



**COUNTY OF HUMBOLDT**  
**PLANNING AND BUILDING DEPARTMENT**  
**CURRENT PLANNING DIVISION**

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Hearing Date: May 16, 2019

To: Humboldt County Planning Commission

From: John Ford, Director of the Planning and Building Department

Subject: **MFGF Mgmt LLC Zone Boundary Interpretation**  
Application Number PLN-2019-15314  
Assessor Parcel Number 522-142-031  
1422 Patterson Road, Willow Creek Area

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If you have any questions about the scheduled public hearing item, please contact Steven Lazar, Senior Planner at (707)268-3741 or by email at [slazar@co.humboldt.ca.us](mailto:slazar@co.humboldt.ca.us)

## AGENDA ITEM TRANSMITTAL

<b>Meeting Date:</b> May 16, 2019	<b>Subject:</b> Zone Boundary Interpretation	<b>Contact:</b> Steven Lazar
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**Project Description:** A Zone Boundary Interpretation to align the Flood Plain (FP) designated area on the property with recent mapping of the 500-year flood hazard. If the proposed interpretation is approved, the line delineating the boundary between the Flood Plain and Residential Suburban zoning would be shifted east, further upslope from the Trinity River. The effect of this new interpretation would be to increase the total size of the portions of the property currently zoned Flood Plain (FP) and reduce the size of the remainder of the property zoned Residential Suburban (RS). Presently the FP Zoning applies to approximately 7 acres on the approximately 12.8 acre property. Under the proposed Zone Boundary Interpretation, the FP designation would apply to approximately 8.3 acres, and the RS-T designation would be applied to approximately 4.5 acres. An earlier related application for a Zoning Clearance Certificate (ZCC-16-703) was filed separately in 2016 and is seeking authorization to establish 10,000 square feet of new Mixed-Light Cannabis Cultivation on the property. The Zoning Clearance application is currently in suspense pending the outcome of this interpretation.

**Project Location:** The project site is located in Humboldt County, in the Willow Creek area, west of Patterson Road, approximately 1,000 feet southwest from the intersection of Sunset Place and Patterson Road, on the property known as 1422 Patterson Road.

**Present Plan Designations:** SPLIT | Conservation Floodway (CF) and Residential Agriculture (RA5-20) **Density:** One dwelling unit per acre. **Slope Stability:** Low Instability (1) Willow Creek Community Plan (WCCP).

**Present Zoning:** SPLIT | Flood Plain (FP) and Residential Suburban/Manufactured Home (RS-T).

**Application Number:** 15314

**Assessor Parcel Number:** 522-142-031

**Applicant**

MFGF Mgmt, LLC  
Michael Friedman  
PO Box 594  
Willow Creek, CA 95573

**Owner**

same as applicant

**Agent**

Timberland Resource Consultants  
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**Environmental Review:** The project is exempt from Environmental Review by Section 15061 of the California Environmental Quality Act Guidelines.

**State Appeal Status:** Project is not appealable to the California Coastal Commission.

**Major Issues:** None.

## MFGF MGMT LLC ZONE BOUNDARY INTERPRETATION

PLN-2019-15314

Assessor Parcel Number: 522-142-031

### RECOMMENDED COMMISSION ACTION:

1. Describe the application as part of the Consent Agenda;
2. Call for public testimony regarding the agenda item; and
3. If no one requests discussion, take the following action:

*"Move to find the Zone Boundary Interpretation is exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act Guidelines – Common Sense Exemption, make all of the required findings, based on evidence in the staff report, and adopt the Resolution approving the proposed MFGF MGMT LLC project subject to the recommended conditions."*

### EXECUTIVE SUMMARY

A Zone Boundary Interpretation to align the Flood Plain (FP) designated area on the property with the mapped 500-year flood hazard. The zone boundary interpretation would expand the Flood Plain designated area on the property and reduce the Residential Suburban (RS) designated area.

An earlier related application for a Zoning Clearance Certificate (ZCC-16-703) was filed separately in 2016 and is seeking authorization to establish 10,000 square feet of new Mixed-Light Cannabis Cultivation on the property. The Zoning Clearance application is currently in suspense pending the outcome of this interpretation.

The zoning boundary line separating the Flood Plain (FP) Zoning District from the adjacent Residential Suburban (RS) district presently runs North-South through the property. If the requested interpretation is approved, the shared boundary line (between these FP & RS zones) would be shifted east, upland of its current location and more distant from the Trinity River. Presently the FP Zoning applies to approximately 7 acres of the approximately 12.8-acre property. Under the proposed Zone Boundary Interpretation, the FP designation would apply to approximately 8.3 acres, and the RS-T designation would apply to approximately 4.5 acres.

The Zoning Regulations (Section 311-8) permit the Planning Commission to interpret the location of the boundary between zone districts where the line is not coincident with a road or lot line as created by subdivision map. In the present case, the boundary between the FP and RS zoning districts is a straight line that bears only a vaguely discernable relationship to the topography of the land or the flood plain of the Trinity River. The western boundary of the FP zone appears primarily to bisect the centerline of the existing main channel of the Trinity River. The request is to align the eastern FP boundary to capture the full 100- and 500-year flood plain as mapped in the June 21, 2017 update to the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps.

Based on the on-site inspection, a review of Planning Division reference sources and comments from all involved referral agencies, planning staff believes that the applicant has submitted evidence in support of making all of the required findings for approving the requested Zone Boundary Interpretation.

### ALTERNATIVES:

The Planning Commission could elect not to approve the zone boundary interpretation based on the submitted evidence. The alternative to the boundary interpretation requested is for the adjustment accomplished through a formal rezoning process under a Zone Boundary Adjustment. This would involve a separate application and review process.

**RESOLUTION OF THE PLANNING COMMISSION  
OF THE COUNTY OF HUMBOLDT  
Resolution Number 19- \_\_\_\_\_**

**PLN-2019-15314 Zone Boundary Interpretation  
Assessor Parcel Number 522-142-031**

**Makes the required findings for certifying compliance with the California Environmental Quality Act and conditionally approves the MFGF Mgmt, LLC Zone Boundary Interpretation request.**

**WHEREAS**, MFGF Mgmt, LLC, submitted an application and evidence in support of approving the Zone Boundary Interpretation; and

**WHEREAS**, the County Planning Division has reviewed the submitted application and evidence and has referred the application and evidence to involved reviewing agencies for site inspections, comments and recommendations; and

**WHEREAS**, the project is categorically exempt from the California Environmental Quality Act (CEQA) per Section 15061(b)(3) of the California Environmental Quality Act Guidelines – Common Sense Exemption; and

**WHEREAS**, Attachment 2 in the Planning Division staff report includes evidence in support of making all of the required findings for approving PLN-2019-15314;

**NOW, THEREFORE**, be it resolved, determined, and ordered by the Planning Commission that:

1. The Planning Commission finds the project categorically exempt from the California Environmental Quality Act (CEQA) per Section 15061(b)(3) of the California Environmental Quality Act Guidelines; and
2. The findings in Attachment 2 of the Planning Division staff report supports approval of PLN-2019-15314 based on the submitted evidence; and
3. Zone Boundary Interpretation Case PLN-2019-15314 is approved as recommended and conditioned in Attachment 1; and
4. The Planning Commission directs Planning Division staff to reflect the new zoning line location on the Department's reference sources once the conditions of approval are met.

Adopted after review and consideration of all the evidence on May 16, 2019.

The motion was made by Commissioner \_\_\_\_\_ and seconded by Commissioner \_\_\_\_\_.

AYES: Commissioners:

NOES: Commissioners:

ABSTAIN: Commissioners:

ABSENT: Commissioners:

DECISION:

I, John Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above entitled matter by said Commission at a meeting held on the date noted above.

\_\_\_\_\_  
John Ford, Director  
Planning & Building Department



**MFGF MGMT, LLC**  
**ZONE BOUNDARY ADJUSTMENT**  
**APN 522-142-031**



**Notes:**

For Planning Purposes Only

Representation is Approximate (Humb. Co. GIS)

The proposed Zone Boundary Adjustment calls for the eastward expansion of the FP zoned portion the parcel to align with the eastward limit of the 500 year flood zone. This proposal would increase the FP zone by 1.32 acres. Approximately 0.77 acres of the proposed expansion would overlie Prime Agricultural Soils (supporting CMIMLUO APPS: 13111).

## ATTACHMENT 1

### CONDITIONS OF APPROVAL AND STAFF ANALYSIS

APPROVAL OF THE ZONE BOUNDARY INTERPRETATION IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS WHICH MUST BE SATISFIED BEFORE THE ZONE BOUNDARY INTERPRETATION CAN BE REFLECTED IN THE DEPARTMENT'S REFERENCE SOURCES.

1. The applicant is required to pay for permit processing on a time and material basis as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Department will provide a bill to the applicant after the decision. Any and all outstanding Planning fees to cover the processing of the application to decision by the Hearing Officer shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.

## ATTACHMENT 2

### STAFF ANALYSIS OF THE EVIDENCE SUPPORTING THE REQUIRED FINDINGS

#### Required Findings

To approve this project, the Hearing Officer must determine that the applicant has submitted evidence in support of making **all** of the following required findings. Section 311-8 of the Humboldt County Code (H.C.C.) specifies the findings that must be made in order to uncertain zone boundaries on a property. The required findings needed to approve the Zone Boundary Interpretation are as follows:

1. **Section 311-8 of the Zoning Ordinance.** "Where the property is indicated on a zoning map or maps as acreage and not subdivided into lots and blocks, or where the zone boundary lines are not approximately street, alley or lot lines, the zone boundary lines on said zoning map or maps shall be determined by scale contained on such map or maps, and where uncertainty exists, the zone boundary line shall be determined by the Planning Commission. In the event property shown as acreage on the zoning map or maps has been or is subsequently subdivided into lots or lot and block arrangement does not conform to that anticipated when the zone boundaries were established, the Planning Commission, after notice to the owners of the property affected thereby, may interpret the zone maps in such a way as to implement the intent and purpose of these regulations and conform to the street, block and lot layout on the ground. Such interpretation shall be by written decision, and thereafter the copies of the zoning maps shall be changed to conform thereto."

Further, Section 311-8.6 of the Ordinance provides that if uncertainty remains after having applied the rules of map interpretation, the Planning Commission "*shall determine the location of the boundary in question, giving due consideration to the location indicated on the Zoning map and the purposes set forth in the Principal Zone district regulations.*"

In addition, Section 312-50.3 of the Humboldt County Code (H.C.C.) specifies the findings necessary to grant approval of a zoning change, which also apply to Zone Boundary Interpretations. The required findings needed to approve the Zone Boundary Interpretation are as follows:

2. The proposed change is in the public interest; and
3. The proposed change is consistent with the General Plan; and
4. The proposed change does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law, unless the following written findings are made supported by substantial evidence: 1) the reduction is consistent with the adopted general plan including the housing element; and 2) the remaining sites identified in the housing element are adequate to accommodate the County share of the regional housing need; and 3) the property contains insurmountable physical or environmental limitations and clustering of residential units on the developable portions of the site has been maximized.
5. Finally, the California Environmental Quality Act (CEQA) states that one of the following findings must be made prior to approval of any development which is subject to the regulations of CEQA. The project either:
  - a) is categorically or statutorily exempt; or
  - b) has no substantial evidence that the project will have a significant effect on the environment and a negative declaration has been prepared; or
  - c) has had an environmental impact report (EIR) prepared and all significant environmental effects have been eliminated or substantially lessened, or the required findings in Section 15091 of the CEQA Guidelines have been made.

**Staff Analysis:** To approve this project, the Hearing Officer must determine that the applicant has submitted evidence in support of making **all** of the following required findings.

**1. Determine of the Location of the Zone Boundary By the Commission**

Sections 311-8.2 and 311-8.6 of the Zoning Ordinance authorize the Planning Commission to determine the location of a zone boundary on a parcel in certain circumstances, including the situation where the zone boundary does not follow lot lines or rights of way when consistent with the intent and purpose of the Principal Zone district regulations:

The purpose of the FP zone is described in Section 314-5.2 of the zoning ordinance:

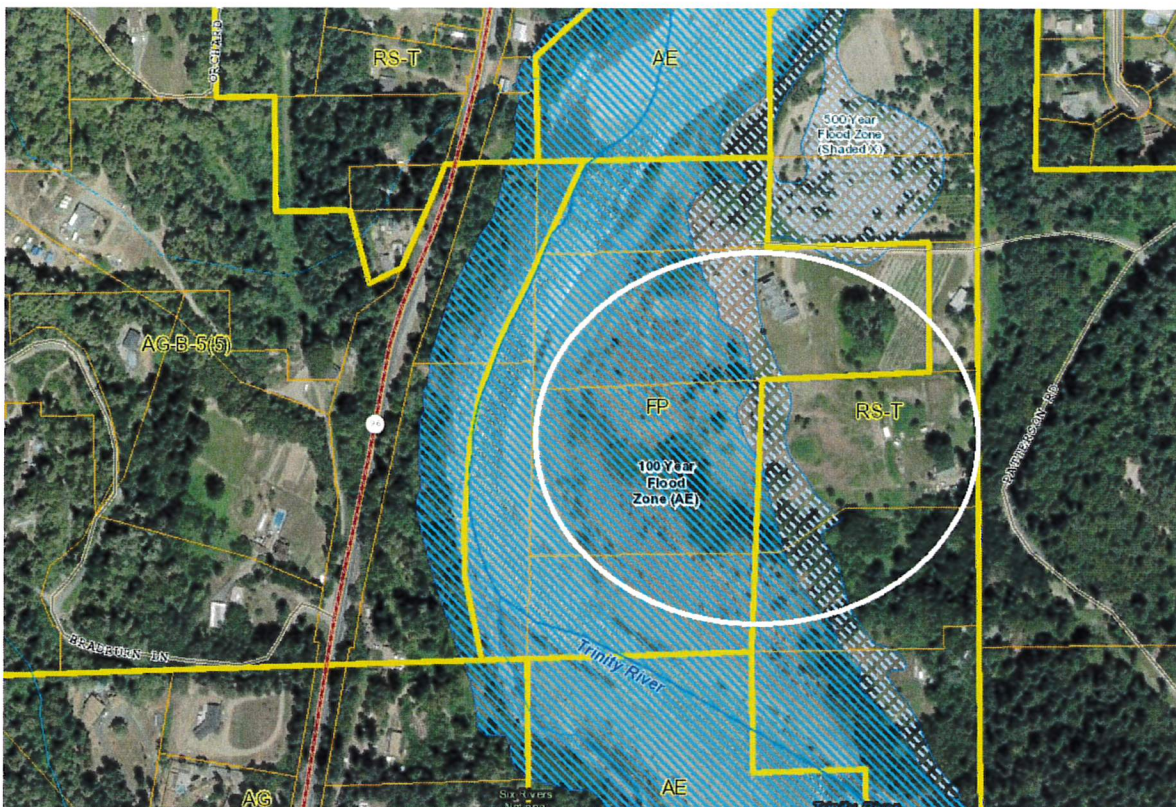
*"The Flood Plain or FP Zone is intended to be applied to areas which have been inundated by flood waters in the past and which may reasonably be expected to be inundated by flood waters in the future. The Flood Plain Zone is intended to limit the use of areas subject to such inundation and flooding to protect lives and property from loss, destruction and damage due to flood waters and to the transportation by water of wreckage and debris."* (Emphasis added)

Figure 1 on the following page shows the mapped 500-year flood hazards that apply to the property. The applicant is proposing to relocate the zone boundary to a location on the property such that the FP zoning designation would apply to all areas of the property subject to a mapped 500-year flood hazard. The new zone boundary location would be consistent with Section 311-8 (Uncertainties in Zone Boundaries: How to Resolve) because the zoning would protect the entire area of the parcel subject to the 500-year flood hazard.

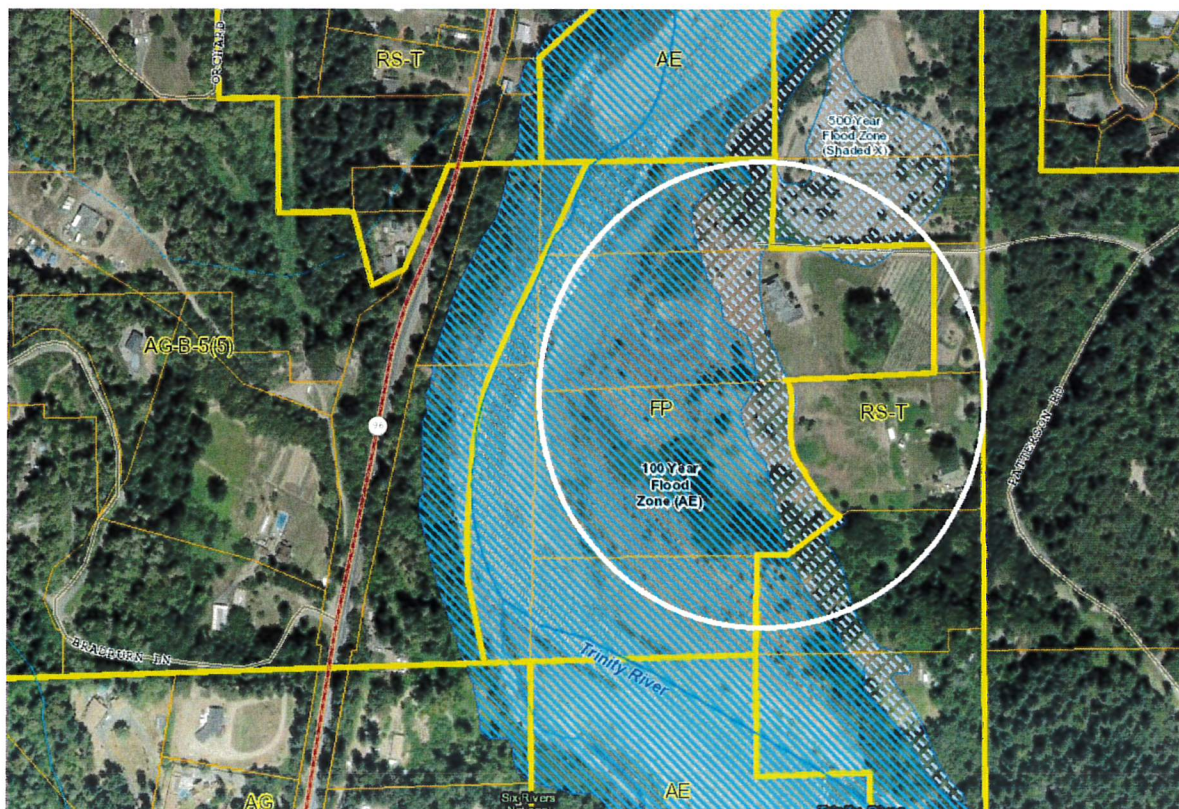


Figure 1. Zone Boundary Mapping

**CURRENT ZONE BOUNDARY MAPPING**



**PROPOSED ZONE BOUNDARY INTERPRETATION**





**2. The proposed change is in the Public Interest.**

By expanding the FP zoning on the site, future uses of the property will be better protected from a 500-year flood hazard event. The FP zoning designation restricts principally allowed uses to low impact recreational uses, and requires conditional use permits for single family residences.

**3. The proposed change is consistent with the General Plan.**

The following table identifies the evidence that supports finding that the proposed Zone Boundary Interpretation is consistent with all applicable policies and standards in the General Plan (GP) and in the Willow Creek Community Plan (WCCP).

Relevant Plan Section(s)	Summary of Applicable Goal, Policy or Standard	Evidence Which Supports Making the General Plan Conformance Finding
<p>Land Use Ch. 4 (GP) Land Use Designations Section 4.8</p> <p>Residential Low Density §2732 (WCCP)</p>	<p><b>Conservation Floodway (CF)</b> This Open Space Designation applies to the channels of rivers and streams, including areas which carry normal flood waters or the area between existing or planned levees, dikes or other such flood control features, and in which agricultural and limited recreational uses may be desirable or permissible.</p> <p><b>Residential Agriculture 5-20 (RA5-20):</b> This residential designation applies to lands with slopes generally less than 30%, and served by individual water and wastewater systems and good road access.</p> <p>Density Range: 5 to 20 acres per unit, as specified on map.</p>	<p>The Zoning Consistency Matrix in Table 4-H of the General Plan shows the FP Zone as being consistent with both the Residential Agriculture "RA" and Conservation Floodway "CF" land use designations. The boundary interpretation will result in expansion of the FP zone to encompass all areas subject to major flood events, better protecting future development through restrictions and limits on use of these areas, and higher scrutiny applied to residential development and recreational, commercial and industrial uses.</p>
<p>Willow Creek Community Plan (WCCP) SAFETY</p>	<p><b>WCCP-P3 Flood Hazards:</b> Use the 500-year flood plain level (1964 flood) for land use planning and zoning purposes.</p>	<p>The proposed boundary interpretation is consistent with this approach, as it proposes aligning the boundary of the Flood Plain to the eastern boundary of the 500-year Flood Zone, as shown on the latest Flood Zone maps (FIRM Panel 760) prepared and provided by FEMA.</p>
<p>Safety Ch. 14 (GP) Reduce Potential for Loss</p>	<p><b>S-P1:</b> Plan land uses and regulate new development to reduce potential for loss of life, injury, property damage, and economic/social dislocations from natural and manmade hazards including but not limited to wildland fire risk areas and flood plains.</p>	<p>The parcel is in an area of low slope instability but very high wildland fire hazards. According to FIRM map 685, over half of the parcel lies within the 100 and 500-year flood plain of the Trinity River. The project was referred to multiple agencies, none of which identified any issues related to hazards. The property is relatively flat and is currently developed with several structures, outside of the 100 and 500-year flood plains.</p>

Relevant Plan Section(s)	Summary of Applicable Goal, Policy or Standard	Evidence Which Supports Making the General Plan Conformance Finding
Safety Ch. 14 (GP) Flooding	<b>S-P13: Flood Plains.</b> Agricultural lands that are in mapped floodplains shall be retained for use in agriculture.	The proposed boundary interpretation would not foreclose use of land within the 100 and 500-year floodplain for agriculture. Agricultural activities are "desirable and permissible" within the CF land use designation and are also included among the allowable use types for the RA land use designation. The interpretation will also result in application of greater scrutiny to future land use proposals involving residential, commercial, or industrial uses within both the 100 and 500-year flood plains.
	<b>S-P15: Construction Within Special Flood Hazard Areas.</b> Construction within the 100-Year Flood Boundary shall comply with the County's Flood Damage Prevention Regulations. Fill in the floodplain shall only be allowed where compliant with these regulations and where if it can be demonstrated that it will not have cumulative adverse impacts on or off site or be detrimental to productive farm land.	
<b>Chapter 13 – Noise, Section 13.4</b>		
<b>N-P2: Guide to Land Use Planning.</b> Evaluate current noise levels and mitigate projected noise levels when making community planning and zoning decisions to minimize the exposure of community residents to nuisance noise levels.		The subject parcel is not located in an area known to be exposed to unusual amounts of noise. The proposed project will not change noise levels at the site.
<b>N-P4: Protection from Excessive Noise.</b> Protect persons from existing or future excessive levels of noise which interfere with sleep, communication, relaxation, health or legally permitted use of property.		While there remains potential for conflict between residential uses in close proximity to noise from agricultural activities, no change in the potential occurrence of agricultural uses would result from boundary interpretation, since both the FP and RA zones permit agricultural activities.
<b>Chapter 10 - Conservation and Open Space, Section 10.3 Biological Resources</b>		

Relevant Plan Section(s)	Summary of Applicable Goal, Policy or Standard	Evidence Which Supports Making the General Plan Conformance Finding
Biological Resources, Section 10.3 Streamside Management Areas (SMA) Defined	Where not specifically mapped, the outer boundaries of the SMA for perennial and intermittent streams shall be 100 feet or 50 feet, respectively, measured on either side from the top of bank or edge of the riparian drip-line, whichever is greater. The width shall be expanded up to 200 feet measured as a horizontal distance from the top of bank as necessary to include slides, or areas with visible evidence of slope instability.	No development is located within the streamside management area and sufficient room exists to enable future development and accommodation of the buffer/setback from the Trinity River.
<b>BR-S10: Development Standards for Wetlands.</b> The widths of the SMA for wetlands are: seasonal wetlands = 50 ft. perennial wetlands = 150 ft. setback begins at the edge of the delineated wetland.		Wetlands occupy approximately 2.73 acres of the approximately 13-acre parcel. No development is located within the wetland buffer and sufficient room exists to enable future development and accommodation of the buffer/setback.
<b>BR-P1: Compatible Land Uses.</b> Discretionary land uses and building activity in proximity to sensitive habitats shall be conditioned or otherwise permitted to prevent significant degradation of sensitive habitat consistent with CDFW guidelines		Review of the California Natural Diversity Database does not show the property to be host to any rare or endangered plant or animal species. No development is currently proposed or located within the Streamside Management Area or wetland buffer.
<b>BR-S4: Sensitive Habitat Defined.</b> Sensitive Habitat includes Streams and SMA		
Cultural Resources, Section 10.6 <b>Identification and Protection</b>	<b>CU-P1:</b> The potential for impacts to significant cultural resources shall be identified during ministerial permit and discretionary project review. If potential impacts are found to be significant, resources shall be protected per PRC §5020.1	The proposal involves interpretation of a zoning district boundary and does not proposed or require any ground disturbance. Therefore, potential for impacts to cultural resources are not expected to result.
<b>Native American Tribal Consultation</b>	<b>CU-P2:</b> Native American Tribes shall be consulted during discretionary project review for the identification, protection and mitigation of adverse impacts to significant cultural resources. Tribes shall be afforded the opportunity to review and provide comments about known or potential Tribal cultural resources located in project areas within their respective tribal geographical area of concern.	A project referral was sent to the Tribal Historic Preservation Officer of the Hoopa Valley Tribe.

**4. Impact on Residential Density Target:** The following table identifies the evidence which supports finding that the proposed project will not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.

<b>Code Section</b>	<b>Summary of Applicable Requirement</b>	<b>Evidence that Supports the Required Finding</b>
312-17.1.5 Housing Element Densities	The proposed development does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.	The subject parcel is not included in the residential land inventory for the 2014 Housing Element because of the flood hazards that apply to portions of it.



**5. Environmental Impact:** The following table identifies the evidence which supports finding that the proposed Zone Boundary Interpretation will not adversely impact the environment, and can be considered exempt from environmental review per Section 15061 of the CEQA Guidelines..

Code Section	Summary of Applicable Requirement	Evidence that Supports the Required Finding
CEQA §15061	A project may be considered exempt from CEQA if the activity is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.	By expanding the FP zoning on the site, future uses of the property will be better protected from a 500-year flood hazard event. The FP zoning designation restricts principally allowed uses to low impact recreational uses, and requires conditional use permits for single family residences. In these ways the FP designation is more protective of the environment than the existing RS-T designation.

### **ATTACHMENT 3**

#### **Applicant's Evidence In Support of the Required Findings**

Attachment 2 includes a listing of all written evidence that has been submitted by the applicant in support of making the required findings. The following materials are on file with the Planning Division unless otherwise noted:

- a) Application Form [in file]
- b) Plot Plan/Tentative Map Checklist [in file]
- c) Plot Plan with proposed location of the revised FP/RS-T Zone Boundary [attached with maps]

## ATTACHMENT 4

### Referral Agency Comments and Recommendation

The project was referred to the following referral agencies for review and comment. Those agencies that provided written comments are checked off.

Referral Agency	Response	Recommendation	On File	Attached
County Building Inspection Division				
County Environmental Health Division	X	Approval	X	
County Public Works, Land Use Division	X	No Comment	X	
County Division of Environmental Health	X	Approval	X	
Tsnungwe	X	No Comment	X	
Hoop Valley Tribe				
Willow Creek Community Services District				