

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
710 E STREET • SUITE 200
EUREKA, CA 95501
VOICE (707) 445-7833
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Th 6b

DATE: August 26, 2010

TO: Commissioners & Interested Parties

FROM: Peter M. Douglas, Executive Director
Robert S. Merrill, North Coast District Manager
Melissa B. Kraemer, North Coast District Planner

SUBJECT: **HUMBOLDT COUNTY LCP AMENDMENT NO. HUM-MAJ-3-09**
(Race Investments, LLC Zoning Amendment)

Concurrence with the Executive Director's determination that the action of Humboldt County accepting the Commission's certification of LCP Amendment No. HUM-MAJ-3-09 is legally adequate (for Commission review at the meeting of September 16, 2010 in Eureka).

A. BACKGROUND:

The Commission acted on Humboldt County LCP Amendment No. HUM-MAJ-3-09 on March 11, 2010. As submitted, Humboldt County LCP Amendment No. HUM-MAJ-3-09 would have amended the current zoning designation of approximately 45 acres of land east of Eureka shown on Zoning Map F-16, certified as Section 311-7 of the Coastal Zoning Regulations, from "Coastal Commercial Timberland" (TC) to "Timber Production Zone" (TPZ). The existing "Flood Hazard Area" (F) and "Streams and Riparian Corridor Protection" (R) Combining Zone designations that currently apply to the subject site would not have changed. There would have been no changes to the text of the Implementation Program (IP), and the existing designation of the property in the certified Land Use Plan (LUP) as TC would have remained unchanged.

The subject site is located approximately one mile south of the intersection of Mitchell Road and Myrtle Avenue, east of Eureka in Humboldt County. The site is surrounded by agricultural and timberland resources as well as areas planned and zoned for rural residential development.

The Commission rejected the IP amendment as submitted but certified the proposed IP amendment to the LCP if modified with one suggested modification. The suggested modification included retaining the existing Coastal Commercial Timberland (TC) zoning designation over the approximately 6 acres of prime agricultural land on the subject site, that are centered around the tributary to Ryan Creek. Retaining the TC zoning district on this portion of land, which, according to the County has been used for grazing purposes in the past, will maintain "General Agriculture" as an allowable and principally permitted use in the area, thereby protecting the

agricultural resources of the site and avoiding a conversion of prime agricultural land to other uses inconsistent with the certified LUP. The TC land use designation that applies to the site under the certified LUP includes the “General Agriculture” use type as a principal permitted use. In addition, the agricultural policies of the LUP incorporate the agricultural conversion policies of the Coastal Act, Sections 30241 and 30242, which require that the maximum amount of prime agricultural land be maintained in agricultural production, and these policies greatly limit conversions of agricultural lands to non-agricultural uses. Furthermore, LUP Policy 3.24-B-1-a also requires that prime agricultural lands outside the urban limit line, such as the subject site, be planned for continued agricultural use. The Commission found that with this suggested modification, the zoning amendment would conform with and adequately carry out the policies of the LUP, as the prime agricultural lands on the subject property could continue to be used for agricultural use in the future, consistent with the agricultural protection policies of the LUP, while the timberlands on the property could continue to be used for timber production, consistent with the standards of the TC land use designation.

B. EFFECTIVE CERTIFICATION:

On May 11, 2010, the Humboldt County Board of Supervisors held a public hearing and adopted Resolution No. 10-39 acknowledging receipt of the Commission’s resolution of certification, accepting and agreeing to the Coastal Commission’s modifications, agreeing to issue permits in conformance with the modified LCP, and formally approving the necessary changes to the County’s Implementation Program (see Attachment B). The Board also adopted Ordinance No. 2435 which amended pertinent sections of the Coastal Zone Zoning Regulations portion of the Implementation Program to comport with the Coastal Commission’s modifications (see Attachment C).

As provided in Section 13544 of the California Code of Regulations, for the amendment to become effective, the Executive Director must determine that Humboldt County’s actions are legally adequate and report that determination to the Commission. Unless the Commission objects to the determination, the certification of Humboldt County LCP Amendment No. HUM-MAJ-3-09 shall become effective upon the filing of a Notice of Certification for the LCP amendment with the Secretary of Resources, as provided in Public Resources Code Section 2180.5(2)(V).

C. STAFF RECOMMENDATION:

Staff recommends that the Commission concur with the determination of the Executive Director that the actions of the County of Humboldt to accept the Commission’s certification of Humboldt County LCP Amendment No. HUM-MAJ-3-09 to adopt the necessary changes to the County’s Implementation Program are legally adequate, as noted in the attached letter, Attachment A (to be sent after Commission concurrence).

Attachments:

1. Draft Notification of Effective Certification Letter
2. Board Resolution No. 10-39
3. Ordinance No. 2435

CALIFORNIA COASTAL COMMISSION

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September __, 2010

Kirk Girard, Director
County of Humboldt – Community Development Services
3015 H Street, Clark Complex
Eureka, CA 95501

SUBJECT: Effective Certification of Humboldt County LCP Amendment No. HUM-MAJ-3-09 – Amendment to Implementation Program Zoning Map No. F-16 (Race Investments, LLC)

Dear Mr. Girard:

The Executive Director of the Coastal Commission has reviewed Board of Supervisors Resolution No. 10-39 and Ordinance No. 2435 for effective certification of the Humboldt County LCP Amendment No. HUM-MAJ-3-09 (Race Investments, LLC).

The County's resolution indicates that the County acknowledges receipt of and accepts the Commission's resolution for certification and that the County agrees to issue permits in conformance with the modified certified local coastal program.

The Executive Director has found that the County's resolution fulfills the requirements of Section 13544(a) of the California Code of Regulations. In accordance with Section 13544(b) of the regulations, the Director has determined that the County's actions are legally adequate.

The Coastal Commission concurred with this determination at its meeting of September __, 2010 in Eureka. Commission approval and the amendment process are now complete. If you have any questions, please contact me at (707) 445-7833 or mkraemer@coastal.ca.gov.

Sincerely,

Melissa B. Kraemer
Coastal Planner

ATTACHMENT A

**RESOLUTION OF THE BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE
OF CALIFORNIA**

Certified copy of portion of proceedings; Meeting on May 11, 2010

RESOLUTION NO. 10-39

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT MAKING THE REQUIRED FINDINGS FOR CERTIFYING COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, APPROVING THE RACE INVESTMENTS LLC APPLICATION AS MODIFIED BY THE CALIFORNIA COASTAL COMMISSION, AND AUTHORIZING THE TRANSMITTAL OF THE LOCAL COASTAL PROGRAM AMENDMENT TO THE CALIFORNIA COASTAL COMMISSION FOR FINAL CERTIFICATION: CASE NUMBERS ZR-07-01; ASSESSOR PARCEL NUMBER 017-191-03 ET AL.

WHEREAS, Race Investments LLC submitted an application and evidence in support of approving a Local Coastal Program (LCP) Amendment and Zone Reclassification for lands in the Eureka area, and that a modified LCP Amendment to retain six acres in Coastal Commercial Timberland (TC) was approved by the California Coastal Commission on March 11, 2010; that the modified project reclassifies approximately 39 acres from TC with Flood Hazard Areas and Streams and Riparian Corridor Protection combining zones into Timberland Production Zone with said combining zones and reclassifies approximately 106 acres from Agriculture Exclusive into Timberland Production Zone; and

WHEREAS, the proposed project may be approved if it can be found that: (1) The proposed change is in the public interest; (2) The proposed change is consistent with a comprehensive view of the General Plan; (3) The proposed change is consistent with the policies of Chapter 3 commencing with Section 30200 of the Public Resources Code, and the implementing ordinances are in conformity with and carry out the provisions of the certified Humboldt Bay Area Plan; (4) The proposed change is consistent with the California Environmental Quality Act; and (5) The proposed change is consistent with the Forest Taxation Reform Act of 1976 and Article 4 of the California Government Code Section 51133; and

WHEREAS, Community Development Services – 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 statutorily exempt from environmental review pursuant to Section 15264 of the California Environmental Quality Act and Section 51119 of the California Government Code; and

WHEREAS, Community Development Services – Planning Division has provided a report which includes evidence in support of making all of the required findings for approving the LCP Amendment, as modified by the California Coastal Commission to retain six acres in TC, and for approving the Zone Reclassification application for Case No.: ZR-07-01; and

WHEREAS, Community Development Services – Planning Division has prepared, posted for public review, and filed with the Board of Supervisors reports with evidence, findings, and conclusions showing that evidence does exist in support of making the required findings for approving the project; and

WHEREAS, the Board of Supervisors has reviewed and considered said reports and other written evidence and testimony presented to the Board; and

ATTACHMENT B

WHEREAS, the Board of Supervisors held a public hearing on September 2, 2008 on this matter to receive other evidence and testimony; and

NOW, THEREFORE, BE IT RESOLVED, determined, and ordered by the Board of Supervisors of the County of Humboldt that:

1. The Board of Supervisors finds the project is statutorily exempt per Section 15264 of California Environmental Quality Act and Section 51119 of the California Government Code, and finds that there is no substantial evidence that the proposed project will have a significant effect on the environment.
2. The Board of Supervisors makes the findings for Case No.: ZR-07-01 based on the submitted evidence and further finds that the LCP Amendment will be carried out in accordance with the Coastal Act and agrees to issue coastal development permits subject to the approved LCP.
3. The Board of Supervisors approves and adopts the LCP Amendment and Zone Reclassification as modified by the California Coastal Commission at their meeting of March 11, 2010, and authorizes the LCP Amendment to be submitted to the California Coastal Commission for final certification.

BE IT FURTHER RESOLVED by the Humboldt County Board of Supervisors that:

1. The Community Development Services – Planning Division is hereby directed to transmit the LCP Amendment and Zone Reclassification to the California Coastal Commission for final certification in accordance with the Coastal Act, the LCP Amendment to become effective upon approval by the California Coastal Commission;
2. The Community Development Services – Planning Division is hereby directed to prepare and file a Notice of Exemption with the County Clerk and Office of Planning and Research pursuant to California Environmental Quality Act; and
3. The Clerk of the Board is hereby directed to give notice of the decision to the applicant/owner, the Assessor's office and any other interested party.
4. The Clerk of the Board is hereby directed to publish the Summary of the Ordinance.
5. The Clerk of the Board is hereby directed to record the Certification for Rezoning (Notice of Timberland Production Status) pursuant to Sections 51117 and 51141 of the California Government Code, giving notice that the rezoning shall become effective thirty days from the date of its passage or on the date of final certification of the LCP Amendment and Zone Reclassification by the California Coastal Commission, whichever occurs later.



Chair, Humboldt County Board of Supervisors

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA
Certified copy of portion of proceedings; Meeting on May 11, 2010

Adopted on motion by Supervisor Lovelace, seconded by Supervisor Duffy
and the following vote:

AYES: Supervisors: Lovelace, Duffy, Smith, Clendenen, Neely

NOES: Supervisors:

ABSENT: Supervisors:

CERTIFICATE OF ACKNOWLEDGMENT


STATE OF CALIFORNIA }
COUNTY OF HUMBOLDT }

On this 11 day of May 2010, before me, Nikki Turner – Deputy Clerk of the Board
Personally appeared Clif Clendenen, Chair of the Board

who proved to me on the basis of
satisfactory evidence to be the
person(s) whose name(s) is/are
subscribed to the within Instrument
and acknowledged to me that
he/she/they executed the same in
hi/her/their authorized
capacity(ies), and that by
his/her/their signature(s) on behalf
of which the person(s) acted,
executed the instrument.

I certify under PENALTY OF
PERJURY under the laws of the
State of California that the
foregoing is true and correct.

Witness my hand and official seal.



Nikki Turner

**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT,
STATE OF CALIFORNIA**
Certified copy of portion of proceedings, Meeting on May 11, 2010

ORDINANCE NO. 2435

**AMENDING SECTION 311-7 OF THE HUMBOLDT COUNTY CODE
BY REZONING PROPERTY IN THE EUREKA AREA
[ZR-07-01 (RACE INVESTMENTS LLC)]**

The Board of Supervisors of the County of Humboldt ordains as follows:

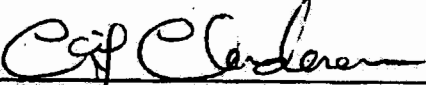
SECTION 1. ZONE AMENDMENT. Section 311-7 of the Humboldt County Code is hereby amended by reclassifying the property described in the attached Exhibit A as follows: an approximate 145 acres, consisting of an approximate 39 acres of Coastal Commercial Timberland with Flood Hazard Area, Streams and Riparian Corridor Protection combining zones into Timberland Production Zone with Flood Hazard Area, Streams and Riparian Corridor Protection combining zones, and an approximate 106 acres of Agricultural Exclusive into Timberland Production Zone. The area described is also shown on the Humboldt County Coastal Zoning Map F-16 and the Freshwater Community Plan Zoning Map and on the map attached as Exhibit A.

SECTION 2. Ordinance No. 2398 is hereby rescinded.

SECTION 3. This ordinance shall take effect and be in full force thirty (30) days from the date of its passage or on the date of final certification of the Local Coastal Program Amendment by the California Coastal Commission, whichever occurs later.

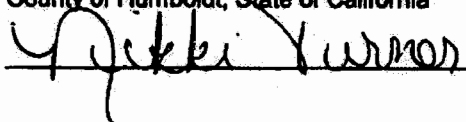
PASSED, APPROVED AND ADOPTED this 11th day of May 2010, on the following vote, to wit:

AYES: Supervisors: Lovelace, Duffy, Smith, Clendenen, Neely
NOES: Supervisors:
ABSENT: Supervisors:


Chairperson of the Board of Supervisors of the
County of Humboldt, State of California

(SEAL)

ATTEST:
Kathy Hayes
Clerk of the Board of Supervisors of the
County of Humboldt, State of California



ATTACHMENT C

