discovery. Evidence of an archaeological site may include, but is not necessarily limited to shellfish, bones, flaked and ground stone tools, stone flakes produced during tool production, historic artifacts, and historic features such as trash-filled pits and buried foundations. A professional archaeologist on the list maintained by the Northwest Information Center of the California Historical Resources Information System or Listed by the Register of Professional Archaeologists shall be consulted to determine necessary actions.
7. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
 - (a) That such permit was obtained or extended by fraud.
 - (b) That one or more of the conditions upon which such permit was granted have been violated.
 - (c) That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare, or safety or as to be a nuisance.
 - (d) A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more conditions.
8. Unless a condition of approval or other provision of the Coastal Land Use and Development Code establishes a different time limit, any permit or approval not exercised within 24 months of approval shall expire and become void, except where an extension of time is approved in compliance with CLUDC Subsection 17.76.070 (B).

ATTACHMENTS

1. Site Location and Scenic Views in the Coastal Zone Map
2. Project Plans
3. Split Rail Fence Example
4. Wire Fence Example
5. Management Sign



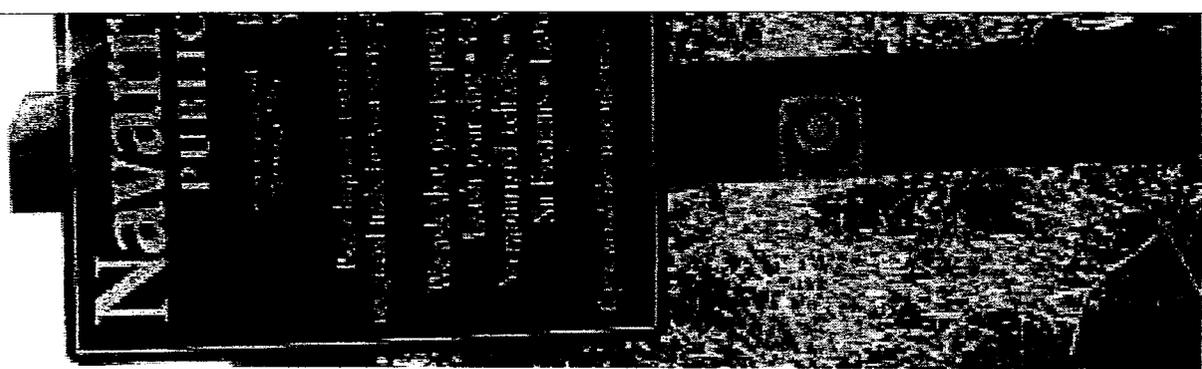
Subject parcel

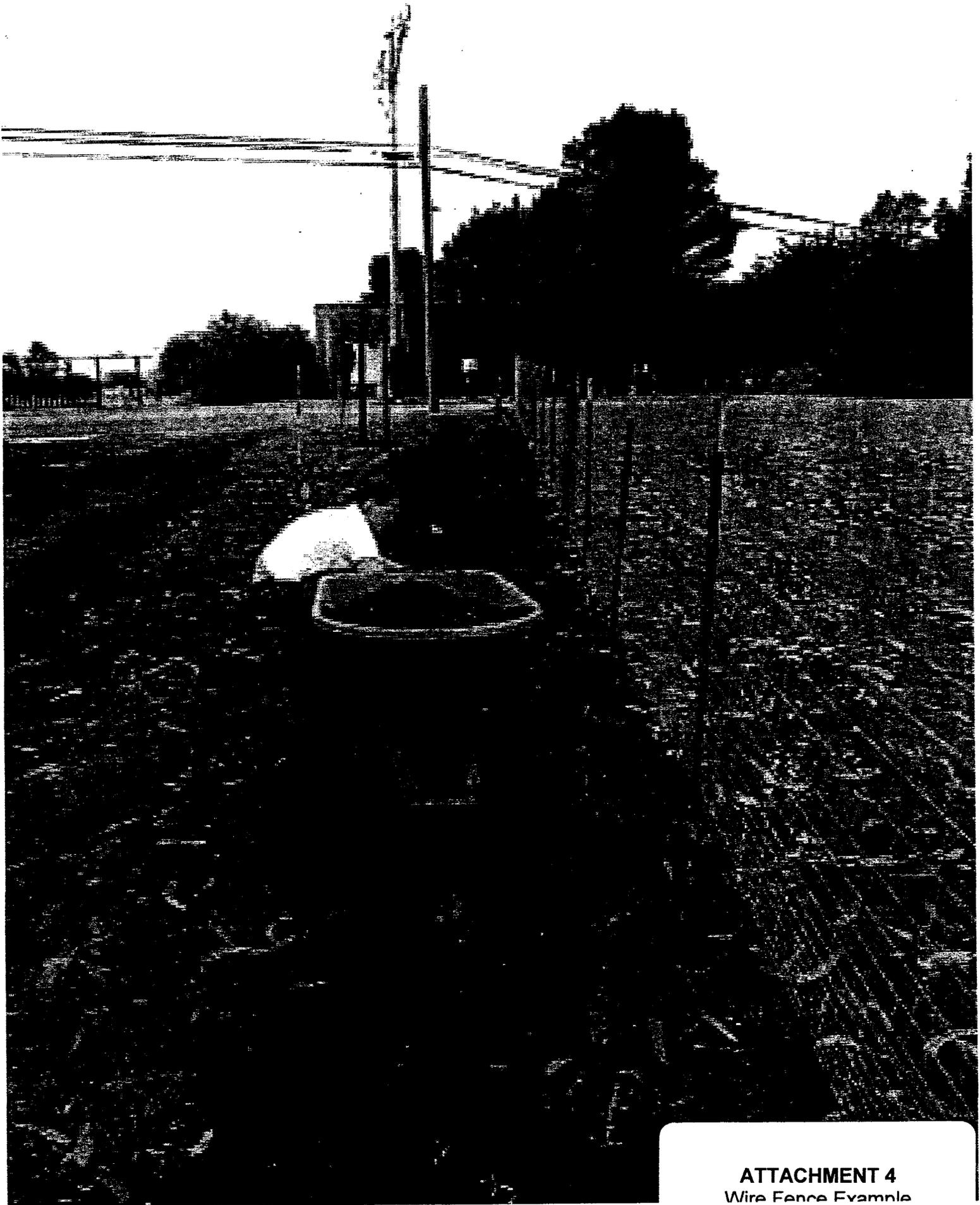
Map CD-1
SCENIC VIEWS IN THE
COASTAL ZONE

- - - 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

ATTACHMENT 1
Site Location & Scenic Views
in the Coastal Zone Map





ATTACHMENT 4
Wire Fence Example

HARE CREEK PUBLIC ACCESS BABCOCK BEACH

Conserved and
Managed by



Coastal
Commission

Please help us conserve the unique habitats and beauty of this area and respect nature, fellow users, and the neighbors by following these rules:

- * PEDESTRIAN DAY USE ONLY * LEASH YOUR DOG * LEAVE NO TRASH *
- * NO FIRES * NO SMOKING OR ALCOHOL * NO HUNTING OR FIREARMS *
- * LEAVE THE PLANT AND ANIMAL LIFE UNDISTURBED *

VIOLATION OF THESE RULES WILL REVOKE YOUR PERMISSION TO PASS.

If you would like more information, please contact the Mendocino Land Trust at (707) 962-0470.

ATTACHMENT 5
Management Sign

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