



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
CURRENT PLANNING DIVISION

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Hearing Date: May 4, 2017

To: Humboldt County Planning Commission

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

Subject: **Frink Zone Boundary Interpretation**
Application Number 11094
Case Number ZBA 16-004
Assessor Parcel Number 522-142-002
Willow Creek Area

Table of Contents	Page
Agenda Item Transmittal Form	2
Recommended Action and Executive Summary	3
Draft Resolution	4
Maps	
Location Map	5
Zoning Map – Existing and Proposed	6
Assessor Parcel Map	8
Aerial Photograph	9
Project Proposal Map	10
Attachments	
Attachment 1: Recommended Conditions of Approval	11
Attachment 2: Applicant's Evidence Supporting the Findings	18
Attachment 3: Referral Agency Comments	19

Please contact Michael Richardson, Senior Planner at 268-3723 or by email at mrichardson@co.humboldt.ca.us if you have any questions about the scheduled public hearing item.

AGENDA ITEM TRANSMITTAL

Meeting Date: May 4, 2017	Subject: Zone Boundary Interpretation	Contact: Michael Richardson
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Project Description: A Zone Boundary Interpretation to move the FP - Flood Plain zoning designation line further upslope, away from the Trinity River, placing more property within the FP - Flood Plain zoning designation and reducing the area zoned R-S - Residential Suburban on the property. The FP designation will apply to the entire portion of the property subject to the 500-year flood hazard.

Project Location: The project site is located in Humboldt County, in the Willow Creek area, northwest of Patterson Road, approximately 1,500 feet southwest from the intersection of Sunset Place and Patterson Road, on the property known as 1580 Patterson Road.

Present Plan Designations: Residential Low Density (RL1) **Density:** One dwelling unit per acre. **Slope Stability:**, Low Instability (1) Willow Creek Community Plan (WCCP).

Present Zoning: Flood Plain (FP); Residential Suburban/Manufactured Home (RS-T).

Case Number: ZBA 16-004

Application Number: 11094

Assessor Parcel Number: 522-142-002

Applicant

Tony Frink
PO Box 752
Arcata, CA 95518

Owner

same as applicant

Agent

Atkins Drafting
Sarah Atkins
2814 G Street
Eureka, CA 95501
443-3492

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.

FRINK ZONE BOUNDARY INTERPRETATION

Case Number: ZBA 16-004

Assessor Parcel Number: 522-142-002

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 - General Rule, make all of the required findings, based on evidence in the staff report, and adopt the Resolution approving the proposed Frink 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. The FP designation is proposed to apply to all areas subject to the mapped 500-year flood hazard for the Trinity River on the property. Presently the FP Zoning applies to approximately six acres of the 18 acre property. With the Zone Boundary Interpretation, the FP designation will apply to approximately 13 acres and the RS-T designation will apply to approximately five acres.

The zoning line separating the FP designated area from the RS designated area presently runs through the property. If the requested interpretation is accepted, the zone boundary will shift upland of its current location more distant from the Trinity River so most of the property is zoned FP.

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 FP and RS is a diagonal line that bears no discernable relationship to the topography of the land or the flood plain of the Trinity River. The line appears to bisect the centerline of the existing main channel of the Trinity River. The request is to align the FP boundary to capture the full 100- and 500-year flood plan as mapped in the most recent Federal Insurance Rate Map.

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 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 17- ____**

**Case Number ZBA 16-004
Assessor Parcel Number 522-142-002**

Makes the required findings for certifying compliance with the California Environmental Quality Act and approves the Frink Zone Boundary Interpretation.

WHEREAS, Tony Frink, 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 - General Rule; and

WHEREAS, Attachment 2 in the Planning Division staff report includes evidence in support of making all of the required findings for approving ZBA 16-004;

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

1. The Planning Commission makes the findings in Attachment 2 of the Planning Division staff report for Case No.: ZBA 16-004 based on the submitted evidence; and
2. The Planning Commission conditionally approves the proposed Zone Boundary Interpretation as recommended in the Planning Division staff report subject to the conditions of approval for Case No. ZBA 16-004; and
3. 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 4, 2017.

The motion was made by Commissioner ____ and seconded by Commissioner ____.

AYES: Commissioners:

NOES: Commissioners:

ABSTAIN: Commissioners:

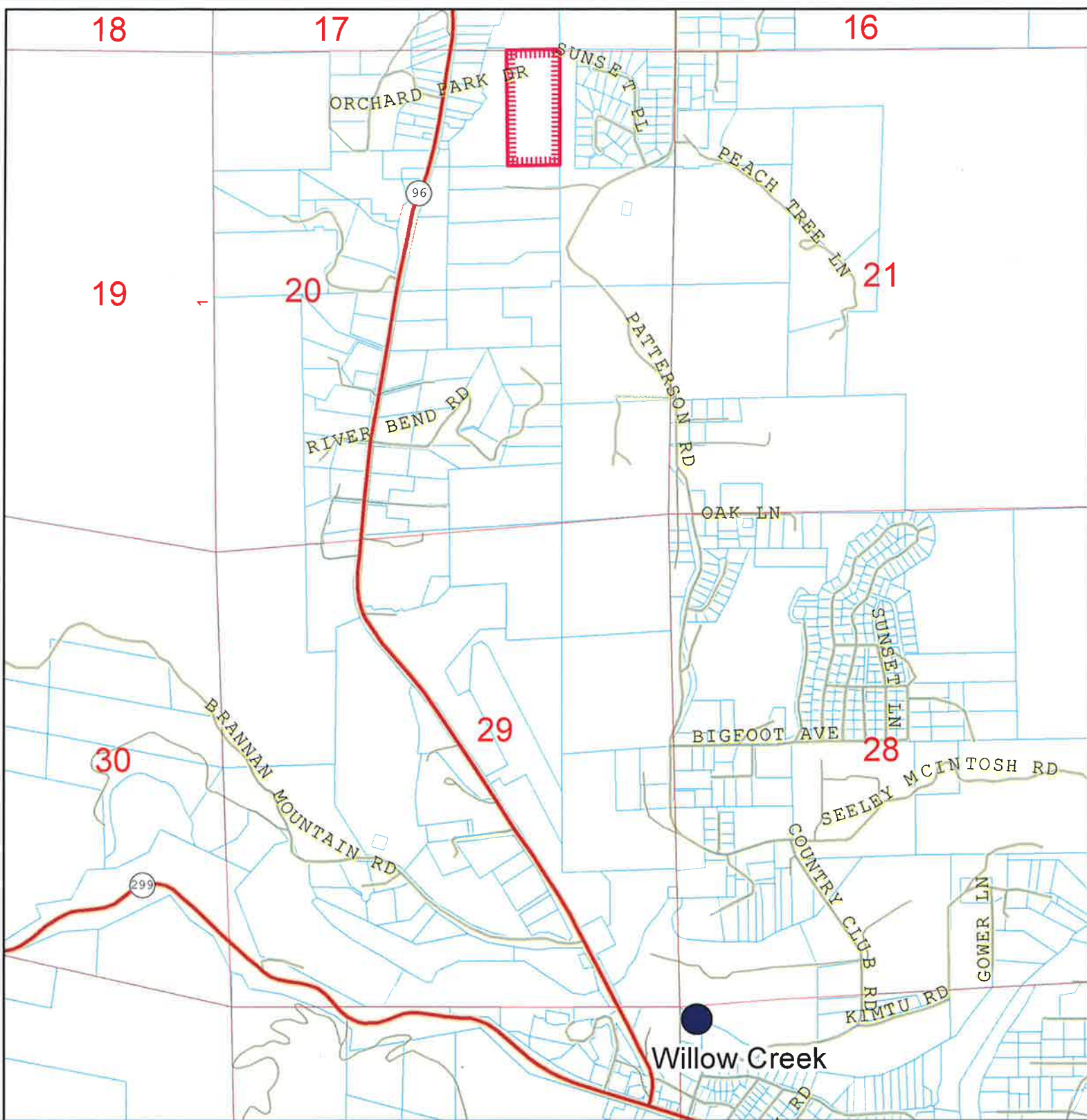
ABSENT: Commissioners:

DECISION:

Robert Morris, Chair

I, Suzanne Lippre, Clerk 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.

Suzanne Lippre, Clerk



Legend



Frink parcel



PLS Sections

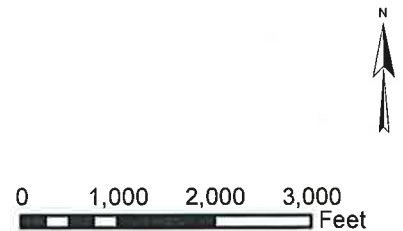
LOCATION MAP

**FRINK ZONE BOUNDARY INTERPRETATION
WILLOW CREEK AREA
CASE NUMBER ZBA 16-004
APN: 522-142-002
T7N R5E S20 HB&M (Willow Creek)**

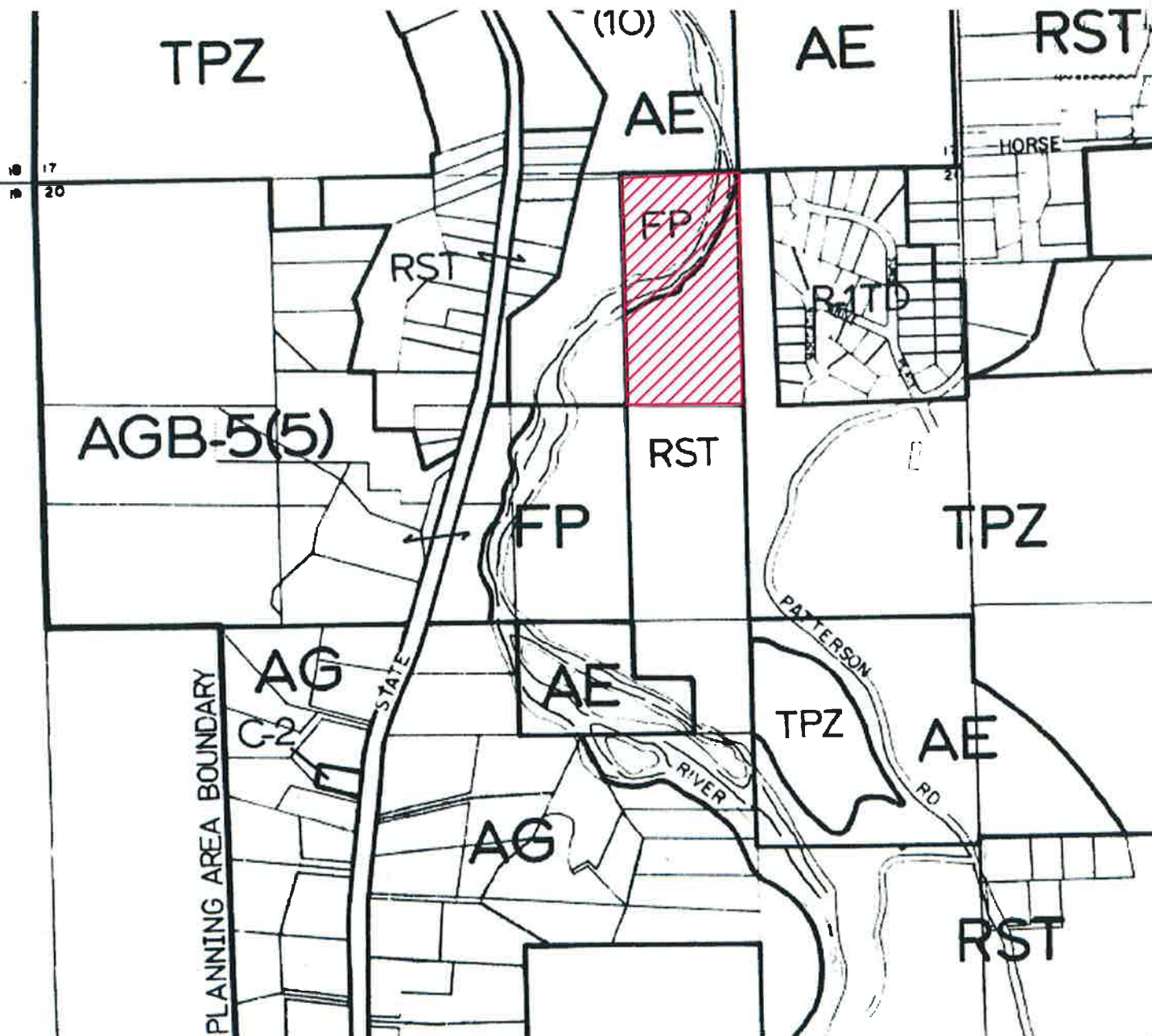
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ZBA 16-004 Frink 11094

May 4, 2017



Page 5



ZONING MAP

FRINK ZONE BOUNDARY INTERPRETATION WILLOW CREEK AREA

CASE NUMBER ZBA 16-004

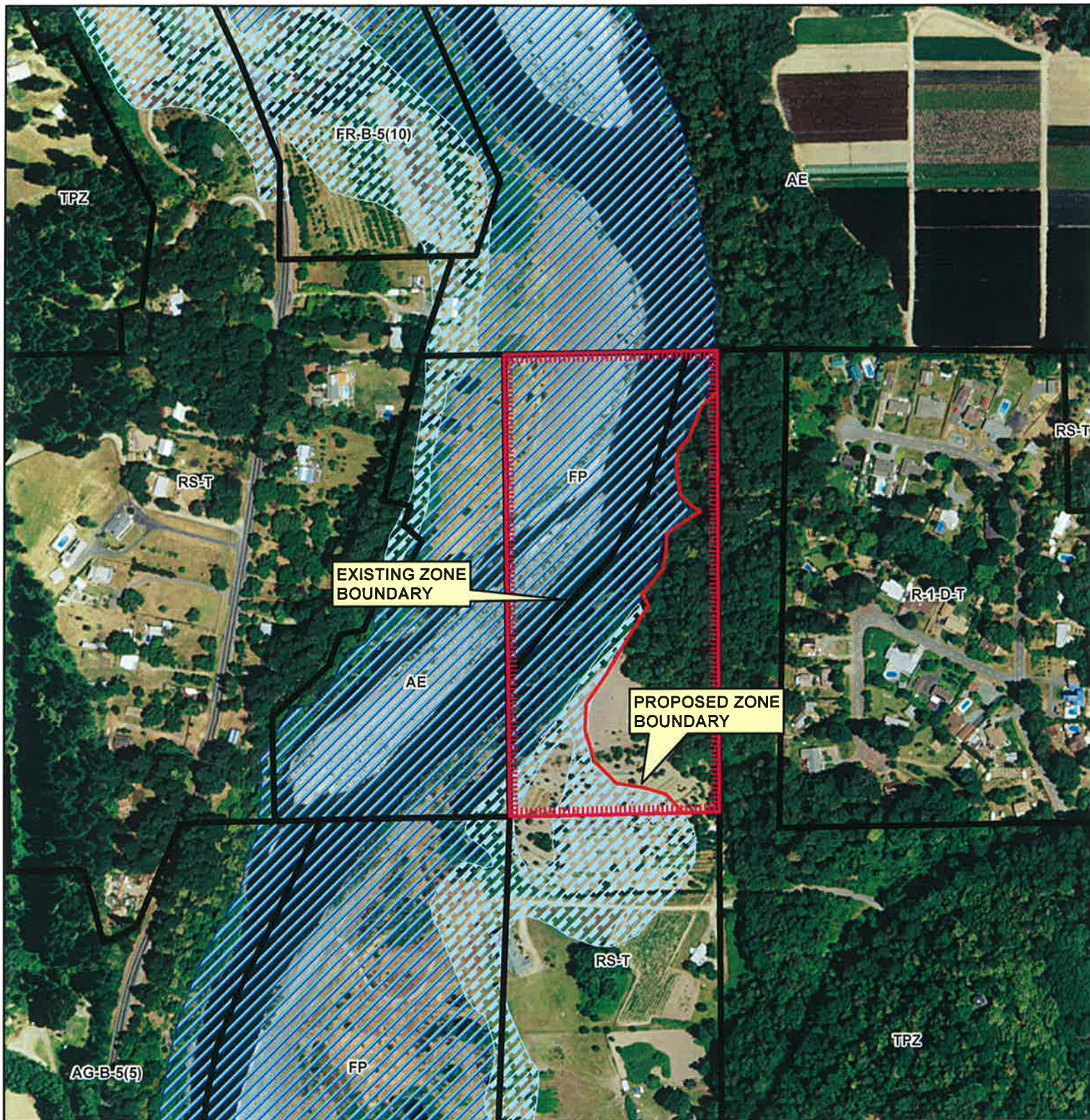
APN: 522-142-002

T7N R5E S20 HB&M (Willow Creek)

Project Area = 




MAP NOT TO SCALE

This map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.



PROPOSED ZONE BOUNDARY INTERPRETATION

Legend

-  Frink parcel
-  100 Year Flood Elevation
-  500 Year Flood Elevation

FRINK ZONE BOUNDARY INTERPRETATION
WILLOW CREEK AREA
CASE NUMBER ZBA 16-004
APN: 522-142-002
T7N R5E S20 HB&M (Willow Creek)

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ZBA 16-004 Frink 11094

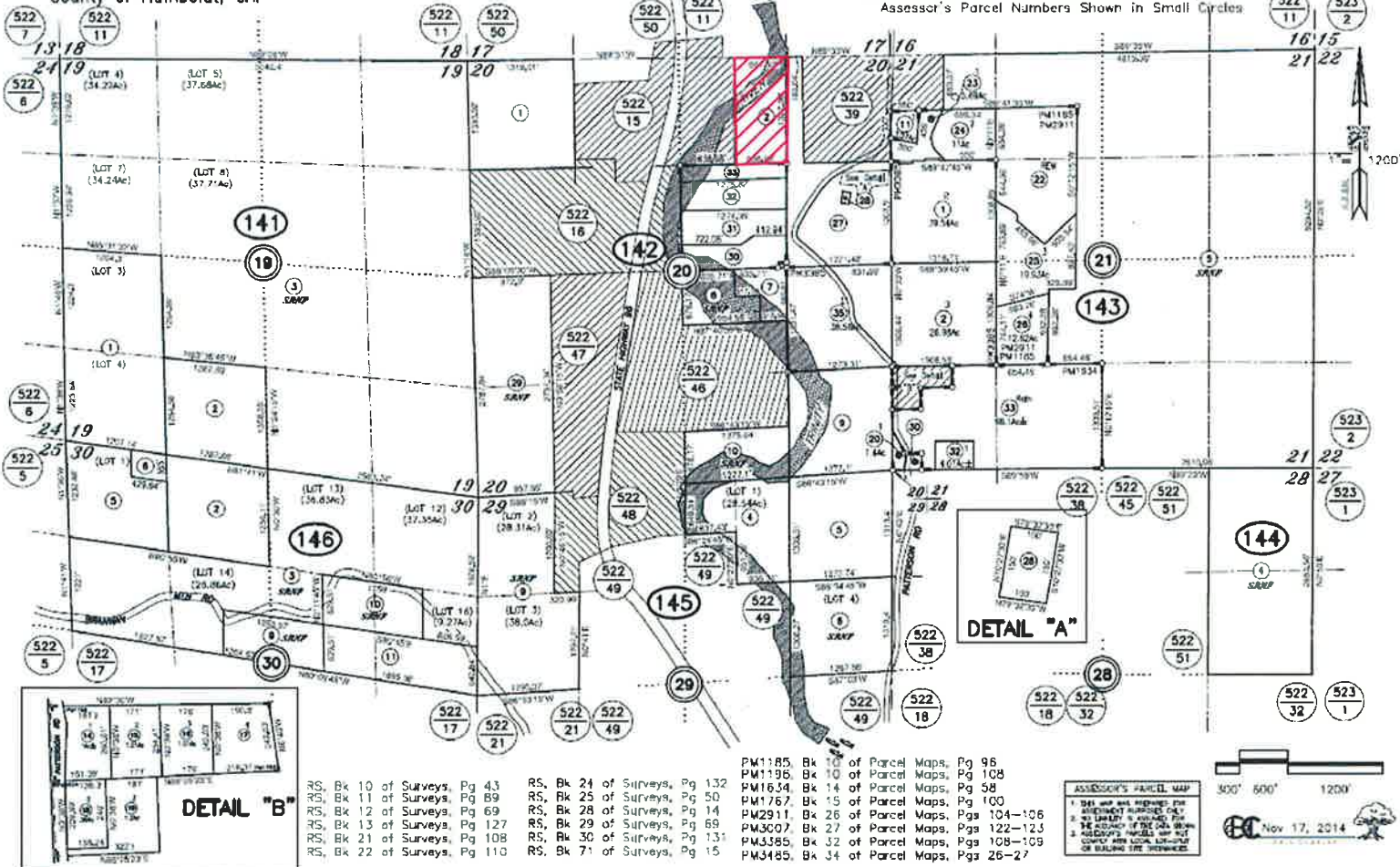
May 4, 2017

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Page 7

Assessor's Map Bk. 522, Pg. 14 SEC 19 & PTN SECS 20, 21, 28, 29 & 30, T7N R5E, H.B.& M. 522-14
County of Humboldt, CA.

NOTE - Assessor's Block Numbers Shown in Ellipses
Assessor's Parcel Numbers Shown in Small Circles



ASSESSOR PARCEL MAP

FRINK ZONE BOUNDARY INTERPRETATION

WILLOW CREEK AREA

CASE NUMBER ZBA 16-004

APN: 522-142-002

T7N R5E S20 HB&M (Willow Creek)

Project Area =

MAP NOT TO SCALE

This map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.

ZBA 16-004 Frink 11094




May 4, 2017

Page 8



AERIAL MAP

Legend

-  Frink parcel
-  100 Year Flood Elevation
-  500 Year Flood Elevation

**FRINK ZONE BOUNDARY INTERPRETATION
WILLOW CREEK AREA
CASE NUMBER ZBA 16-004
APN: 522-142-002
T7N R5E S20 HB&M (Willow Creek)**

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ZBA 16-004 Frink 11094

May 4, 2017

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Page 9





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.

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.

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

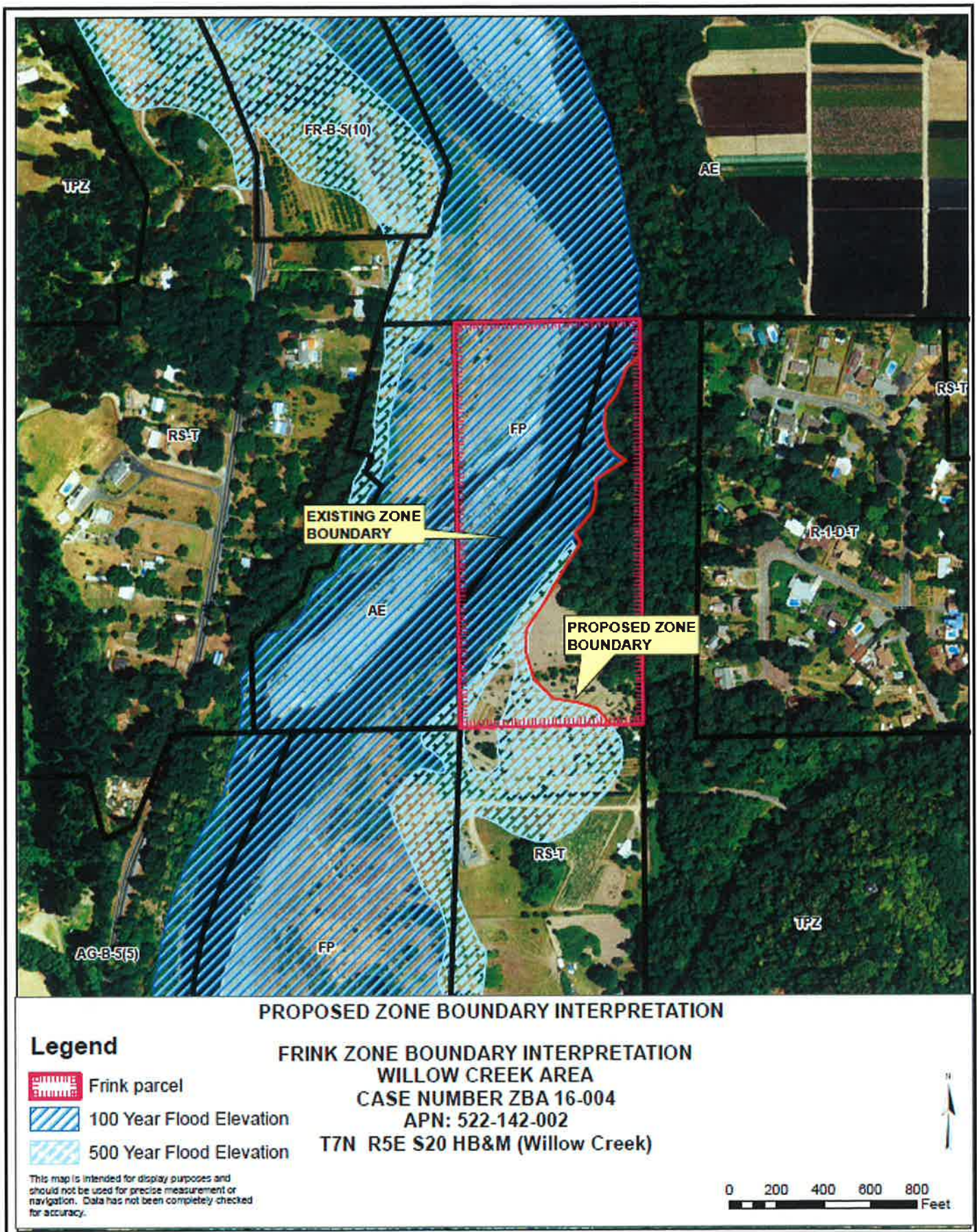
Sections 311-8.2 and 311.8.6 of the Zoning Ordinance authorize the Planning Commission to determine the location of a zone boundary on a parcel in certain circumstances, including the situation where the zone boundary does not follow lot lines or rights of way when consistent with the intent and purpose 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 Map



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 Framework Plan (FRWK) 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
Land Use Residential Low Density §2732 (WCCP)	Residential Low Density is intended to be applied in urban areas of the County where topography, access, utilities and public services make the area suitable for such development. Primary and compatible uses Residential, secondary dwelling units, mobile home parks, educational and religious activities, bed and breakfast establishments and non-commercial recreation. Density: One unit per acre.	While Zoning Consistency Matrix in Figure 2-10 of the Framework Plan does not show the FP Zone as being consistent with the RL land use designation, this inconsistency currently exists on the property. However, the proposed project will better protect future land uses of the property by extending the FP zone to encompass areas subject to a major flood event. The RL designation is silent with respect to flood hazards but other General Plan policies (e.g., hazards) support applying this zoning where the land is subject to inundation. While not part of the existing regulatory framework, the proposed land use designation in the General Plan Update for the property is "Conservation Floodway" in the area mapped with a 100-year flood hazard, and "Rural Residential Agriculture" on the remainder of the property. Both of these land use designations are consistent with the proposed FP zoning.
Hazards §3200 (WCCP)	Minimize risks to life and property in areas of hazards.	The parcel is in an area of low slope instability but high wildland fire hazards. According to FIRM map 685, a large portion of the parcel lies within the 100 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 undeveloped.

Relevant Plan Section(s)	Summary of Applicable Goal, Policy or Standard	Evidence Which Supports Making the General Plan Conformance Finding
Noise §3240 (WCCP) & Framework Plan	Conform with noise standards.	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.
Sensitive Habitats §3420 (WCCP)	Protect water resources and the fish and wildlife habitat utilizing those resources.	The subject property includes portions of the Trinity River. The proposed FP designation reduces the types of principally allowed uses compared to the RS-T designation, so it is expected to better protect sensitive habitats on the site.
Cultural Resource Protection §3530 (FP)	Protect cultural, archaeological and paleontological resources.	There are no new permanent changes proposed to the landscape with this proposal, so it would not affect any cultural resources on the site.

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.

Code Section	Summary of Applicable Requirement	Evidence that Supports the Required Finding
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 and steep slopes that apply to large 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 general rule 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 2
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 FP/RS-T Zone Boundary [attached with maps]

ATTACHMENT 3

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	X	Approval	X	
County Public Works, Land Use Division	X	"The project has no direct effect on any facilities maintained by this Department."	X	
County Division of Environmental Health	X	Approval	X	