

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
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EUREKA, CA 95501
VOICE (707) 445-7833
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F11a

DATE: December 23, 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-2-09**
(New Heart Community Church LUP & IP Amendments)

Concurrence with the Executive Director's determination that the action of Humboldt County accepting the Commission's certification of LCP Amendment No. HUM-MAJ-2-09 is legally adequate (for Commission review at the meeting of January 14, 2011 in Long Beach).

A. BACKGROUND:

The Commission acted on Humboldt County LCP Amendment No. HUM-MAJ-2-09 on September 9, 2009. As submitted, Humboldt County LCP Amendment No. HUM-MAJ-2-09 would have amended both the County's certified Land Use Plan (LUP) and Implementation Plan (IP) to change the local plan and zoning designations of an approximately 4.5-acre parcel at 899 Murray Road in the McKinleyville area from commercial recreation (CR) to public facilities-urban (PF-urban).

The subject site is located at 899 Murray Road (Assessor Parcel Number 511-401-39) at the intersection of the Highway 101 South off-ramp and West Murray Road in the McKinleyville area of Humboldt County. The 4.5-acre property is bordered by Highway 101 to the east, Murray Road to the south, and residential development of the Pacific Sunset Subdivision to the west and north. The property is approximately one half mile inland from the ocean shoreline and is between the first public road and the sea.

The Commission certified the IP amendment as submitted. However, the Commission rejected the LUP amendment as submitted but certified it if modified with two suggested modifications. Suggested Modification No. 1 added "PF – Public Facility" to the list of urban land use designations listed in Chapter 4, Page 20 of the McKinleyville Area Plan. Suggested Modification No. 2 deleted the CR designation (CR) for the subject property from the land use plan map shown in Chapter 4, Page 24 of the McKinleyville Area Plan and replaced it with "PF" to reflect the amended land use designation. The Commission found that with these suggested

modifications, the LUP would be internally consistent and would ensure that the changes to the LUP are consistent with Coastal Act policies and that the IP would conform with and carry out the LUP.

On June 9, 2010 the Commission extended the expiration date of its approval with suggested modifications and the six-month time limit for Humboldt County to accept and agree to the Commission's certification of Humboldt County LCP Amendment No. HUM-MAJ-2-09 with suggested modifications for a period not to exceed one year, to March 9, 2011.

B. EFFECTIVE CERTIFICATION:

On July 27, 2010, the Humboldt County Board of Supervisors held a public hearing and adopted Resolution No. 10-50 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 Local Coastal Program (see Attachment B).

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-2-09 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-2-09 to adopt the necessary changes to the County's Local Coastal 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. 10-50

CALIFORNIA COASTAL COMMISSION

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January __, 2011

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-2-09 (New Heart Community Church) – Amendments to Land Use Plan & Implementation Program

Dear Mr. Girard:

The Executive Director of the Coastal Commission has reviewed Board of Supervisors Resolution No. 10-50 for effective certification of the Humboldt County LCP Amendment No. HUM-MAJ-2-09 (New Heart Community Church).

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 January __, 2011 in Eureka. Commission approval and the amendment process are now complete. If you have any questions, please contact me at (707) 445-7833.

Sincerely,

Melissa B. Kraemer
Coastal Planner

ATTACHMENT A
Humboldt County LCP Amendment No. HUM-MAJ-2-09
Effective Certification

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA
Certified copy of portion of proceedings; Meeting on July 27, 2010

Resolution No. 10-50

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT MAKING THE REQUIRED FINDINGS AND APPROVING THE SUPPLEMENTAL LOCAL COASTAL PLAN AMENDMENT FOR THE NEW HEART CHURCH, CASE NUMBER GPA-07-02, WHICH WILL BECOME EFFECTIVE UPON CERTIFICATION BY THE COASTAL COMMISSION.

WHEREAS, On December 9, 2008, by Resolution No. 08-101, the Board of Supervisors approved a General Plan Amendment and Zone Reclassification to facilitate construction of a church on APN 511-401-39; and

WHEREAS, On September 11, 2009, the Coastal Commission sent the County a letter stating that additional actions are necessary before certification of the Local Coastal Program Amendment will occur;

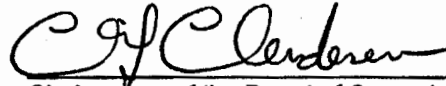
- 1) The County acknowledges receipt of the Coastal Commission's adopted resolution for the item;
- 2) Within 6 months of the September 9, 2009 Coastal Commission action, the County of Humboldt shall
 - a. Accept and agree to the modifications that are suggested;
 - b. Agree to take whatever formal action is necessary to amend the McKinleyville Coastal Plan to add Public Facilities (PF) to the list of urban plan designations, and amend the land use map for APN 511-401-39 to delete the Commercial Recreation (CR) designation and add a PF designation; and
 - c. Agree to issue coastal development permits subject to the approved Local Coastal Program; and

WHEREAS, On June 11, 2009, the County received notice the Commission extended the deadline for the County's actions to March 9, 2011.

NOW, THEREFORE, be it resolved, determined, and ordered by the Humboldt County Board of Supervisors that:

1. The Board of Supervisors finds the Local Coastal Plan Amendment part of project is not subject to environmental review under the California Environmental Quality Act (CEQA) as Coastal Commission Certification of the Local Coastal Program Amendments is the functional equivalent of environmental review; and
2. The Board of Supervisors makes all the required findings described below in the attached Findings for Approval (Exhibit A), which is incorporated herein, based on the described evidence and further finds that the Local Coastal Program Amendment will be carried out in accordance with the Coastal Act; and
3. The Board of Supervisors accepts and agrees to the two (2) modifications suggested by the Coastal Commission, and directs the following changes be made to the McKinleyville Area Plan: a) add "PF-Public Facility" to the list of Urban Land Uses on Page 20 of Chapter 4, and b) on the land use maps on Page 24 of the same chapter, replace the CR designation for the property with a PF designation; and
4. The Board of Supervisors approves the Local Coastal Plan Amendment, which will become effective upon certification by the Coastal Commission; and

5. The Board of Supervisors agrees to issue coastal development permits subject to the approved Local Coastal Program; and
6. The Board of Supervisors directs staff to submit the proposed Local Coastal Plan Amendment to the Coastal Commission for certification; and
7. Further modifications to the Local Coastal Plan Amendment if required by the Coastal Commission for certification shall be brought back to the Board of Supervisors for consideration at a future public hearing.



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

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

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

NOES: Supervisors:

ABSENT: Supervisors:

STATE OF CALIFORNIA

County of Humboldt

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) SS.
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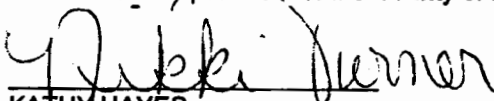
I, KATHY HAYES, Clerk of the Board of Supervisors of the County of Humboldt, State of California do hereby certify the foregoing to be a full, true, and correct copy of the original made in the above-titled matter by said Board of Supervisors at a meeting held in Eureka, California as the same now appears of record in my office.

In Witness Whereof, I have hereunto set my hand and affixed the Seal of said Board of Supervisors.

KATHY HAYES

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

By:



KATHY HAYES

Date: July 27, 2010

Exhibit A

Findings of Approval

Required Findings for General Plan Amendments

Finding #1: Section 1452.2 of the Framework Plan establishes findings, any **one** of which may be grounds for considering a General Plan Amendment. Specifically, the findings are:

- Base information or physical conditions have changed; or
- Community values and assumptions have changed; or
- There is an error in the plan; or
- To maintain established uses otherwise consistent with a comprehensive view of the plan.

Finding #2: In addition, the General Plan Amendment must be found to: be in the public interest, and

Finding #3: The General Plan Amendment is required to be consistent with the zoning or the other implementation of the General Plan.

Required Findings for Consistency with the Coastal Act – General Plan Amendments & Zone Reclassifications

Title 14, §13551 of the Coastal Commission's Administrative Regulations, and Public Resources Code, §30200 requires proposed Amendments to conform to the policies contained in Chapter 3 of the Coastal Act, which sets forth policies regarding the following issues:

Finding #4: Access (including provisions for access with new development projects, public facilities, lower cost visitor facilities, and public access).

Finding #5: Recreation (including protection of water-oriented activities, ocean-front land protection for recreational uses, aqua- cultural uses, and priority of development purposes).

Finding #6: Marine Resources (including protecting biological productivity, prevent hazardous waste spills, diking, filling and dredging, fishing, revetments and breakwaters, and water supply and flood control).

Finding #7: Land Resources (including protection of environmentally sensitive habitats, agricultural lands, timberlands, and archaeological or paleontological resources)

Finding #8: Development (including placing new development within or close to existing developed areas, protection of scenic resources, maintenance of public access by encouraging public transit, providing for recreational opportunities within new development, protection of public safety, expansion of public works facilities and priority of coastal dependent developments)

Required Finding for Consistency With Housing Element Densities

Finding #9: Government Code Section 65302.81 requires specific findings supported by substantial evidence where a General Plan Amendment or Zone Reclassification is adopted that reduces 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 mid point of the density range specified in the General Plan designation).

Required Finding for Consistency With CEQA

Finding #10: General Plan Amendments are required to be consistent with CEQA (Public Resources Code Section 21000 – 21178).

Finding #1

Section(s)	Applicable Requirements
§1452.2 Required Findings (Framework Plan)	Base information or physical conditions have changed; or Community values and assumptions have changed; or There is an error in the General Plan; or To maintain established uses otherwise consistent with a comprehensive view of the General Plan.
<p>Evidence Supporting Finding #1 The modifications will add a PF – Public Facilities to the list of urban plan designations, and amend the land use map for the subject property to delete the CR designation and add a PF designation. In approving the LCP amendment on December 9, 2008, the Board of Supervisors found there is evidence that community values have changed, and base conditions have changed to support changing the Plan Designation on the subject property from CR to PF. The previous action was intended to apply to delete the CR designation and add a PF designation to the subject property.</p> <p>Adding PF – Public Facilities to the list of urban plan designations will correct an error in the plan. While the PF-Public Facilities land use designation is described under the Urban Plan Designations in the McKinleyville Community Plan, it does not appear on the summary list in the beginning of the section.</p>	

Finding #2

Section(s)	Applicable Requirements
§1452.2 Required Findings (Framework Plan)	The proposed Amendment is in the public interest.
<p>Evidence Supporting Finding #2 In approving the LCP amendment on December 9, 2008, the Board of Supervisors found there is evidence that community values have changed. Responding to changed community values is in the public interest. Approving the modifications suggested by the Coastal Commission for certification of the LCP amendment may also be found to be in the public interest.</p>	

Finding #3

Section(s)	Applicable Requirements	Evidence Supporting Finding #3
Consistency with the Zoning Ordinance	The General Plan Amendment is required to be consistent with the Zoning or the other implementation of the General Plan.	The proposed project includes amendment to the zoning maps from CR to PF-1 on the subject property so the zoning will align with the new General Plan designation.

Finding #4

Section(s)	Applicable Requirements
Consistency: Administrative Regulations – Title 14, § 13551 And Public Resources Code, § 30200	<p>The proposed Amendments must conform to the policies contained in Chapter 3 of the Coastal Act.</p> <p>Access (including provisions for access with new development projects, public facilities, lower cost visitor facilities, and public access).</p>

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Section(s)	Applicable Requirements
<p>Evidence Supporting Finding #4: Phase I of the project included granting an easement to the County and construction of a public use bicycle path along the east property line, an extension of the Hammond Trail. As shown in Figure 1, the bicycle path enhances access to coastal resources served by the trail, including Clam Beach to the north. The bicycle path complements the existing foot path to the west by providing access for bicyclists and others that need a more uniform surface for walking.</p>	

Finding #5

Section(s)	Applicable Requirements
<p>Consistency: Administrative Regulations – Title 14, § 13551 And Public Resources Code, § 30200</p>	<p>The proposed Amendments must conform to the policies contained in Chapter 3 of the Coastal Act.</p> <p>Recreation (including protection of water-oriented activities, ocean- front land protection for recreational uses, aqua- cultural uses, and priority of development purposes).</p>
<p>Evidence Supporting Finding #5 There is no evidence the proposed LCP Amendment will affect water-oriented activities ocean- front land protection for recreational uses, aqua- cultural uses, and priority of development purposes). The proposed Amendment will change the land use from CR to PF-1, which was intended by the previous action in 2008. The findings in support of the 2008 project apply to this LCP amendment as well. For example, the subject property is more than 1,000' east of a 50 bluff that drops down to Mad River Beach, so there is substantial physical separation between the subject property and the ocean, which will minimize the impact of the project on any water-oriented activities.</p> <p>Listing the PF-1 land use designation in the list of urban plan designations will correct an error in the plan. There is no evidence correcting this error in the plan will affect water-oriented activities ocean- front land protection for recreational uses, aqua- cultural uses, and priority of development purposes.</p>	

Finding #6

Section(s)	Applicable Requirements
<p>Consistency: Administrative Regulations – Title 14, § 13551 And Public Resources Code, § 30200</p>	<p>The proposed Amendments must conform to the policies contained in Chapter 3 of the Coastal Act.</p> <p>Marine Resources (including protecting biological productivity, prevent hazardous waste spills, diking, filling and dredging, fishing, revetments and breakwaters, and water supply and flood)</p>
<p>Evidence Supporting Finding #6 Amending the General Plan designation from CR to PF-1 does not seem like it could affect marine resources. The subject property is separated from the nearest beach by 1,200' and 50' bluffs. There are no mapped coastal wetland areas, streams or riparian corridors on the property. As shown on the attached maps, Norton Creek runs approximately 1,000 feet to the north. The subject property is separated from Norton Creek by existing residences. The applicant submitted a biological resources assessment that concludes the project will not have significant impacts on biological resources.</p> <p>There is no evidence correcting an error in the plan by listing the PF-1 land use designation in the list of Urban Plan Designations will affect marine resources.</p>	

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Finding #7

Section(s)	Applicable Requirements
Consistency: Administrative Regulations – Title 14, § 13551 And Public Resources Code, § 30200	The proposed Amendments must conform to the policies contained in Chapter 3 of the Coastal Act. Land Resources (including environmentally sensitive habitats, agricultural lands, timberlands, and archaeological or paleontological resources)
<p>Evidence Supporting Finding #7 Amending the General Plan designation from CR to PF-1 does not seem like it could affect land resources either. As mentioned in response to Finding #5 above, the subject property is separated from the nearest beach by 1,200' and 50' bluffs, so it's unlikely to affect coastal resources on the bluff or on the beach. There is existing residential development between the subject property and the bluffs. There are no mapped coastal wetland areas, streams or riparian corridors on the property, or other environmentally sensitive habitat areas on the property. Norton Creek runs approximately 1,000 feet to the north, and is separated from the subject property by a number of residences. The applicant submitted a biological resources assessment that concludes the project will not have significant impacts on biological resources.</p> <p>The project was referred to the North Coast Information Center (NCIC) to assess the potential for cultural resources at the site. Upon a search of their maps and other information, the NCIC determined that it is unlikely there will be cultural resources found at the site. While the site does not contain timberlands, it does have some agricultural value because the County's GIS shows the property is underlain by prime agricultural soil (the Storie Index for the loam underneath is 80). However, amending the General Plan designation from CR to PF-1 is not likely to have a significant impact on the agricultural use of the property; both the CR and the PF-1 designation are equally unresponsive of agricultural uses (they are not permitted).</p> <p>There is no evidence correcting an error in the plan by listing the PF-1 land use designation in the list of Urban Plan Designations will affect land resources.</p>	

Finding #8

Section(s)	Applicable Requirements
Consistency: Administrative Regulations – Title 14, § 13551 And Public Resources Code, § 30200	The proposed Amendments must conform to the policies contained in Chapter 3 of the Coastal Act. Development (including placing new development within or close to existing developed areas, protection of scenic resources, maintenance of public access by encouraging public transit, providing for recreational opportunities within new development, protection of public safety, expansion of public works facilities and priority of coastal dependent developments)
<p>Evidence Supporting Finding #8 There is no evidence the proposed LCP Amendment will affect water-oriented activities ocean- front land protection for recreational uses, aqua- cultural uses, and priority of development purposes). The proposed Amendment will change the land use from CR to PF-1, which was intended by the previous action in 2008. The findings in support of the 2008 project apply to this LCP amendment as well. For example, the change in land use designation from CR to PF-1 will not increase the potential for new development, but it will increase the chances the property will be developed with a church. Whether the property is developed with a church or some other use, it is served by public water and sewer, and surrounded by existing development.</p> <p>It seems unlikely that correcting an error in the plan by listing the PF-1 land use designation in the list of Urban Plan Designations will affect development.</p>	

Finding #9

Section(s)	Applicable Requirements
Government Code Section 65302.81	Specific findings supported by substantial evidence are required where a General Plan Amendment or zone reclassification is adopted that reduces the residential density for any parcel below that utilized by the Department of Housing and Community Development (HCD) in determining compliance with housing element law (the mid point of the density range specified in the General Plan designation).
<p>Evidence Supporting Finding #9 This project does not involve any residential development. It will have no effect on the existing housing inventory.</p>	

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Finding #10

Section(s)	Applicable Requirements	Evidence Supporting Finding #16
Consistency with the California Environmental Quality Act	The General Plan Amendment is required to be consistent with the CEQA	The General Plan Amendment and Zone Reclassification are not subject to environmental review under the CEQA as Coastal Commission Certification of the LCP Amendment is the functional equivalent of environmental review.

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