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DEPARTMENT OF PLANNING AND BUILDING SERVICES  
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## MEMORANDUM

DATE: AUGUST 10, 2023  
TO: COASTAL PERMIT ADMINISTRATOR  
FROM: LIAM CROWLEY, PLANNING STAFF  
SUBJECT: CDP\_2018-0012 (SHEPPARD)

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On June 7, 2023, Planning & Building Services received public comment from Angela Liebenberg of the California Department of Fish and Wildlife (CDFW) regarding the project. The comments note that, in general, CDFW concurs with the August 12, 2021 Memorandum prepared by County Planner Juliana Cherry, which had maintained that the forest surrounding the project area should be classified as a Grand Fir Forest Alliance. This alliance is considered a Sensitive Natural Community, and therefore was determined to be an Environmentally Sensitive Habitat Area (ESHA). The comments also included several recommendations based on this concurrence.

As this comment supported the classification of the surrounding forest as an ESHA, the following was noted in the staff report:

*“Regardless of whether the surrounding forest is considered a Grand Fir Forest alliance or a Douglas Fir – Tanoak Forest and Woodland alliance, the sensitive status of both alliances as defined by CDFW indicates that the surrounding forest should be considered an ESHA. As such, a fifty (50) foot ESHA buffer shall be established as measured from the 2019 surveyed canopy and the Reduced Buffer Analysis submitted by SNRC (available on file at Planning and Building Services). Limited development would be allowed within the 50-foot buffer area in accordance with MCC Section 20.719.020(D), and any necessary measures shall be implemented to ensure compliance with this section.”*

Discussion then followed between the applicant, County staff, CDFW, and the California Coastal Commission (CCC). The applicant continued to contend that the forest surrounding the project area should not be classified as an ESHA. If the forest surrounding the project site is considered an ESHA, CCC noted that the project would be inconsistent with the County’s Local Coastal Program (LCP) because project features would be located either within the ESHA buffer or within the ESHA itself. This includes the proposed realignment of the driveway, the effects of which CDFW noted had not been previously addressed. Indeed, staff received comments from the CCC to this effect on August 8, 2023.

However, the classification of the surrounding forest remains uncertain. The August 25, 2021 letter submitted by the biologist contends that the forest does not meet the membership requirements to be classified as a Grand Fir Forest Alliance, and instead fit best under the Douglas Fir – Tanoak Forest and Woodland Alliance. Staff does not necessarily disagree with this assessment given the August 20, 2021 letter submitted by the forester, but its G3 S3 ranking suggested that the Alliance would still be considered a Sensitive Natural Community and thus should be classified as an ESHA. However, CDFW recently made changes to their Natural Communities list on June 1, 2023. These changes suggested that the Douglas Fir – Tanoak Forest and Woodland Alliance (*Pseudotsuga menziesii* – *Notholithocarpus densiflorus* Alliance) had been merged under what is now known as the Douglas fir – tanoak forest – madrone forest and woodland Alliance (*Pseudotsuga menziesii* – (*Notholithocarpus densiflorus* – *Arbutus menziesii*) Alliance). This Alliance has a ranking of G4 S4 and is not considered a Sensitive Natural Community. Based on this, staff felt it would be reasonable to conclude that the forest surrounding the site may in fact not be warranted as an ESHA, provided these conclusions regarding CDFW’s reclassification of Natural Communities was confirmed. As such, staff contacted CDFW to determine whether this line of reasoning is consistent with the classification changes that have occurred. However, no response has yet been received.

Therefore, the classification of the surrounding forest remains unresolved. Additionally, if the surrounding forest were considered not to be sensitive and not to be an ESHA, this would mark a departure from the conclusions drawn in the Initial Study and Mitigated Negative Declaration prepared for this project, and revisions would be required to address these changes. CEQA Guidelines Section 15073.5 states that *“a lead agency is required to recirculate a negative declaration when the document must be substantially revised after public notice of its availability has previously been given...”* If the surrounding forest were not to be considered sensitive and not considered to be an ESHA, it may be improper to act on this project without revision and recirculation of the environmental document.

In addition to this unresolved issue, staff notes that comments were received from Colin Morrow, David Guggenheim, and Holly Guggenheim on August 8, 2023. Based on a brief review, staff has concerns that several other issues discussed in these comments are critical and must be reviewed in more detail to determine their merits in contending that the County would be proceeding in an unlawful manner by acting on the project.

Therefore, staff requests that the project be continued to allow the following:

1. Staff must work with the applicant and CDFW to determine the proper classification of the surrounding forest and whether it should be considered a Sensitive Natural Community and an ESHA.
2. Based on the determination regarding ESHA, staff must work with the applicant, CCC, and CDFW to determine whether additional biological studies must be completed to address potential impacts of the project on ESHA, what appropriate mitigation or avoidance measures might be, and whether the project may be inconsistent with the LCP.
3. The environmental document must be revised based on the determinations above and any additional information that may arise.
4. Staff must review the received public comments in more detail to determine if critical concerns have been raised and the appropriate course of action to resolve these concerns.

Staff requests that the project be continued to a **date uncertain** to allow sufficient time to work with all respective parties and resolve these issues.

Staff also notes that comments were received from the CCC that clarified that the Town of Mendocino is not a “Sensitive Coastal Resource Area” with respect to appealability under PRC Section 30603(a)(3). Therefore, development in the Town of Mendocino is only appealable pursuant to PRC Section 30603(a)(1), (2), (4), or (5). As the project would not be located within one hundred (100) feet of the delineated wetlands, staff would like to clarify that the project is not appealable to the Coastal Commission.

ATTACHMENTS:

- A. CDFW Changes in California Communities
- B. CDFW Rarity Change Report

# Changes in California Communities

As new areas of the state come under study, and as regional classification efforts combine and analyze surveys from multiple projects, community concepts and community names change. Some changes to the California communities happen to keep in sync with changes at the National (NVC) level. Changes also can happen because of plant nomenclature. The following sections show changes that have happened to the Alliance and Association levels of California's Natural Communities.



## Lineage Tracking

This section shows changes in communities resulting from lumps (where an alliance or association is subsumed into another existing one), merges (where two communities are combined into a new one), and splits of previous concepts

from  to

Previous Scientific Name	Old CaCode	New Scientific Name	New CaCode	Lineage Type
Arctostaphylos silvicola Alliance	37.320.00	Arctostaphylos (crustacea, tomentosa) Alliance	37.308.00	Lumped
Artemisia californica – Ceanothus ferrisiae Association	32.010.08	Artemisia californica – (Salvia leucophylla) Alliance Alliance	32.015.00	Split
Artemisia californica – Ceanothus ferrisiae Association	32.010.08	Ceanothus ferrisiae – Heteromeles arbutifolia Association	37.912.05	Split
Artemisia californica / Eschscholzia californica Association	32.010.13	Artemisia californica Association	32.010.01	Split
Artemisia californica / Eschscholzia californica Association	32.010.13	Artemisia californica / Nassella (pulchra) Association	32.010.20	Split
Avena barbata – Bromus hordeaceus Semi-natural Association	44.150.03	Avena barbata – Avena fatua Semi-natural Association	44.150.02	Lumped
Carex praegracilis Association	45.184.03	Carex praegracilis Lowland Association	45.570.06	Split
Ceanothus thyrsoflorus – Vaccinium ovatum – Rubus parviflorus Association	37.204.03	Ceanothus thyrsoflorus – (Rubus ursinus) Association	37.204.02	Lumped
Cirsium fontinale Alliance	42.100.00	Mimulus guttatus – Cirsium spp. – Stachys spp. Alliance	44.112.00	Merged
Eleocharis (acicularis, macrostachya) [pending] Alliance	45.232.00	Lasthenia glaberrima – Eleocharis macrostachya Alliance	44.140.00	Split
Eleocharis (acicularis, macrostachya) [pending] Alliance	45.232.00	Carex utriculata – Calamagrostis canadensis	45.240.00	Split

Previous Scientific Name	Old CaCode	New Scientific Name	New CaCode	Lineage Type
Eleocharis (acicularis, macrostachya) [pending] Alliance	45.232.00	Juncus (effusus, patens) – Carex (pansa, praegracilis) Alliance	45.570.00	Split
Eleocharis acicularis Alliance	45.231.00	Lasthenia glaberrima – Eleocharis macrostachya Alliance	44.140.00	Split
Eleocharis acicularis Alliance	45.231.00	Navarretia leucocephala ssp. minima – Plagiobothrys cusickii Alliance	43.000.00	Split
Eleocharis macrostachya – Sagittaria montevidensis ssp. calycina Association	45.230.03	Eleocharis macrostachya Lowland Association	45.570.07	Lumped
Eleocharis macrostachya Alliance	45.230.00	Lasthenia glaberrima – Eleocharis macrostachya Alliance	44.140.00	Split
Eleocharis macrostachya Alliance	45.230.00	Carex utriculata – Calamagrostis canadensis	45.240.00	Split
Eleocharis macrostachya Alliance	45.230.00	Juncus (effusus, patens) – Carex (pansa, praegracilis) Alliance	45.570.00	Split
Eleocharis macrostachya Association	45.230.01	Eleocharis macrostachya Lowland Association	45.570.07	Split
Eleocharis macrostachya Association	45.230.01	Eleocharis macrostachya Vernal Pool Association	44.140.07	Split
Eleocharis macrostachya Association	45.230.01	Eleocharis macrostachya Montane Association	45.240.01	Split
Juncus arcticus var. balticus – Carex praegracilis Association	45.562.04	Carex praegracilis Lowland Association	45.570.06	Lumped
Mimulus (guttatus) Alliance	44.111.00	Senecio triangularis – Veratrum californicum – Mimulus spp.	45.427.00	Split
Pseudotsuga menziesii – Notholithocarpus densiflorus Association	82.500.48	Pseudotsuga menziesii – (Notholithocarpus densiflorus – Arbutus menziesii) Alliance	82.250.00	Merged
Pseudotsuga menziesii [inactive] Alliance	82.200.00	Pseudotsuga menziesii – (Notholithocarpus densiflorus – Arbutus menziesii) Alliance	82.250.00	Split
Pseudotsuga menziesii Alliance	82.200.00	Pinus ponderosa – Calocedrus decurrens – Pseudotsuga menziesii Alliance	87.005.00	Split
Pseudotsuga menziesii Alliance	82.200.00	Pseudotsuga menziesii – Calocedrus decurrens Alliance	82.600.00	Split

# Rarity Change Report

from  to

The list below shows changes that have been made to the rarity ranks of natural communities during the time period specified above. Changes are most often made based on data from additional projects (“Update from report”) or on use of NatureServe’s rarity rank calculator that assigns conservation status ranks (“Rank calculator”). Newly-added communities are also provided with their ranks (“New”)

<https://www.wildlife.ca.gov/Data/VegCAMP/Natural-Communities>

## Primary Life form: Tree

CaCode	Name		New rank	
<b>Hesperocyparis (sargentii, macnabiana)</b>				
81.500.01	<i>Hesperocyparis sargentii</i>	Association	<b>S2</b>	Used related ranking, new
<b>Pinus muricata – Pinus radiata</b>				
87.110.02	<i>Pinus radiata</i> / <i>Toxicodendron diversilobum</i>	Association	<b>G1</b>	Used related ranking, new
87.110.02	<i>Pinus radiata</i> / <i>Toxicodendron diversilobum</i>	Association	<b>S1</b>	Used related ranking, new
<b>Pinus sabiniana</b>				
87.130.06	<i>Pinus sabiniana</i> / <i>Artemisia californica</i> – <i>Ceanothus ferrisiae</i> – <i>Heteromeles arbutifolia</i>	Association	<b>Y</b>	Error fix
<b>Pseudotsuga menziesii – (Notholithocarpus densiflorus – Arbutu)</b>				
82.250.00	<i>Pseudotsuga menziesii</i> – ( <i>Notholithocarpus densiflorus</i> – <i>Arbutus menziesii</i> ) [pending]	Alliance	<b>S4</b>	Rank Calculator, update
82.250.00	<i>Pseudotsuga menziesii</i> – ( <i>Notholithocarpus densiflorus</i> – <i>Arbutus menziesii</i> ) [pending]	Alliance	<b>G4</b>	Rank Calculator, update
<b>Quercus agrifolia</b>				
71.060.02	<i>Quercus agrifolia</i>	Association	<b>S5</b>	Used related ranking, new
71.060.02	<i>Quercus agrifolia</i>	Association	<b>G5</b>	Used related ranking, new
71.060.08	<i>Quercus agrifolia</i> / <i>Artemisia californica</i>	Association	<b>Y</b>	Used related ranking, update
71.060.08	<i>Quercus agrifolia</i> / <i>Artemisia californica</i>	Association	<b>S3</b>	Used related ranking, new
71.060.08	<i>Quercus agrifolia</i> / <i>Artemisia californica</i>	Association	<b>G3</b>	Used related ranking, new