

CALIFORNIA COASTAL COMMISSION

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Staff Report: April 1, 2011
Hearing Date: April 13, 2011
Commission Action:

TO: Commissioners & Interested Parties

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

SUBJECT: **Humboldt County LCP Amendment No. HUM-MAJ-4-09**
(Barry/Petersen/Chism – Humboldt Hill Road extension)
For the meeting of April 13, 2011 in Santa Barbara

SYNOPSIS

I. Timeline for Commission Action

The Humboldt County Board of Supervisors locally approved the subject local coastal program (LCP) amendment on May 12, 2009 (Exhibit Nos. 10-13) and submitted the amendment for certification by the Commission on July 27, 2009. After receiving additional information from Humboldt County, the LCP Amendment was deemed submitted (filed) on April 16, 2010. On July 7, 2010 the Commission approved a one-year extension of the deadline by which the Commission must act on the proposal, changing the deadline for Commission action from July 15, 2010 to July 15, 2011.

II. Amendment Description

The subject LCP amendment application transmitted by Humboldt County is known as the “Barry/Petersen/Chism” LCP amendment. As submitted, Humboldt County LCP Amendment No HUM-MAJ-4-09 would amend Section 3.22-B-3 of the certified land use plan (LUP, known as the Humboldt Bay Area Plan) to add a road connection between Humboldt Hill Road and Tompkins Hill Road south of Eureka to an LUP listing of permissible public roadway improvement projects. Exhibit No. 11 shows the specific language to be added as Section 3.22-B-3-j of the LUP, as follows (text to be added is shown as underlined):

3.22 *PUBLIC SERVICES-RURAL*

...

B. *DEVELOPMENT POLICIES*

...

3. *Public Roadway Projects*

Public roadway improvement projects shall not, either individually or cumulatively, degrade environmentally sensitive habitats or coastal scenic areas. Improvements (beyond repair and maintenance) shall be consistent with Sections 3.30 et seq. and shall be limited to the following:

- a. *Reconstruction and restoration of existing roadways, including bridge restoration and replacement, highway planting, construction of protective works such as rock slope protection and slope corrections, reconstruction of roadways following damage by storms or other disasters, and improvement of roadside rests.*
- b. *Operational improvements, such as traffic signals, guardrails and curve corrections, and intersection modifications such as the Elk River interchange improvements.*
- c. *Roadside enhancements, such as construction or improvement of roadside rests and vista points consistent with Section 3.40 and removal of roadside signs consistent with Section 3.40.*
- d. *Minor improvement projects, such as modifying encroachments or ramps, construction turnouts, and channelized intersections.*
- e. *Except in coastal scenic areas, climbing and passing lanes.*
- f. *Expansion of substandard roadway shoulders.*
- g. *Construction of bikeways.*
- h. *The Elk River Interchange.*
- i. *Relocation of New Navy Base Road to accommodate major coastal dependent industrial development on and adjacent to Samoa Airport site.*
- j. *Extension of Humboldt Hill Road to Tompkins Hill Road to implement policies in the 1995 Eureka Community Plan, and to improve public safety by providing a secondary access to residential development at the top of Humboldt Hill.*

The subject road extension is located approximately four miles south of Eureka, on the western side of Humboldt Hill, east of Highway 101, south of Humboldt Hill Road, and north of Tompkins Hill Road (Exhibit Nos. 1-2). The road extension, which would traverse open grasslands and closed-canopy Sitka spruce forest, would be approximately 1-mile in length. The proposed text of the LUP amendment (Exhibit No. 11) does not include a description of the specific route of the future new roadway and does not limit the dimensions or other construction details of the roadway. Thus, no single roadway plan is specified by the amendment, and a variety of alternative roadway routes and designs could be considered in the future under the proposed LUP amendment language. The landowners' engineer prepared a conceptual plan for a roadway providing a connection between Humboldt Hill Road and Tompkins Hill Road that

illustrates how such a roadway connection might be built (Exhibit No. 6). The conceptual plan depicts a paved road that is 34 feet wide and includes two 12-foot travelways and two 5-foot bike lanes within a 50-60-foot-wide road right-of-way corridor. The area where the road extension would be developed currently is undeveloped except for an unimproved (dirt), approximately 10-foot-wide, 3,200-foot-long agricultural road that extends north from Tompkins Hill Road (Exhibit Nos. 4-5). A road extension as depicted in the conceptual plan would result in the conversion of approximately three acres of agricultural land in the coastal zone.

III. Summary of Staff Recommendation

The staff recommends that the Commission, upon completion of a public hearing, **deny the LUP amendment request as submitted.**

The purpose of the proposed LUP amendment is to facilitate a future road connection between Humboldt Hill Road and the Tompkins Hill Road interchange with Highway 101 as called for in the Eureka Community Plan, a portion of the Humboldt County General Plan which has never been submitted to the Commission for certification as part of the LCP. The proposed secondary access road would traverse four parcels owned separately by Barry, Petersen, and Chism (Exhibit Nos. 2 and 5). In addition to serving as a secondary access road to the existing residential community of Humboldt Hill, a branch of the subject road extension would provide access to a future inland residential community (approximately 400 units) planned for the property immediately east of the subject site (the inland portion of the subject APN 307-041-07, owned by Barry), as called for in the Eureka Community Plan.

The area that is the subject of the proposed LCP amendment is located approximately four miles south of Eureka, on the western side of Humboldt Hill, east of Highway 101, south of Humboldt Hill Road, and north of Tompkins Hill Road (see Exhibit Nos. 1-2). The affected property extends from near the eastern shoreline of Humboldt Bay at the Tompkins Hill Road/Highway 101 interchange easterly up to the top of a coastal ridge at the current end of Humboldt Hill Road. The area is considered rural in that it's located outside of the urban limit line. The subject site consists of portions of four separate APNs under separate private ownerships (Barry, Petersen, and Chism) (Exhibit No. 3). One of the parcels (APN 307-041-07 owned by Barry) straddles the coastal zone boundary along the ridgeline, with approximately half of the property (+86 acres) located inside the coastal zone and half located outside of and immediately adjacent to the coastal zone. The parcel is planned and zoned for exclusive agricultural uses (AE-60 acre minimum parcel size) on its coastal zone portion and for low density residential development uses (10,000-square-foot minimum parcel size) on its inland portion. The other three APNs that are the subject of the LUP amendment (APN 307-041-09, approximately 84 acres, and 307-051-04, approximately 7.5 acres, both owned by Petersen and APN 307-051-11, approximately 2 acres owned by Chism) extend down the slope of the ridge to the Tompkins Hill Road/Highway 101 interchange and are planned and zoned for rural residential agricultural uses (RA-5-acre minimum parcel size).

The road extension, which would traverse open grasslands, closed-canopy Sitka spruce forest, and various creeks and natural drainages, would be approximately 1-mile in length. The route of the future road alignment that would result from the proposed LUP amendment is, at this point,

uncertain, although a preliminary engineering plan that has been developed depicts a paved road that is 34 feet wide and includes two 12-foot travelways and two 5-foot bike lanes within a 50-60-foot-wide road right-of-way corridor (see Exhibit No. 6). The area where the road extension would be developed currently is undeveloped except for an unimproved (dirt), approximately 10-foot-wide, 3,200-foot-long agricultural road that extends north from Tompkins Hill Road (Exhibit Nos. 4-5).

Approximately three acres of agricultural lands would be directly impacted by the footprint of the road that would be accommodated by the proposed LCP amendment. The County proposes to mitigate for the loss of three acres of agricultural land that would be impacted by the future road construction through the area by requiring, as part of the future subdivision of the adjacent Barry property inland of the coastal zone boundary, that three acres of agricultural land on the inland Barry property be rezoned from Residential Single Family to Agricultural Exclusive. In addition, the County proposes to require, as part of the future coastal development permit for the road extension project, a condition requiring the development of a public access facility that would provide for passive public recreational opportunities (e.g., scenic overlook and picnicking) on the inland portion of the inland Barry property (see Exhibit No. 5). It is important to note that these amenities and mitigation measures are not actually included in any of the proposed text of the LCP amendment (Exhibit Nos. 10-11). As the standard of review for coastal development permits is consistency with the certified LCP, it is possible that a CDP could be approved for the road extension in the future without such mitigation measures, if they are not mandated by the policies of the LCP.

The property that would be affected by LUP Amendment No. HUM-MAJ-4-09 does contain prime agricultural soils and livestock and/or crop productivity potential that would qualify portions of the site as prime agricultural land, although it is not clear that the currently unspecified future alignment of any road would result in the direct conversion of prime agricultural land. Nevertheless, any road that would be potentially allowable consistent with all other applicable LCP provisions would pass in close proximity to, , if not directly through, prime agricultural lands and the resulting agricultural land conversion would take place in an agriculturally productive area that contributes to the agricultural economy of the region.

Staff believes that the proposed LUP amendment does not achieve the Coastal Act Section 30241 mandate that the maximum amount of prime agricultural land be maintained in agricultural production in order to maintain the agricultural economy of the area. The proposed LUP amendment would amend Section 3.22-B of the Humboldt Bay Area Plan permissively to allow for a future public roadway improvement project that even if consistent with all other applicable LCP provisions would result in the direct conversion of up to three acres of land from agricultural to roadway-related uses and could indirectly lead to the conversion of additional agricultural lands. Coastal Act Section 30241 requires the protection of prime agricultural land and lists several standards for ensuring minimization of conflicts between agricultural land uses, whether on prime agricultural lands or not, and urban land uses. Staff believes that the LUP amendment as submitted does not maximize prime agricultural land preservation; rather the viability of prime agricultural land would be diminished. Staff further believes that it does not minimize conflicts between agricultural and urban land uses. In summary, as discussed at length

in the findings below, staff believes that none of the criteria under Sections 30241 and 30242 are met. Therefore, staff believes that the amendment must be denied as submitted.

In addition, staff further believes that the Commission has no basis for finding that the County's proposed agricultural mitigation plan to require, as part of the future subdivision of the adjacent Barry property inland of the coastal zone boundary, that three acres of agricultural land on the inland Barry property be rezoned from Residential Single Family to Agricultural Exclusive would make the LUP amendment as submitted consistent with the Coastal Act. The Coastal Act prohibits impermissible conversions of agricultural land; it does not allow for conversions based on the provision of mitigation. In addition, no language is proposed to be added to the text of the LUP itself that would require the conditions discussed by the County in its findings. As the standard of review for coastal development permit applications within the area covered by the certified Humboldt County LCP is consistency with the LCP, a CDP approved for the road could be approved without such mitigation measures if they are not mandated by the policies of the LCP. Furthermore, staff believes that the agricultural and public access benefits that the County asserts this project offers are merely an ancillary component appended to the project to "create a conflict" rather than the very essence of the project itself. Staff believes that denial of the project would not result in any coastal zone effects that are inconsistent with any of the Chapter 3 policies of the Coastal Act, since there is no continuing degradation of a resource that the Commission is charged with protecting and/or enhancing. Therefore, staff believes that the proposed LUP amendment must be denied.

Furthermore, staff believes that the proposed LUP amendment as submitted is inconsistent with Section 30233 of the Coastal Act, as any otherwise permissible road at this location: (a) will increase capacity, (b) is not a limited expansion of an existing road, and (c) cannot be considered an allowable use under Section 30233(a)(4). Furthermore, staff believes that the LUP amendment as submitted does not provide feasible mitigation measures to minimize adverse environmental effects as Section 30233(a) of the Coastal Act requires. Finally, with respect to the requirement of Section 30233(a) that the project be the least environmentally damaging feasible alternative, the County's LCP amendment submittal did not include an analysis of the least environmentally damaging feasible alternative and alternatives that would avoid wetland fill (at least with respect to coastal zone wetlands). Therefore, staff believes that the proposed LUP amendment as submitted is inconsistent with the Coastal Act's wetland fill policies and must be denied.

Moreover, staff believes that the proposed LUP amendment could not be found consistent with Section 30240(a) the Coastal Act if the Sitka spruce forest on the subject site is ESHA. Staff believes that there is evidence to suggest that this particular forest stand, which lies in part on the subject properties, may qualify as ESHA under the Coastal Act. However, the Commission lacks sufficient information to determine with certainty whether the area is ESHA, because the County has not provided sufficiently detailed information regarding this issue. Section 30240 prohibits all but resource-dependent use in ESHA and only allows resource-dependent use if it does not significantly disrupt habitat values. The proposed LUP amendment could allow for a land use (i.e., public roadway development and related uses) that not only is not resource-dependent but that could be expected to result in direct removal of a significant acreage of forest ESHA and the

fragmentation of the remaining ESHA such that the habitat values would be significantly disrupted and the areas significantly degraded.

Regardless of whether or not the Sitka spruce forest area is ESHA and whether the LUP amendment is consistent with the ESHA protection policies of the LCP, staff believes that the proposed LUP amendment is inconsistent with other Coastal Act policies regarding the conversion of agricultural lands and the filling of wetlands and must be denied for these reasons. Staff also believes that the proposed LUP amendment is inconsistent with Coastal Act Section 30240(b), because any otherwise permissible road that would be allowed under the LUP amendment as submitted would not protect adjacent ESHA (wetland seeps and natural drainages) and ensure its continuance.

Finally, staff believes that the LUP amendment as submitted would result in internal inconsistencies in the certified LUP, and the LUP amendment would not be consistent with the Coastal Act. Therefore, staff believes that the proposed LUP amendment must be denied.

As discussed herein, staff believes the proposed amendment is inconsistent with the agricultural resources, wetland fill, and ESHA protection policies of the Coastal Act. A feasible alternative is available, in the form of denying the LCP amendment, which would substantially lessen any significant adverse direct, indirect, and cumulative impacts that the LUP amendment may have on the environment. Therefore, staff believes that the proposed project cannot be found consistent with the requirements of the Coastal Act to conform to CEQA and therefore must be denied.

The motion to adopt the staff recommendation of denial is found on page 7.

IV. Analysis Criteria

The relationship between the Coastal Act and a local government's local coastal program (LCP) can be described as a three-tiered hierarchy with the Coastal Act setting generally broad statewide policies. The land use plan (LUP) portion of the LCP incorporates and refines Coastal Act policies for the local jurisdiction, giving guidance as to the kinds, locations, and intensities of coastal development. The implementation program (IP) of an LCP typically sets forth zone districts and site development regulations through legally enforceable ordinances, which are the final refinements specifying how coastal development is to precede on a particular parcel. The LUP must be consistent with the Coastal Act. The IP must conform with and be adequate to carry out the policies of the LUP.

V. Additional Information

For additional information about LCP Amendment No. HUM-MAJ-4-09, please contact Melissa Kraemer at the North Coast District Office at (707) 445-7833. Please mail correspondence to the Commission at the address shown at the top of page 1.

PART ONE:
MOTION, STAFF RECOMMENDATION, & RESOLUTION
FOR LCP AMENDMENT NO. HUM-MAJ-4-09

MOTION: *I move that the Commission certify Land Use Plan Amendment No. HUM-MAJ-4-09 as submitted by the County of Humboldt.*

STAFF RECOMMENDATION TO APPROVE:

Staff recommends a **NO** vote. Passage of this motion will result in the rejection of the Land Use Plan Amendment as submitted and the adoption of the following resolution and findings. The motion to certify as submitted passes only by an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO DENY CERTIFICATION OF THE LAND USE PLAN AS SUBMITTED:

The Commission hereby **DENIES CERTIFICATION** of Amendment No. HUM-MAJ-4-09 to the County of Humboldt Land Use Plan (Humboldt Bay Area Plan) as submitted by the County and adopts the findings set forth below on the grounds that the land use plan amendment as submitted does not meet the requirements of and is not in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment would not meet the requirements of the California Environmental Quality Act, as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the land use plan amendment as submitted.

PART TWO:
AMENDMENTS TO THE LAND USE PLAN

I. ANALYSIS CRITERIA

To approve the amendments to the land use plan (LUP), the Commission must find that the LUP, as amended, will remain consistent with the policies of Chapter 3 of the Coastal Act.

II. FINDINGS FOR DENIAL OF LUP AMENDMENT NO. HUM-MAJ-4-09 AS SUBMITTED

The Commission finds and declares the following for LCP Amendment No. HUM-MAJ-4-09:

As submitted, the proposed LUP amendment would not be fully consistent with the policies of the Coastal Act, as explained in the following sections:

A. BACKGROUND

The purpose of the proposed LUP amendment is to facilitate a future road connection between Humboldt Hill Road and the Tompkins Hill Road interchange with Highway 101 as called for in the Eureka Community Plan, a portion of the Humboldt County General Plan which has never been submitted to the Commission for certification as part of the LCP. The proposed secondary access road would traverse four parcels owned separately by Barry, Petersen, and Chism (Exhibit Nos. 2 and 5). In addition to serving as a secondary access road to the existing residential community of Humboldt Hill, a branch of the subject road extension would provide access to a future inland residential community (approximately 400 units) planned for the property immediately east of the subject site (the inland portion of the subject APN 307-041-07, owned by Barry), as called for in the Eureka Community Plan. The planned residential community would be located on agricultural lands just outside of the coastal zone. Thus, the impacts to agricultural lands in the coastal zone would be limited to the effects of the road itself. Approximately three acres of agricultural lands would be directly impacted by the footprint of the road that would be accommodated by the proposed LCP amendment.

According to the staff report adopted by the County in its approval of the subject LUP amendment on May 12, 2009 (Exhibit No. 13), in September of 2007 the County considered an LCP amendment that would have redesignated the entire coastal portion of the Barry property from Agriculture Exclusive to Residential Single Family. During the Board of Supervisors hearing, "...public testimony on the potential impacts of the future subdivision, particularly potential traffic impacts, public safety impacts from earthquake fault hazards, and the loss of ± 78 acres of agricultural lands to residential uses was considered. The Board was unable to support those amendments at that time...In response to the expressed concerns, the project was scaled back...With the change in scope, the amendments would directly impact only approximately 3 acres of agricultural land..."

B. AMENDMENT DESCRIPTION

The subject LCP amendment application transmitted by Humboldt County is known as the "Barry/Petersen/Chism" LCP amendment. As submitted, Humboldt County LCP Amendment No. HUM-MAJ-4-09 would amend Section 3.22-B-3 of the certified land use plan (known as the Humboldt Bay Area Plan) to add a road connection between Humboldt Hill Road and Tompkins Hill Road south of Eureka to an LUP listing of permissible public roadway improvement projects (Exhibit No. 11). Exhibit No. 11 shows the specific language to be added as Section 3.22-B-3-j of the LUP, as follows (text to be added is shown as underlined):

3.22 *PUBLIC SERVICES-RURAL*

...

B. *DEVELOPMENT POLICIES*

...

3. *Public Roadway Projects*

Public roadway improvement projects shall not, either individually or cumulatively, degrade environmentally sensitive habitats or coastal scenic areas. Improvements (beyond repair and maintenance) shall be consistent with Sections 3.30 et seq. and shall be limited to the following:

- a. *Reconstruction and restoration of existing roadways, including bridge restoration and replacement, highway planting, construction of protective works such as rock slope protection and slope corrections, reconstruction of roadways following damage by storms or other disasters, and improvement of roadside rests.*
- b. *Operational improvements, such as traffic signals, guardrails and curve corrections, and intersection modifications such as the Elk River interchange improvements.*
- c. *Roadside enhancements, such as construction or improvement of roadside rests and vista points consistent with Section 3.40 and removal of roadside signs consistent with Section 3.40.*
- d. *Minor improvement projects, such as modifying encroachments or ramps, construction turnouts, and channelized intersections.*
- e. *Except in coastal scenic areas, climbing and passing lanes.*
- f. *Expansion of substandard roadway shoulders.*
- g. *Construction of bikeways.*
- h. *The Elk River Interchange.*
- i. *Relocation of New Navy Base Road to accommodate major coastal dependent industrial development on and adjacent to Samoa Airport site.*
- j. *Extension of Humboldt Hill Road to Tompkins Hill Road to implement policies in the 1995 Eureka Community Plan, and to improve public safety by providing a secondary access to residential development at the top of Humboldt Hill.*

The road extension, which would traverse open grasslands, closed-canopy Sitka spruce forest, and various creeks and natural drainages, would be approximately 1-mile in length. The route of the future road alignment that would result from the proposed LUP amendment is, at this point, uncertain. Although preliminary engineering analyses were completed to support the LCP amendment application and reviewed by the County Department of Public Works, the Department, in a memo to County planning staff dated June 30, 3008 (referring to the subject LCP amendment, among others), recommended that the project materials clearly acknowledge its conceptual nature “by adding notations similar to the following: *This is an undefined corridor for a future circulation route. The exact location of the route is to be determined at a later date based upon sound engineering principles. It is the intent of the LCP to allow for the construction*

of a future circulation route in which the exact engineered location has not yet been established...” (Exhibit No. 9) The landowners’ engineer prepared a conceptual plan for a roadway providing a connection between Humboldt Hill Road and Tompkins Hill Road that illustrates how such a roadway connection might be built. The conceptual plan depicts a paved road that is 34 feet wide and includes two 12-foot travelways and two 5-foot bike lanes within a 50-60-foot-wide road right-of-way corridor (see Exhibit No. 6). The area where the road extension would be developed currently is undeveloped except for an unimproved (dirt), approximately 10-foot-wide, 3,200-foot-long agricultural road that extends north from Tompkins Hill Road (Exhibit Nos. 4-5). The new road would serve as a secondary access to the existing, mostly inland residential community of Humboldt Hill, which currently has only a single access point near the South Broadway area south of Eureka, and would include a branch that would serve a future residential community (approximately 400 units) planned for the inland property outside the coastal zone immediately east of the subject site (the inland portion of the subject APN 307-041-07, owned by Barry). The County proposes to mitigate for the loss of three acres of agricultural land that would be impacted by the future road construction through the area by requiring, as part of the future subdivision of the adjacent Barry property inland of the coastal zone boundary, that three acres of agricultural land on the inland Barry property be rezoned from Residential Single Family to Agricultural Exclusive. In addition, the County proposes to require, as part of the future coastal development permit for the road extension project, a condition requiring the development of a public access facility that would provide for passive public recreational opportunities (e.g., scenic overlook and picnicking) on the inland portion of the inland Barry property (see Exhibit No. 5). It is important to note that these amenities and mitigation measures are not actually included in any of the proposed text of the LCP amendment (Exhibit Nos. 10-11). As the standard of review for coastal development permits is consistency with the certified LCP, it is possible that a CDP could be approved for the road extension in the future without such mitigation measures, if they are not mandated by the policies of the LCP.

C. ENVIRONMENTAL SETTING

The area that is the subject of the proposed LCP amendment is located approximately four miles south of Eureka, on the western side of Humboldt Hill, east of Highway 101, south of Humboldt Hill Road, and north of Tompkins Hill Road (see Exhibit Nos. 1-2). The affected property extends from near the eastern shoreline of Humboldt Bay at the Tompkins Hill Road/Highway 101 interchange easterly up to the top of a coastal ridge at the current end of Humboldt Hill Road. The area is considered rural in that it’s located outside of the urban limit line. The subject site consists of portions of four separate APNs under separate private ownerships (Barry, Petersen, and Chism) (Exhibit No. 3). One of the parcels (APN 307-041-07 owned by Barry) straddles the coastal zone boundary along the ridgeline, with approximately half of the property (+86 acres) located inside the coastal zone and half located outside of and immediately adjacent to the coastal zone. The parcel is planned and zoned for exclusive agricultural uses (AE-60 acre minimum parcel size) on its coastal zone portion and for low density residential development uses (10,000-square-foot minimum parcel size) on its inland portion. The other three APNs that are the subject of the LUP amendment (APN 307-041-09, approximately 84 acres, and 307-051-04, approximately 7.5 acres, both owned by Petersen and APN 307-051-11, approximately 2 acres owned by Chism) extend down the slope of the ridge to the Tompkins Hill Road/Highway

101 interchange and are planned and zoned for rural residential agricultural uses (RA-5-acre minimum parcel size).

Elevations in the area range from approximately 30 feet above mean sea level on the portion of the subject property near Tompkins Hill Road to 500 feet above mean sea level on the portion of the property near the top of Humboldt Hill. Slopes range from gentle to moderately steep with generally westerly aspects. Unobstructed views are available from much of the subject property to southern Humboldt Bay, the Humboldt Bay National Wildlife Refuge, Table Bluff, portions of the lower Eel River Valley, the ocean, and other coastal areas to the west, northwest, and southwest, though, as the property resides in private ownership, there currently are no public views available from the property to the coast. However, portions of the site are visible from public roadways west and southwest of the property (including from Highway 101, Tompkins Hill Road, and roads on Table Bluff) and north of the property (from the end of Humboldt Hill Road).

According to the preliminary biological review completed in support of the LCP amendment application by Mad River Biologists in 2008 (Exhibit No. 7), the project area contains three general habitat types: open grassland, mature Sitka spruce forest, and riparian habitat. The open grassland located near the top of Humboldt Hill is dominated by upland, mostly nonnative grasses and herbs including sweet vernal grass (*Anthoxanthum odoratum*), colonial bentgrass (*Agrostis capillaris*), soft chess (*Bromus hordeaceus*), silver hairgrass (*Aira caryophyllea*), orchard grass (*Dactylis glomerata*), intermediate oatgrass (*Danthonia intermedia*), pale flax (*Linum bienne*), and Douglas iris (*Iris douglasii*). The forested portion of the subject property is composed primarily of mature Sitka spruce (*Picea sitchensis*) trees (averaging 40-55 inches diameter at breast height (dbh)) with lesser amounts of mature grand fir (*Abies grandis*) trees (averaging 24-55 inches dbh) and Douglas-fir (*Pseudotsuga menziesii*) trees (averaging 30-48 inches dbh). The overstory is closed-canopy, and the understory small tree/shrub layer consists mostly of native species. These include hazel (*Corylus cornuta*), salmonberry (*Rubus spectabilis*), cascara sagrada (*Rhamnus purshiana*), twinberry (*Lonicera involucrata*), evergreen huckleberry (*Vaccinium ovatum*), elderberry (*Sambucus racemosa*), and salal (*Gaultheria shallon*). Some small invasive holly trees (*Ilex aquifolium*) also are present in the understory layer. The herbaceous layer, which has an estimated cover of 50-75%, is composed mostly of native ferns and flowering plants (e.g., false Solomon's seal, *Smilacina stellata*, sword fern, *Polystichum munitum*, rattlesnake plantain, *Goodyera oblongifolia*, and others), except for one noted invasive species with limited distribution in the stand (foxglove, *Digitalis purpurea*). The report also notes the presence of three wetland seeps within the forest habitat. Dominant species noted in the seeps include (in part) Sitka spruce, cascara sagrada, slough sedge (*Carex obnupta*), skunk cabbage (*Lysichiton americana*), deer fern (*Blechnum spicant*), and lady fern (*Athyrium filix-femina*). The riparian habitat is documented as being present around the two drainages and one perennial creek located near the western end of the subject site. The drainages contain wetland-oriented plants such as soft rush (*Juncus effusus*) and small-flowered bulrush (*Scirpus microcarpus*).

According to the biological report, the mature forest habitat provides nesting and roosting habitat for various species of birds and raptors known to forage in the area, such as red-tailed hawk and

red-shouldered hawk, and for various mammal species, including Sonoma tree vole (*Arborimus pomus*), which is a species of special concern listed in the California Natural Diversity Database.

The entire area is undeveloped except for an unimproved (dirt) “agriculture accessory” road originating on the Petersen property (APN 307-051-04) at its intersection with Tompkins Hill Road and terminating in the middle of the Petersen property (APN 307-041-09) near the edge of the forested hillside. A coastal development permit was granted by Humboldt County in 2006 authorizing after-the-fact the development in 2004 of the agricultural accessory road and associated major vegetation removal (at least six large trees were removed). The single-lane dirt road accesses a pasture on the Petersen property (described as “meadows” in the above-referenced biological report) used for a small-scale horse grazing operation (“General Agriculture” is a principally permitted use in the rural residential agriculture (RA) zone). The agricultural lands at the top of the ridge on the Barry property (both inside and outside the coastal zone) are used for grazing by various ranchers on a periodic, seasonal basis to supplement larger operations that are based primarily on other pasture lands in the County.

D. CONSISTENCY WITH THE AGRICULTURAL RESOURCES PROTECTION POLICIES OF THE COASTAL ACT

As described above, LUP Amendment No. HUM-MAJ-4-09 affects portions of four separate APNs, which together total approximately 175 acres (considering portions within the coastal zone only). Assessor’s Parcel No. 307-041-07 (Barry), which is approximately 125 acres in size, straddles the coastal zone boundary, with approximately 86 acres located inside the coastal zone. The parcel is planned and zoned for exclusive agricultural uses (AE-60 acre minimum parcel size) on its coastal zone portion and for low density residential development uses (10,000-square-foot minimum parcel size) on its inland portion. Regardless of the different zoning designations and the presence of the coastal zone boundary across the property, the open pastureland that straddles the inland and coastal portions of the property is leased in full to various ranchers on an as-needed basis for livestock grazing and hay production. Much of the property, especially the portion outside the coastal zone adjacent to the subject site, is mapped as having prime agricultural soils. The three other APNs that are affected by the LUP amendment are planned and zoned for rural residential agricultural uses (RA-5-acre minimum parcel size). “General agriculture” is considered a principally permitted use in the RA zone.

The proposed LUP amendment would permissively allow for the development of a “public roadway improvement project” involving a new road extending from the end of Humboldt Hill Road at the edge of the Barry property at the top of a coastal ridge, through undeveloped agricultural, pasture, and forested lands down the slope of the ridge, to Tompkins Hill Road near Highway 101 and the Humboldt Bay shoreline. The stated purpose of the new road, as worded in the proposed LUP amendment, would be “*to implement policies in the 1995 Eureka Community Plan [which was not certified by the Commission since it involves inland areas outside of the coastal zone], and to improve public safety by providing a secondary access to residential development at the top of Humboldt Hill.*” Preliminary road design and engineering plans that have been developed in support of the proposed LCP amendment estimate that up to three acres of agricultural land (zoned AE) on the Barry property within the coastal zone would be directly impacted by the future development of a road in this location. Additional agricultural land

outside of and adjacent to the coastal zone on the Barry property also would be directly impacted by future road and residential development in the area, though as discussed above, this inland area is planned and zoned for low-density residential development and is beyond the scope of the Commission’s jurisdictional review.

1. **Relevant Coastal Act Policies**

Coastal Act Sections 30241 and 30242 require the protection of prime agricultural lands¹ and set limits on the conversion of all agricultural lands to non-agricultural uses. Coastal Act 30241 states as follows:

The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:

- (a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.*
- (b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.*
- (c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.²*
- (d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.*
- (e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.*
- (f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.*

Coastal Act 30242 states as follows:

¹ Coastal Act Section 30113 defines “prime agricultural land” through incorporation-by-reference of paragraphs (1) through (4) of Section 51201(c) of the California Government Code. Prime agricultural land entails land with any of the follow characteristics: (1) a rating as class I or class II in the Natural Resource Conservation Service land use capability classifications; or (2) a rating 80 through 100 in the Storie Index Rating; or (3) the ability to support livestock used for the production of food and fiber with an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture; or (4) the ability to normally yield in a commercial bearing period on an annual basis not less than two hundred dollars (\$200) per acre of unprocessed agricultural plant production of fruit- or nut-bearing trees, vines, bushes or crops which have a nonbearing period of less than five years.

² The portion of referenced Section 30250 applicable to this project type and location [sub-section (a)] requires that “*New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.*”

All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

2. Consistency Analysis

(a) SIGNIFICANCE OF AGRICULTURAL LANDS IN HUMBOLDT COUNTY

Humboldt County has a total land area of approximately 2.3 million acres, and approximately one third of this land base (690,000 acres) is directed to some type of agricultural use. According to the Humboldt County Farm Bureau's website, about 67,000 acres of land is classified as being under intensive farming (e.g., harvested cropland and cropland used only for pasture), while an estimated 605,000 acres of land is used primarily for grazing-related purposes (e.g., pastureland and rangeland). Traditional agriculture in the county consists of grazing beef cattle on coastal rangeland; dairy cows on rich pasture bottomlands around Humboldt Bay; and row crops and orchards on terraced river floodplains. The region's mild and moist climate complements a growing nursery and bulb industry.

The high rainfall, deep, fertile soil, and marine climate make some of the County's agriculture land highly productive. Humboldt County agriculture products (excluding timber) had a market value of approximately \$131 million in 2008³, with the top four crops, by value, excluding timber, consisting of nursery stock (cut flowers, ornamental tree production, etc.), milk and milk products, livestock (beef cattle, dairy cows, sheep, etc.), and field crops (alfalfa, silage, range, etc.). Although Humboldt County agricultural production does not compare in quantity or economic value with California's leading agricultural counties (e.g., local dairies produce only 1% of California's annual milk products⁴), dairy and ranch lands are "etched more deeply into Humboldt County's cultural and aesthetic landscape than economic data can convey" (Morehead 2003).⁴ The ranches that spread out across the vast pastureland surrounding Humboldt Bay, the Eel River and Mad River deltas provide habitat for numerous wildlife and migrating waterfowl. These open spaces, both within the coastal zone and inland, represent a significant resource with a multitude of values.

According to the 2003 final report of the Humboldt County Agriculture Survey (pages 2-3)⁴:

Humboldt County has been incrementally losing agricultural land to development and other non-agricultural uses. Between 1965 and 1982, county planners estimate that over 87,000 acres of timber, dairy and ranch lands were lost to agricultural production through the creation of rural residential subdivisions. While the market value of agriculture products increases, larger agricultural operations and the agricultural land base are declining. In the last five-year period studied by the U.S. Census of Agriculture (1992-1997), the number of full-time operating farms declined 13% to 792, and the total acreage in working farms and ranches decreased over 13,000 acres to 584,538 acres. The future of agricultural

³ Humboldt County Department of Agriculture Crop Report 2008.

⁴ Morehead, B. 2003. *Humboldt County Agriculture Survey Final Report*. Humboldt County Farm Bureau, Eureka, CA.

lands and the accompanying economic, aesthetic, wildlife and public benefits will be determined within the next several years, accentuated by Humboldt County general plan update... [which has not yet been completed.]

Although Humboldt County has not yet experienced the rapid loss of farmland to suburban sprawl currently affecting many California counties and the nation as a whole, studies and trends indicate that rural, coastal California counties are very prone to population and development pressures. Humboldt County was recently ranked first in the nation in terms of natural resource amenity values sought after by an increasing number of urban, baby-boomer retirees, and has already been called out by national magazines as a top retirement hot spot with a plethora of outdoor recreation, natural beauty, small town community values and cheap real estate. While population growth is low compared to California counties adjacent to larger urban cities, the pressure to convert land out of agricultural has dramatically increased over the past several years. The county's most productive soils are located along the coastal bottomlands surrounding Humboldt Bay and large river floodplains where the demand for residential housing, hobby farms, and public parks is greatest. Large ranches are being sold and subdivided for hobby farms and rural family retreats. Residential housing prices are at an all time high. Home sales in March 2003 were up 20 percent compared to 2002, up 40 percent from 1999 and over 100 percent compared to 1998. Community perception is that residential development and other non agricultural land uses are depleting agricultural resources.

The protection of the County's agricultural land in the coastal zone is a primary goal of the certified Humboldt County Local Coastal Program (LCP). There is an estimated 32,500 acres of agricultural land (i.e., land designated and zoned for agricultural uses) in the County's coastal zone. Approximately one third (10,600 acres) of this agricultural land is within the Humboldt Bay Area Plan (HBAP) planning area. [The HBAP is one of six planning areas identified in the County's certified LCP and is the LUP relevant to the subject LUP amendment]. This land is either in active agricultural use or has the potential for such use. Livestock grazing and forage production comprise the primary uses of agricultural land in the planning area.

The HBAP contains numerous policies requiring the protection of both prime and non-prime agricultural lands. In addition to Sections 30241 and 30242 of the Coastal Act, which are directly incorporated into Section 3.24 of the HBAP as development policies, Section 3.24-B-1 of the HBAP requires the protection of prime and non-prime agricultural lands outside the urban limit line (as is the case with the subject site) and specifically prohibits the division or development of agricultural lands that would "*lower the economic viability of continued agricultural operations on them.*" Section 3.24-B-1-b requires that rural agricultural lands that are not prime be planned for continued agriculture use, including such lands that "*are contiguous or intermixed smaller parcels on which non-compatible uses could jeopardize the agricultural use of adjacent agricultural lands...*" Section 3.24-B-1-c of the HBAP prohibits in part the conversion of non-prime agricultural land to other types of land use except in cases where "*the long-term economic unfeasibility of continued agricultural operation is shown to exist.*" Section 3.24-B-2 identifies

uses compatible with agricultural land and requires that permitted uses on agricultural land not “*impair the economic viability of agricultural operations...*”

(b) PRIME AGRICULTURAL LAND DETERMINATION

“Prime agricultural land” (as defined in Section 30113 of the Coastal Act and Section 51201(c) of the California Government Code, cited above) has been mapped on the subject property, though it is not clear that the future new road, which would be permissible under the proposed LUP amendment if consistent with all other applicable LCP provisions, would result in the direct conversion of prime agricultural land.

Based on information derived from the County, the soils on the portion of the subject property that is zoned Agriculture Exclusive under the certified LCP (i.e., the portion of the Barry parcel within the coastal zone) are mapped as “Rohnerville Silt Loam – 8-16% slope” (Ro9) and “Rohnerville Silt Loam – 3-8% slope” (Ro6). According to the NRCS official soils series description⁵, Rohnerville soils are a moderately extensive soil type, with over 12,000 acres occurring along the coast of California from San Francisco Bay north. Rohnerville soils typically occur on marine and river terraces with slopes of 0 to 15 percent, at elevations of 100 to 1000 feet, and in a cool humid, mesothermal climate with mean annual rainfall of 35 to 50 inches, warm summers, and cool wet winters. The average frost-free season is more than 300 days. Rohnerville soils are well to moderately well-drained with moderate to moderately slow permeability and medium runoff. In general, the soil type is used for dryland range, permanent pasture, and some row crops.

The NRCS land use capability classification for Ro9 soils is III and for Ro6 soils is II. Thus, according to the first criterion for the definition of prime agricultural soils contained in Section 51201(c) of the Government Code (i.e., prime agricultural land entails land with a rating as class I or class II in the NRCS land use capability classifications), the Ro6 soils at the project site are considered prime, whereas the Ro9 soils are not. There are approximately seven acres of mapped Ro6 soils on the Barry parcel (on the portion within the coastal zone) and approximately 35 acres of Ro9 soils. As noted above, the proposed LCP amendment does not specify an alignment for the proposed roadway that would be added to the list of public roadway projects permissible under the Humboldt Bay Area Plan. However, the preliminary road design developed by Omsberg & Preston in support of the proposed LCP amendment (Exhibit No. 6) shows the alignment of the future new road as traversing Ro9 soils (i.e., not prime agricultural land based on the NRCS land use capability classification).

Two important caveats should be noted with respect to mapped soil types and their relation to any potentially allowable road alignment through the area. First, it should be noted that the most recent soil information for the subject site, including soil types and assigned land use capability classifications, is old and possibly outdated. The mapped soil type is derived from a 1965 publication⁶, and the corresponding NRCS land use capability classification is derived from a 1981 memorandum report prepared for the Humboldt County Planning Division⁷. According to

⁵ Accessed at <http://soils.usda.gov/technical/classification/osd/index.html>.

⁶ McLaughlin, J. & F. Harradine. 1965. *Soils of Western Humboldt County*. University of California, Davis, CA.

⁷ By Bill Broderson, Area Soil Scientist for the NRCS.

management staff at the Arcata field office of the NRCS (Sue Aszman, pers. comm. Feb. 9, 2011), an updated soil survey for the county, which includes updated land use capability classifications for each soil type, currently is being prepared by NRCS soil scientists but has not yet been completed for the subject site. Thus, as land use capability ratings are being reexamined for each new soil type, it is possible that when the updated NRCS soil survey is complete, more of the newly reclassified soil type(s) underlying the subject area will have an NRCS land use capability classification of I or II, which would render more of the area as prime agricultural land under the first prong of the Coastal Act's definition.

Second, it should be noted that the route of the potentially allowable road alignment through the area that could result from the proposed LUP amendment is, at this point, uncertain. Although preliminary engineering analyses were completed to support the LCP amendment application and reviewed by the County Department of Public Works, the Department, in a memo to County planning staff dated June 30, 2008 (referring to the subject LCP amendment, among others), recommended that the project materials clearly acknowledge its conceptual nature "...by adding notations similar to the following: *This is an undefined corridor for a future circulation route. The exact location of the route is to be determined at a later date based upon sound engineering principles. It is the intent of the LCP to allow for the construction of a future circulation route in which the exact engineered location has not yet been established...*" Thus, it is conceivable that final engineering plans for the potentially allowable road through the subject property would necessitate the alignment to be located atop mapped prime agricultural land (e.g., Ro6 soils) based on the first criterion for the definition of prime agricultural soils.

Land with a Storie Index Rating of 80 through 100 is considered prime agricultural land based on the second prong of the definition of prime agricultural soils contained in Section 51201(c) of the Government Code. The Storie Index Rating is based on soil characteristics that govern the land's potential utilization and productive capacity (e.g., characteristics of the soil profile, surface texture, slope, drainage, nutrient level, acidity, alkalinity, etc.) and is independent of other physical or economic factors that might determine the desirability of growing certain plants in a given location. According to *Soils of Western Humboldt County California*,⁶ the Storie Index Rating for Ro9 soils is 69, which, though not considered prime agricultural land, nonetheless is considered "good" and "suitable for most crops" with yields that are "generally good to excellent." Even so, according to the second criterion for the definition of prime agricultural soils, the Ro9 soils at the subject site do not meet the definition of prime under Government Code Section 51201(c)(2).

The third potential qualifying definition of prime agricultural land is the ability to support livestock used for the production of food and fiber with an annual carrying capacity equivalent to at least one animal-unit per acre as defined by the United States Department of Agriculture. An "animal unit month" is defined by the USDA as the amount of forage or feed required to feed one animal unit (one cow, one horse, one mule, five sheep, or five goats) for 30 days. Based on information from Deborah Giraud, County Farm and Community Advisor for the U.C. Cooperative Extension⁸, the agricultural land on the subject site on average supports one animal unit per 1.5 acres. Therefore, the soils types on the subject site do not meet the single annual

⁸ February 11, 2011, pers. comm. (phone conversation) between D. Giraud and M. Kraemer.

AUM requirement of Government Code Section 51201(c)(3). Ms. Giraud stressed, however, that the County's upland coastal rangelands, whether classified as prime agricultural land or not, are especially significant in that they support grazing activities during the wet season (generally November through April), when the majority of the available grazing lands around Humboldt Bay, the Mad River, and the Eel River delta (much of which is classified as prime) are seasonally inundated and therefore unproductive for agricultural grazing purposes.

Finally, with regard to the fourth prong of the definition of prime agricultural soils contained in Section 51201(c) of the Government Code, which is the site's potential qualification as prime agricultural land based upon its potential for commercial fruit, nut, or other crop production at specified minimal yields, again based on information from Deborah Giraud⁸, County Farm and Community Advisor for the U.C. Cooperative Extension, an acre of agricultural land on the subject site is estimated to support, on average, approximately three to four tons of hay crop valued at \$60 per ton. This equates to an average normal yield of \$180 to \$240 per acre of unprocessed crop, which is right around the \$200 minimum threshold value necessary to qualify the area as prime agricultural land pursuant to Government Code Section 51201(c)(4).

In summary, based upon the conditions at the project site as discussed above in relation to the definition of "prime agricultural land" under the Coastal Act, the Commission finds that the property that would be affected by LUP Amendment No. HUM-MAJ-4-09 does contain prime agricultural soils and livestock and/or crop productivity potential that would qualify portions of the site as prime agricultural land, although it is not clear that the currently unspecified future alignment of any road that would be potentially allowable consistent with all other applicable LCP provisions would result in the direct conversion of prime agricultural land. Nevertheless, any road that would be potentially allowable consistent with all other applicable LCP provisions would pass in close proximity to, if not directly through prime agricultural lands, and the resulting agricultural land conversion would take place in an agriculturally productive area that contributes to the agricultural economy of the region, as discussed in more detail below.

(c) MAINTAINING THE MAXIMUM AMOUNT OF PRIME LAND

The proposed LUP amendment does not achieve the Coastal Act Section 30241 mandate that the maximum amount of prime agricultural land be maintained in agricultural production in order to maintain the agricultural economy of the area. As previously discussed, the proposed LUP amendment would amend Section 3.22-B of the Humboldt Bay Area Plan permissively to allow for a future public roadway improvement project that even if consistent with all other applicable LCP provisions would result in the direct conversion of up to three acres of land from agricultural to roadway-related uses and could indirectly lead to the conversion of additional agricultural lands. Coastal Act Section 30241 requires the protection of prime agricultural land and lists several standards for ensuring minimization of conflicts between agricultural land uses, whether on prime agricultural lands or not, and urban land uses.

Given the incompatibility of the future urbanized development in the area, following the development of an otherwise permissible road, and the agricultural use of the affected property, the proposed amendment is inconsistent with Coastal Act Section 30241 because it increases the potential to eliminate the viability of all the prime agriculture acreage on the subject property

(which is known to be at least seven acres and possibly more, as discussed above), not just the acreage that would be converted by the road, thereby decreasing the viability of continued agriculture on the farmable portion of the remaining acreage of the subject property.

Though it is unclear, as discussed above, whether or not any otherwise permissible road that could be allowed consistent with all other applicable LCP provisions would result in the direct conversion of prime agricultural land, the Commission notes that even if the land in question were not itself defined as prime, Section 30241 still is relevant. The determination of whether the land in question is prime land is not the key to analyzing whether the proposed amendment is consistent with Section 30241. More significantly, the LUP amendment proposal is located in an area that makes a contribution to the agricultural economy of the region, as discussed above. In other words, the subject site is an agriculturally productive area. Preservation of this agricultural economy is the primary intent of Section 30241 of the Coastal Act. Non-prime land operations enlarge and strengthen the market area for agricultural services and assuring their availability for all users. In addition, the non-prime lands often physically buffer the more valuable prime lands from conflicts with other uses. Thus, protection of non-prime agricultural lands also serves to protect agricultural production on prime lands. Conversion and fragmentation of any agricultural land not only diminishes opportunities for economies of scale, but also increases the exposure of the remaining farm operations to conflicts with nearby urban users over such matters as noise, odor, pesticide use, smoke, and animals. The preservation of prime agricultural land therefore seeks to preserve the substrate that is inherently able to make a substantial contribution to this sector of the economy. Thus, the various subsections of Section 30241 apply to any amendment that would adversely affect agricultural use of the subject site. The inconsistencies of the proposed LCP amendment with the various subsections of Section 30241 are discussed below.

(d) LACK OF BUFFER BETWEEN URBAN AND AGRICULTURAL USES

Section 30241(a) of the Coastal Act requires that conflicts between urban and agricultural uses establish stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.

The subject site is situated just outside of the urban limit line in a rural, mostly undeveloped area adjacent to an existing residential neighborhood known as Humboldt Hill, which is located mostly inland of the coastal zone boundary. Amending the LUP to permissively allow for a road extension through the rural agricultural area would increase conflicts between agricultural and urban land uses inconsistent with Section 30241(a), as any otherwise permissible road through the middle of productive agricultural land would neither establish a stable boundary separating urban and rural areas nor provide a clearly defined buffer between incompatible uses. No evidence has been presented showing that the agricultural conversion resulting from the construction of any otherwise permissible road would complete a logical, viable neighborhood in this largely undeveloped area or that it would contribute to a stable urban limit. Indeed, by introducing public roadway development side-by-side with agricultural uses, the conversion would destabilize the boundary between urban and rural areas.

Non-agricultural development on agricultural land has the potential to result in direct conflicts due to the inherent incompatibility of agricultural-related and other types of land uses. Typical

incompatibility issues raised at urban-agricultural land use interfaces include trespass and trash accumulation on agriculture lands; road-access conflicts between agriculturally related machinery and automobiles; noise, dust, and odors from agricultural operations; limitations of pesticide application; and human encroachment from urban lands. Such incompatibilities can threaten continued agricultural production, when agricultural practices become branded as public nuisances as urban uses encroach upon them.

The County, in its LCP amendment application, asserts that the coastal zone boundary through the middle of the subject property (APN 307-041-07 owned by Barry) “establishes a very stable boundary between lands that are planned for urban (non-coastal lands) and rural areas (planned and zoned Agriculture Exclusive).” However, developing a new road through the area, as could be allowed under the proposed LUP amendment, would facilitate future residential development both to the immediate west (inside the coastal zone) and east (outside the coastal zone) of the subject agricultural land by providing part of the needed infrastructure to serve urban development on the site. The subject agricultural land then would be situated in the midst of land planned and zoned for residential uses on three sides, thereby potentially increasing future conflicts with urban uses, decreasing agricultural viability, and diminishing the productivity of prime agricultural land on the property. Given this location relative to adjoining land uses, development of a new road through this rural agricultural area would not serve to minimize conflicts between agricultural and urban land uses, would not establish a stable boundary separating urban and rural areas, and would not provide a clearly defined buffer between potentially incompatible uses.

The County indicates in its findings for approval and resolutions for the subject LUP amendment that it would impose certain conditions on a future coastal development permit (CDP) for the road that would attempt to protect agricultural uses of lands adjoining the road. However, no language is proposed to be added to the text of the LUP itself that would require such measures. As the standard of review for CDPs in this area is consistency with the certified LCP, a CDP approved for any otherwise permissible road could be approved without such mitigation measures if they are not mandated by the policies of the LCP. Even if the County were to impose conditions of approval for a future CDP for any otherwise permissible road through the area that would require the installation of fences along the edges of the road to protect grazing livestock and the inclusion of crossing areas beneath the road to maintain maximum grazing use of lands on both sides of the bisecting road, the road itself would represent an unstable boundary between incongruent land uses (agricultural and roadway-related uses) with no clearly defined buffer area to sustain agricultural resources in the area and to minimize conflicts between conflicting uses. Furthermore, any otherwise permissible road through the agricultural area would lead to increased pressure to further convert the remaining agricultural lands in the fragmented area to nonagricultural uses by providing part of the needed infrastructure to serve urban development on the site.

In addition, future construction of a road in the subject area would temporarily convert additional adjoining agricultural lands to non-agricultural uses during the construction phase of the new road project. Significant areas of pasturelands that adjoin the specific (to-be-determined) road alignment area would be required during some or all of the construction cycle for access, materials storage, staging, construction, and related activities. Livestock would be excluded from

the affected areas during project activities, and forage production within these areas would not be possible until the project completion. The County's LUP amendment submittal did not quantify the lands potentially affected by construction activities or the loss of agricultural productivity associated with this impact, nor did it address how the lands would be returned to pre-existing agricultural use following construction without long-term reduction in productivity or conversion of the subject lands to non-agricultural uses. The impacts associated with the temporary loss of agricultural use of the lands would be an economic loss to the County's agricultural economy.

Therefore, the Commission finds that the LUP amendment as submitted would not establish stable boundaries between urban and rural areas to minimize conflicts between agricultural and urban land uses, and is inconsistent with Section 30241(a) of the Coastal Act. Therefore, the proposed LUP amendment must be denied.

(e) LIMITING CONVERSIONS TO AREAS WITH COMPROMISED AGRICULTURAL VIABILITY

Section 30241(b) of the Coastal Act limits conversions of agricultural lands to the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development. This section of the Act applies to situations where urban uses are already compromising the agricultural viability of adjacent agricultural lands by conflicts with urban uses such as light, noise, human activity, stormwater runoff associated with developed areas, and other similar urban use conflicts.

The County, in its application for the subject LUP amendment, has not submitted any evidence demonstrating that the viability of the agricultural land has been compromised by urban conflicts. The agricultural lands on the site currently are used by different ranchers on a periodic basis who maintain larger operations elsewhere in the County. These upland agricultural lands are particularly valuable in the winter months to ranchers whose low-lying ranch lands in the bottomlands around Humboldt Bay and the Eel River may be seasonally inundated and unusable to livestock for forage. The proposed conversion of agricultural lands constitutes a conversion of agricultural land adjacent to a mostly rural, rather than urban, area where the viability of existing agricultural use does not appear to be severely limited. The agricultural land on the subject property is bordered by mostly undeveloped, forested, rural land to the west and north (zoned for rural residential agriculture uses), undeveloped rural agricultural land to the south (zoned for agriculture exclusive uses), and undeveloped, actively used agricultural land to the east (zoned for low-density residential development outside the coastal zone). Only the northeastern end of the subject property is adjacent to a developed, urbanized area (the primarily inland community known as Humboldt Hill).

Therefore, the Commission finds that there is no substantial evidence indicating that the LUP amendment as submitted would convert agricultural land where the economic viability of the agricultural operations at the site has already been compromised and is inconsistent with Section 30241(b) of the Coastal Act. Therefore, the proposed LUP amendment must be denied.

(f) DEVELOPING BEYOND COMPLETION OF A VIABLE NEIGHBORHOOD

In addition to limiting conversions of agricultural lands to the periphery of urban areas where the viability of existing agricultural use is already severely limited by urban land use conflicts, Section 30241(b) of the Coastal Act also directs that agricultural conversions shall be limited to situations where the conversion would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development. As discussed above, no evidence has been presented showing that the agricultural conversion would complete a logical, viable neighborhood in this largely undeveloped area or that it would contribute to a stable urban limit. Although the subject LUP amendment could facilitate additional residential development on the inland portion of the subject Barry property as called for in the Eureka Community Plan (where, following completion of the new road that is the subject of this LUP amendment, approximately 400 residential units could be developed), development of this inland rural area would not complete a logical and viable neighborhood, as the new residential area would be separated from the Humboldt Hill residential area by the intervening agricultural lands through which the proposed road would extend. The conversion of these lands to urban uses would not serve to complete a logical and viable neighborhood and would only serve to extend residential development further into agricultural and other rural lands. Furthermore, as discussed above, the proposed conversion of approximately three acres of grazing lands in the coastal zone would not establish a stable limit on the encroachment of urban development into the subject agricultural areas and, to the contrary, would increase pressure to convert other adjoining agricultural lands to urban uses.

Therefore, the Commission finds that the LUP amendment as submitted is inconsistent with Section 30241(b) of the Coastal Act, as the amendment would not serve to complete a logical and viable neighborhood, but only extend it further into agricultural and other rural lands, and the proposed LCP amendment would not create a stable urban boundary. Therefore, the proposed LUP amendment must be denied.

(g) CONVERSION OF RURAL AGRICULTURAL LAND INCONSISTENT WITH SECTION 30250

Section 30241(c) of the Coastal Act permits the conversion of agricultural lands surrounded by urban uses where the conversion of the land would be consistent with Section 30250 of the Coastal Act. Section 30250(a) of the Coastal Act requires in part that new development be concentrated in and around existing developed areas with adequate development capacities. Where such areas are not available, development must be located where adequate public services exist, and where the development will not have significant adverse effects, either individually or cumulatively, on coastal resources. Generally, public works such as water, roads, and sewer systems must be sized to serve planned development.

As discussed above, the approximately three acres of agricultural land that could be converted as a result of the proposed LUP amendment does not constitute agricultural land *surrounded by urban uses* (as is referenced in Section 30241(c) of the Coastal Act), as the surrounding area is mostly rural and undeveloped, except for on the northeast side (where it abuts the mostly inland residential community of Humboldt Hill). Instead, the proposed LUP amendment could allow for the future construction of an otherwise permissible road through a viable rural agricultural

area. Preliminary engineering and traffic analyses completed for the future new road in support of the subject LCP amendment have determined that an otherwise permissible road would require a 50- to 60-foot-wide right-of-way with a paved width of approximately 34 feet (Exhibit No. 6). Such a road would necessarily fragment mature Sitka spruce forest, traverse various natural drainages, and be sited within and adjacent to wetland habitats, where it would cause significant adverse effects, both individually and cumulatively, on coastal resources. Furthermore, the proposed LUP amendment allowing for an otherwise permissible road would increase the development potential of the surrounding area. Thus, the proposed LUP amendment could potentially result in significant adverse impacts on coastal resources.

Therefore, the Commission finds that the LUP amendment as submitted is inconsistent with Section 30241(c) of the Coastal Act, as the amendment would not result in the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250 of the Coastal Act. Therefore, the proposed LUP amendment must be denied.

(h) OTHER LAND AVAILABLE FOR CONVERSION NOT BEING PURSUED

Section 30241(d) of the Coastal Act requires the development of available lands not suited for agriculture prior to the conversion of agricultural lands. The LUP amendment as submitted could convert agricultural lands for a secondary access road serving the Humboldt Hill community prior to developing available lands not suited for agriculture.

Although the County has limited options to site a secondary access road for the Humboldt Hill community, there are other possibilities available that do not involve agricultural land. For example, the Commission has reviewed the alternatives presented in the LCP amendment application packet and notes that the connection of an extension across inland areas from Humboldt Hill Road to Berta Road (see Exhibit Nos. 5 and 13) appears to be a viable alternative to converting coastal zone agricultural land. The County’s alternatives analysis notes that “This alternative was considered during the update of the Eureka Community Plan and not adopted owing primarily to neighborhood opposition of the persons living along Berta Road. This alternative appears to be a good circulation component of the Eureka Plan, even if the road was restricted for emergency use only.”

Therefore, the Commission finds that the LUP amendment as submitted would convert agricultural lands prior to developing available lands not suited for agriculture, inconsistent with Section 30241(d) of the Coastal Act. Therefore, the proposed LUP amendment must be denied.

(i) NONAGRICULTURAL DEVELOPMENT AND OTHER IMPAIRMENTS OF AGRICULTURAL VIABILITY

Section 30241(e) of the Coastal Act requires that public service and facility expansions and nonagricultural development not impair agricultural viability, either through increased assessment costs or degraded air and water quality.

The proposed LUP amendment could result in the future development of public services (roadway and adjoining right-of-way) directly on and adjacent to agricultural lands. Thus, it is feasible that the agricultural conversion could result in the development of infrastructure that

would be financed through assessments against the adjoining agricultural properties. Furthermore, the proposed conversion of grazing lands for the future new road that would be allowed with the proposed LUP amendment could result in emissions or discharges that would degrade air and water quality, thereby impacting the agricultural viability of the surrounding agricultural lands.

The proposed amendment makes an incomplete attempt to ensure that agricultural viability is not impaired through increased assessments or degraded air and water quality as required by Section 30241(e). In its findings for approval of the subject amendment, the County staff report states the following with respect to the amendment's consistency with Section 30241(e): "The approval of the amendment to accommodate the road is conditioned upon the prohibition of any increased assessment costs from the road construction. Further it is conditioned to provide that no increases in stormwater runoff from the future development of the non coastal lands to the lands located within the coastal zone (excepting the new roadway) are to be allowed." However, the proposed amendment as submitted for review and certification by the Commission (as summarized above) would simply amend the land use plan to permissively allow for a future public roadway improvement project to be constructed between Humboldt Hill Road and Tompkins Hill Road. No language is proposed to be added to the text of the LUP itself that would require the conditions discussed by the County in its findings. As the standard of review for coastal development permit applications within the area covered by the certified Humboldt County LCP is consistency with the LCP, a coastal development permit approved for any otherwise permissible road could be approved without such mitigation measures if they are not mandated by the policies of the LCP. Therefore, the LUP amendment as submitted would not provide the assurances required by Section 30241(e).

The proposed LUP amendment as submitted also could result in increased traffic along the new road through the middle of the remaining agricultural lands in the area, increasing auto exhaust emissions, which in turn could impair the agricultural viability of the area inconsistent with Section 30241(e) of the Coastal Act. In addition, the future road through the agricultural area could result in increased stormwater runoff onto surrounding agricultural lands, diminishing the viability of the lands for productive agricultural use. In an April 15, 2009 letter to the County written by the staff from the North Coast Regional Water Quality Control Board regarding the subject LUP amendment, Board staff commented as follows (in part):

The proposed Humboldt Hill Road Extension Project (as well as resulting development along the road) will be required to treat storm water runoff. The health of receiving waters is correlated to the extent of impervious areas from storm drain systems and routing to vegetated areas. We strongly support infiltrating treated storm water runoff into the ground as a means of treating it and recharging ground water supplies...

Recent studies have confirmed that increased impervious surfaces within a watershed will lead to alteration of the natural hydrology expressed as higher peak flows and lower summer/fall flows (base flows). Alteration of the natural flow regime (hydromodification) can result in increased stream temperatures, alteration of the channel morphology (e.g. widening or incising of stream channel), stream

and riparian habitat degradation, adverse impacts to native riparian vegetation and reduction in ground water recharge capabilities. The design and construction of new development projects using LID techniques can protect natural flow regimes and reduce the impacts of hydromodification and thus help prevent adverse impacts to stream and wetland systems.

All newly installed impervious surfaces (roads, roofs, sidewalk, etc.) must incorporate post-construction storm water best management practices (BMPs) to remove pollutants and to attenuate peak flows, before discharge to waters of the State...

Thus, as a condition of the Board's approval of the General Construction Activity Storm Water Permit that would be required for the development of any otherwise permissible road through the area, runoff from the road likely will be required to be directed to surrounding vegetated lands to infiltrate pollutant-laded stormwater into the ground as a means of treating it. This treatment of road runoff in this manner would degrade the quality and value of the adjoining agricultural lands for productive agricultural use.

Therefore, the Commission finds that the LUP amendment as submitted would not assure that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality, inconsistent with Section 30241(e) of the Coastal Act. Therefore, the proposed LUP amendment must be denied.

(j) DEVELOPMENT ADJACENT TO PRIME AGRICULTURAL LAND DIMINISHING ITS PRODUCTIVITY

Section 30241(f) of the Coastal Act requires in part that development adjacent to prime agricultural lands not diminish the productivity of such prime agricultural lands. Maintaining the maximum amount of prime land in agricultural use is of utmost importance to protecting the agricultural economy. The linkage between prime land production and the local agricultural economy is directly stated in the first clause of Section 30241: "*The maximum amount of prime agricultural land shall be maintained in agricultural production...to assure the protection of the area's agricultural economy.*" This precept reflects the fact that the productivity of prime land is often a key economic factor in the overall agricultural viability of an area. The relatively high economic yield of prime land attracts agricultural support services such as storage and processing facilities, maintenance and repair services, transportation, veterinarians, and labor pools, making these services available to less profitable farm operations.

As discussed above, the roadway development that could be facilitated by the proposed LUP amendment would convert viable and productive agricultural land to urban uses, destabilize the boundary between urban and rural areas, and increase the potential for conflicts between agricultural and urban land uses. By fragmenting approximately 80 acres of productive, viable agricultural land with a bisecting road, the proposed amendment increases the potential to eliminate the viability of the prime agriculture acreage on the subject property (which is known to be at least seven acres and possibly more, as discussed above).

Therefore, the Commission finds that the LUP amendment as submitted would not assure that development adjacent to prime agricultural lands would not diminish the land's productivity, inconsistent with Section 30241(f) of the Coastal Act. Therefore, the proposed LUP amendment must be denied.

(k) INCONSISTENCY WITH SECTION 30242 OF THE COASTAL ACT

Coastal Act Section 30242 protects lands suitable for agricultural use that are not prime agricultural lands or agricultural lands on the periphery of urban areas from conversion to non-agricultural use, unless continued agricultural use is not feasible, or such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250.

With regard to the estimated three acres of agricultural land that could be directly converted to roadway and roadway-related uses as a result of the proposed LUP amendment, the County has not submitted any evidence demonstrating that continued or renewed agricultural use of these lands is not feasible. To the contrary, according to the County, the area currently is leased to various local ranchers on an as-needed basis for grazing and hay production, and these practices will continue on the remaining surrounding agricultural lands in the future. In addition, the County Farm and Community Advisor for the U.C. Cooperative Extension relayed⁸ that the subject site is agriculturally valuable as upland rangeland, since much of the agricultural land in the low-lying bottomlands becomes inundated in the rainy season and unavailable for agricultural use. Furthermore, as discussed above, the agricultural conversion resulting from the proposed LUP amendment would not preserve prime agricultural land or concentrate development consistent with Section 30250 of the Coastal Act. Also as discussed above, the conversion would not be compatible with continued agricultural use on surrounding lands, as any otherwise permissible road would represent an unstable boundary between incongruent land uses with no clearly defined buffer area to sustain agricultural resources in the surrounding area and to minimize conflicts between conflicting uses. Furthermore, the future new road through the agricultural area would lead to increased pressure to further convert the remaining agricultural lands in the fragmented area to nonagricultural uses.

For these reasons, conversion of approximately three acres of agricultural lands in the project area resulting from the proposed amendment would be inconsistent with the requirements of Coastal Act Section 30242. Therefore, the proposed LUP amendment must be denied.

(l) CONCLUSION

In conclusion, the proposed amendment is clearly inconsistent with the Coastal Act's agricultural policies for two overarching reasons. First, it does not maximize prime agricultural land preservation; rather the viability of prime agricultural land would be diminished. Second, it does not minimize conflicts between agricultural and urban land uses. In summary, none of the criteria under Sections 30241 and 30242 are met. Therefore, the amendment must be denied as submitted.

The County, in its findings for consistency of the LCP amendment with Section 30241(d), states that "The conversion of agricultural lands will be directly offset through a change in the Plan

designation and zoning of a portion of the site (outside the Coastal Zone) that is presently planned and zoned for residential development back to Agriculture Exclusive. This would minimize the area of conversion, offset that acreage converted through the installation of the road and provide additional public views from the roadway.” The County has submitted a letter dated February 14, 2011 from Gary Markegard, Certified Rangeland Manager, purporting the benefits of this mitigation plan, since the mitigation area soils are considered “prime” and support a higher grazing capacity than the soils that would be impacted by the future new road (as shown in the conceptual road alignment plan).

The Commission has no basis for finding that the proposed agricultural mitigation plan would make the LUP amendment as submitted consistent with the Coastal Act. The Coastal Act prohibits impermissible conversions of agricultural land; it does not allow for conversions based on the provision of mitigation. In addition, no language is proposed to be added to the text of the LUP itself that would require the conditions discussed by the County in its findings. As the standard of review for coastal development permit applications within the area covered by the certified Humboldt County LCP is consistency with the LCP, a coastal development permit approved for the road could be approved without such mitigation measures if they are not mandated by the policies of the LCP. Furthermore, the Commission finds that the agricultural and public access benefits that the County asserts this project offers are merely an ancillary component appended to the project to “create a conflict” rather than the very essence of the project itself. The Commission finds that denial of the project would not result in any coastal zone effects that are inconsistent with any of the Chapter 3 policies of the Coastal Act, since there is no continuing degradation of a resource that the Commission is charged with protecting and/or enhancing. Therefore, the proposed LUP amendment must be denied.

E. CONSISTENCY WITH THE WETLAND PROTECTION POLICIES OF THE COASTAL ACT

1. Relevant Coastal Act Policies

Coastal Act Section 30233 provides as follows, in applicable part:

- (a) *The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*
 - (1) *New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
 - (2) *Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
 - (3) *In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*

- (4) *Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
 - (5) *Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
 - (6) *Restoration purposes.*
 - (7) *Nature study, aquaculture, or similar resource dependent activities.*
- ...
- (c) *In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary...*

2. Consistency Analysis

The subject site contains numerous creeks, natural drainages, and other wetlands, as described in various documents on file and submitted with the LUP amendment application materials:

- According to the Initial Study and draft Mitigated Negative Declaration completed by the County in 2006 for the after-the-fact CDP that was processed for the approximately 10-foot-wide, 3,200-foot-long agricultural road constructed across a portion of the subject site in 2004:

“...the [agricultural] road building included the installation of 6 culverts ranging in size from 12” – 30” diameter. According to the engineer’s map...the two main watercourses travel under the new [agricultural] road ± 150 yards away from each other, from east to west. The other 4 culverts appear to represent smaller drainages not large enough to be considered under the riparian protections of the HBAP...”

As previously discussed, the County granted an after-the-fact CDP for the agriculture road and its associated major vegetation removal. As shown in the LUP amendment application materials, the footprint of the new road extension that could be facilitated by the subject LUP amendment coincides, in part, with the alignment of this existing agricultural road on the property.

- As noted above, the proposed LCP amendment does not specify an alignment or design for the proposed roadway that could be added to the list of public roadway projects allowed under the Humboldt Bay Area Plan. However, a preliminary road design and a geotechnical feasibility study conducted by Busch Geotechnical Consultants in 2007 of the road that would be accommodated by the proposed LCP amendment (Exhibit No. 8) lists a number of conclusions regarding the preliminary road alignment, including the following two conclusions (#5 and #7):

“5. The proposed alignment crosses four drainages. Slope gradients in these drainages vary in steepness up to about 60% (where investigated)...It is feasible to cross these drainages and address soil creep hazards using standard road construction practices. Drainage

control will be an important aspect of design. It is possible, if not likely, that soil pipes (underground tunnels) are present in localized areas such as valley bottoms in fine sand. A detailed road alignment study is likely to identify any potentially critical soil pipe areas. It is possible to mitigate the risk associated with soil pipes using standard techniques....

7. If the project goes forward, the proposed alignment should be cleared of brush (not trees) for about 100 feet on each side of the centerline. When a preliminary grading plan has been developed, the alignment should be re-evaluated. The evaluation should include subsurface investigations.”
- The biological review of the site completed in 2008 by Mad River Biologists (Exhibit No. 7) documented two intermittent drainages, one perennial creek, and three forest seeps within or immediately adjacent to the proposed road extension alignment. The biological report notes that the two intermittent drainages contain wetland-oriented plants such as soft rush, pennyroyal, and small-flowered bulrush, and riparian habitat was documented as being present around the perennial creek. The forest seeps are characterized by Sitka spruce, cascara sagrada, slough sedge, skunk cabbage, and ferns. The report includes a recommendation to conduct “DFG/County-approved and permitted culvert repair work” outside of the rainy season incorporating “best management practices as identified by the resource agencies.” The road layout drawn by Omsberg & Preston (Exhibit No. 6) shows the road right-of-way alignment to be located less than 30 feet from the documented wetland seeps.

It is unclear why the different reports each cite a different number of natural drainages bisecting the preliminary road alignment (six, four, and three respectively). Perhaps it’s because the different investigations took place in different years at different seasons of the year when ephemeral drainage features may not have been readily apparent. Alternatively, the discrepancies may be due to hydrologic changes that have taken place in the area since the installation of the agriculture road in 2004. Regardless of the reasons for the discrepancies, Commission staff visited the site and noted at least three watercourses on the property that would have to be bisected by a new or expanded road through the area.

The proposed LUP amendment could allow for the installation of a new road through the area extending from Humboldt Hill Road down to Tompkins Hill Road across the subject site. This new road would necessitate placing fill in creek and drainage wetland habitats (e.g., culverts and associated fill material) for a number of crossings that would be needed to span the various watercourses. The placement of such fill could only be approved if the development was found to be consistent with Section 30233 of the Coastal Act, which regulates the filling, diking, and dredging of wetlands in the coastal zone. Section 30233 sets forth a number of different limitations on what types of projects may be allowed in coastal wetlands. For analysis purposes, the limitations applicable to the subject project can be grouped into three general categories or tests. These tests require that projects that entail the dredging, diking, or filling of wetlands demonstrate that:

- (a) The purpose of the wetland filling, diking, or dredging must be for one of the seven uses allowed under Section 30233;
- (b) The project must have no feasible less environmentally damaging alternative; and
- (c) Feasible mitigation measures must be provided to minimize adverse environmental effects.

The County has not provided an estimate of how much temporary and permanent wetland fill would be associated with constructing a new approximately 34-foot-wide paved road and widening portions of the existing 10-foot-wide dirt road on the property. Nevertheless, based on the fact that (1) the existing 10-foot-wide agricultural road on the subject site, the bulk of which is shown within the footprint of the future new road alignment, necessitated the installation of six culverts to span the various creeks draining the forested hillslope of the area, (2) the 2007 geotechnical feasibility (Exhibit No. 8) study cites the fact that the future new road would need to cross at least four drainages, and drainage along the alignment would need to be controlled to mitigate “soil creep hazards,” and (3) the 2008 biological review of the site included specific recommendations for “culvert repair work,” the Commission concludes that any otherwise permissible road project that could be facilitated by the subject LUP amendment would clearly result in a significant amount of additional wetland fill.

Under the first of the three tests cited above, a project must qualify as one of the seven stated uses allowed under Section 30233(a). The only use remotely related to wetland fill associated with the construction of a new public road is Section 30233(a)(4), which authorizes wetland fill for “*Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*”

The Commission has never considered a new road to be an incidental public service. In past Commission actions, the Commission has found that fill for the expansion of existing roadways and bridges may be considered to be an “incidental public service purpose” only if: (1) the expansion is limited; and (2) the expansion is necessary to maintain existing traffic capacity. This historic interpretation was supported in the case of *Bolsa Chica Land Trust et al., v. The Superior Court of San Diego County* (1999) 71 Cal.App.4th 493, 517, and the court found that:

... we accept Commission's interpretation of sections 30233 and 30240... In particular we note that under Commission's interpretation, incidental public services are limited to temporary disruptions and do not usually include permanent roadway expansions. Roadway expansions are permitted only when no other alternative exists and the expansion is necessary to maintain existing traffic capacity.

The proposed roadway does not qualify as a project designed to maintain existing traffic capacity. Instead, any otherwise permissible roadway would serve as a secondary access road to the Humboldt Hill neighborhood and other (existing and future planned) inland residential communities. The existing residential communities in the area are served by Humboldt Hill Road, a dead-end road that originates in the South Broadway area south of Eureka. If anything,

traffic volume along Humboldt Hill Road would increase following the construction of any otherwise permissible road through the area since (1) through traffic would be able to use Humboldt Hill Road and its extension as an alternative route to the highway to go between Tompkins Hill Road (near College of the Redwoods) and the South Broadway area south of Eureka, and (2) construction of any otherwise permissible road would allow for the development of approximately 400 residential units on the inland portion of the Barry property and adjacent properties.

In addition, the project does not qualify as a limited expansion of an existing road. The Commission has generally used this definition for activities maintaining an existing road along its same alignment. Although the preliminary road design would align approximately half of any otherwise permissible approximately mile-long road within the footprint of the existing agricultural road across the subject site, the remaining half of any otherwise permissible road would consist of completely new construction, and the width of the new road along its alignment would be approximately triple the width of the existing agricultural road. As the proposed road extension essentially constitutes new road construction and significantly widened road construction along a portion of the existing agricultural road alignment, the proposed road extension therefore does not qualify as a limited expansion of an existing road.

The Commission therefore concludes that any otherwise permissible road at this location: (a) will increase capacity, (b) is not a limited expansion of an existing road, and (c) cannot be considered an allowable use under Section 30233(a)(4). Therefore, the proposed LUP amendment must be denied.

With respect to the 30233(a) requirement that feasible mitigation measures must be provided to minimize adverse environmental effects, little information has been provided regarding the scope of temporary and permanent impacts that would result from the road construction that the subject LUP amendment could allow for. The County, in its staff report findings for approval of the subject LUP amendment (Exhibit No. 13), states that various mitigation measures will be incorporated into the future road construction project (at the time that the permits are processed) to avoid nesting bird habitat, address polluted stormwater runoff, minimize wetland impacts, and avoid sensitive species. However, none of these mitigation measures are incorporated as standards into the proposed LUP amendment as submitted. As the standard of review for coastal development permit applications within the area covered by the certified Humboldt County LCP is consistency with the LCP, a CDP approved for the road could be approved without such mitigation measures if they are not mandated by the policies of the LCP. Furthermore, no mitigation has been proposed for permanent wetland fill impacts to avoid a net loss of wetlands. Moreover, there does not appear to be a sufficient buffer between the wetland seeps identified in the biological report (Exhibit Nos. 6 and 7) and the proposed new road, which would leave the environmentally sensitive habitat exposed to indirect impacts from the road, polluted runoff, and edge effects. Finally, the geotechnical feasibility study conducted by Busch Geotechnical Consultants in 2007 (Exhibit No. 8), recommends vegetation clearing for 100 feet on each side of the centerline and then reevaluating the alignment, including conducting subsurface investigations. This clearing would significantly impact riparian and wetland vegetation associated with the creeks and natural drainages in the area. The County proposes to minimize

vegetation removal associated with the future road construction only “to the extent that it is possible while maintaining adequate visibility and road clearances.”

Therefore, the Commission finds that the LUP amendment as submitted does not provide feasible mitigation measures to minimize adverse environmental effects as Section 30233(a) of the Coastal Act requires. Therefore, the proposed LUP amendment must be denied.

Finally, with respect to the requirement of Section 30233(a) that the project be the least environmentally damaging feasible alternative, the County’s LCP amendment submittal did not include an analysis of the least environmentally damaging feasible alternative and alternatives that would avoid wetland fill (at least with respect to coastal zone wetlands).

CONCLUSION

In conclusion, the Commission finds that any otherwise permissible road extension that could result from the proposed LUP amendment: (1) is not an allowable use under Section 30233(a)(4) and does not qualify under any of the other allowable uses in Section 30233(a); and (2) does not provide feasible mitigation measures to minimize adverse environmental effects. The Commission therefore finds the proposed LUP amendment inconsistent with Section 30233(a) of the Coastal Act. In addition, the Commission lacks sufficient information to determine whether it meets the second (least environmentally damaging feasible alternative) test of Section 30233(a), because the County has not provided sufficiently detailed information regarding this issue. Finally, the County has not provided a functional analysis to the Commission demonstrating that the proposed new road would at a minimum maintain the functional capacity of the wetlands in the impacted area, as the wetland policies of the Coastal Act require. The Commission therefore concludes that the proposed LUP amendment as submitted is inconsistent with the Coastal Act’s wetland and water quality policies and must be denied.

F. CONSISTENCY WITH THE ESHA PROTECTION POLICIES OF THE COASTAL ACT

The Coastal Act establishes a rigorous standard for protection of areas that are identified as environmentally sensitive habitat areas (ESHA). Only resource-dependent development, such as habitat restoration, is allowed within an ESHA, and all development within or adjacent to an ESHA must be sited and designed to prevent significant impacts to the ESHA. In contrast to environmental laws that may allow development in an environmentally sensitive area if the impacts can perhaps be mitigated to a less than significant level through restoration or conservation of other habitat areas, the Coastal Act requires that new development avoid identified ESHAs and that ESHAs be appropriately buffered from potential development impacts. Impermissible development is prohibited and is not allowed in exchange for mitigation.

1. Relevant Coastal Act Policies

Coastal Act Section 30240 states the following with respect to environmentally sensitive habitat areas (ESHA):

(a) *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.*

(b) *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

Coastal Act Section 30107.5 defines “environmentally sensitive habitat area” as:

...any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

2. Consistency Analysis

The proposed LUP amendment could allow for the development of a “public roadway improvement project” involving a new road extending from the end of Humboldt Hill Road at the edge of the Barry property, through undeveloped agricultural, pasture, and forested lands, to Tompkins Hill Road near Highway 101. Section 30240(a) of the Coastal Act limits uses within ESHA to only those uses that are dependent on the resources of the ESHA (e.g., habitat restoration and nature study). The development of a public roadway through ESHA is not a resource-dependent use that is allowable under Section 30240.

As described above, according to the preliminary biological review completed in support of the LCP amendment application by Mad River Biologists in 2008 (Exhibit No. 7), the project area contains (among other habitat types) a relatively large (approximately 50-acre) mature Sitka spruce forest that provides nesting and roosting habitat for various species of birds and raptors known to forage in the area, such as red-tailed hawk and red-shouldered hawk, and for various mammal species, including red tree vole, a sensitive species. The report also notes the presence of three wetland seeps within the forest habitat. Dominant species noted in the seeps include (in part) wetland-oriented slough sedge, skunk cabbage, and ferns. There also is riparian habitat with wetland-oriented plants around the two drainages and one perennial creek that bisect the subject site.

Any otherwise permissible road that could be allowed under the proposed LUP amendment would necessarily bisect mature Sitka spruce forest. The forest community on the subject properties is part of a larger (more than twice the size) band of undeveloped forest habitat that extends primarily southeastward and eastward from the subject site across other large parcels (the undeveloped forest habitat also extends northward from the subject site, though in the latter direction the forest habitat is bisected by roads and encroached upon by rural residential development as well as surrounded by dense suburban development). Certain evidence suggests that this particular forest stand, which lies in part on the subject properties, may qualify as ESHA under the Coastal Act. However, the Commission lacks sufficient information to determine with certainty whether the area is ESHA, because the County has not provided sufficiently detailed information regarding this issue.

As defined above, Section 30107.5 of the Coastal Act sets up a two part test for determining an environmentally sensitive habitat area. The first part is determining whether an area includes plants or animals or their habitats that are either: (a) rare; or (b) especially valuable because of their special nature or role in an ecosystem. If so, then the second part asks whether such plants, animals, or habitats could be easily disturbed or degraded by human activities. If so, then the area where such plants, animals, or habitats are located is deemed ESHA by Section 30107.5.

(a) WHAT CONSTITUTES “RARE?”

There are several types of rarity, but each is fundamentally related to threats to the continued existence of species or habitats that naturally occur in larger or more widespread populations or areas. Increasing numbers of species and habitats have become absolutely rare, having been reduced to a few hundreds or thousands of individuals or acres. Examples include species such as Pacific pocket mouse and habitats such as Torrey pine stands. The prognosis for such absolutely rare species and habitats is, in many cases, very poor. Another common pattern is for species or habitats to be globally rare but “locally” abundant. Populations of such species only occur at a few places either as a result of natural processes or human perturbations. Some species are characterized as “narrow endemics” because they have evolved adaptations to a very limited range of environmental variables (e.g., soil type, temperature, presence of fog, etc.), which restrict their spatial distribution. Many other species have restricted distributions as a result of human activities, especially agricultural and urban development that results in habitat loss. Many natural endemics have also suffered such habitat loss – compounding the risk to them. All these species may be abundant in the few areas where they still occur. However, regardless of the cause of their restricted distribution, the survival of these species is at elevated risk because localized impacts may affect a large proportion of the population with devastating effects. At the other end of the spectrum of rarity are species or habitats that are geographically widespread, but everywhere are in low abundance. Some species naturally occur in this pattern and have life-history characteristics that enable them to persist. However, naturally abundant species that have been reduced to low density throughout their range are at heightened risk of extinction, although their wide distribution may increase their opportunities for survival.

(b) WHAT CONSTITUTES “ESPECIALLY VALUABLE?”

All native plants and animals and their habitats have significant intrinsic value. However, the “especially valuable” language in the Coastal Act definition of ESHA makes clear that the intent is to protect those species and habitats that are extraordinary and special, even though they may not necessarily be rare. As in all ESHA determinations, this requires a case-by-case analysis. Common examples of habitats that are especially valuable due to their role in the ecosystem are those that support rare, threatened, or endangered species, and those that provide important breeding, feeding, resting or migrating grounds for some stage in the life cycle of animal species and that are in short supply. Habitats may also be especially valuable because of their special nature. Examples include those rare instances of communities that have remained relatively pristine, areas with an unusual mix of species, and areas with particularly high biological diversity.

(c) ARE ALL EXAMPLES OF RARE HABITATS OR ALL AREAS SUPPORTING INDIVIDUALS OF RARE SPECIES ESHA?

The reason ESHA analyses are all site-specific is that there is no simple rule that is universally applicable. For example, a plot of a rare habitat type that is small, isolated, fragmented, and highly degraded by human activities may not meet the definition of ESHA, because such a highly impacted environment may be so altered that it no longer fits the definition of its historical habitat type. Larger, less isolated, more intact areas that are close to or contiguous with other large expanses of natural habitat are more likely to have a special nature or role in an ecosystem and hence meet the ESHA definition, but “large,” “isolated,” “intact,” and “close to” all are terms that are relative to the particular species or habitat under consideration. What is spatially large to a Pacific pocket mouse is small to a mountain lion or bald eagle. What is isolated for a dusky footed woodrat may not be for a California gnatcatcher. Similarly, an area supporting one or a few individuals of a rare species might not meet the definition of ESHA, because scattered individuals might be common and not significant to the species. However, this is relative to the actual distribution and abundance of the species in question. If a few individuals of a species previously thought to be extinct were found, the area clearly would meet the definition. However, if the same number of individuals of a species with a population of 25,000 were found in an isolated, degraded location, the area may not meet the definition. A conclusion of whether an area meets the definition of ESHA thus is based on a site- and species-specific analysis that generally includes a consideration of community role, life-history, dispersal ability, distribution, abundance, population dynamics, and the nature of natural and human-induced impacts. The results of such an analysis can be expected to vary for different species; for example, it may be different for pine trees than for understory orchids.

(d) IDENTIFYING ESHA OVER TIME

Case-by-case analysis of ESHA necessarily occurs at discrete moments in time. However, ecological systems and the environment are inherently dynamic. One might expect, therefore, that the rarity or sensitivity of species and their habitats will change over time. For example, as species or habitats become more or less abundant due to changing environmental conditions, they may become more or less vulnerable to extinction. In addition, our scientific knowledge and understanding of ecosystems, specific species, habitat characteristics, and so forth is always growing. We discover large numbers of new species every year.⁹ The California Native Plant Society’s *Inventory of Rare, Threatened, and Endangered Plants of California* grew from approximately 1,400 listings in 1974 to over 2,200 listings in 2010.¹⁰ New legal requirements, such as the numerous environmental laws enacted in the 1970s, may be adopted that reflect changes in our values concerning the current conditions of natural resources. Consequently, ESHA evaluations may change over time. Areas that once were not considered ESHA may become ESHA.¹¹ It also is possible that rare species or habitats might become less so, to the extent that these habitats may no longer be considered ESHA.¹² Because of this inherent dynamism, the Commission must evaluate resource conditions as they exist at the time of the review, based on the best scientific information available.

⁹ See, generally, E.O. Wilson, *The Diversity of Life* (W.W. Norton, New York, 1992).

¹⁰ CNPS (<http://www.rareplants.cnps.org/>).

¹¹ See, for example, California Coastal Commission, staff report Changed Circumstances and Project Amendments, A-4-STB-93-154-CC and A-2 (Arco Dos Pueblos Golf Links).

¹² See, for example, California Coastal Commission staff report for CDP Application No. 1-06-032 (Shuttleworth) at <http://documents.coastal.ca.gov/reports/2007/7/F6a-7-2007.pdf>.

(e) RARITY OF SITKA SPRUCE FOREST AT THE SUBJECT SITE

Although Sitka spruce (*Picea sitchensis*) as a species is not considered to be rare or sensitive at either the global or state levels, the Department of Fish and Game considers the Sitka spruce forest natural community type, which is endemic to the Pacific Northwest from Alaska to northern California, to be, in some cases, imperiled at the state level. The California Natural Diversity Database (CNDDDB) is a DFG program that inventories the status and locations of rare species and natural communities in California. The CNDDDB uses a global and state ranking system for these species and communities, where the global rank is a reflection of the overall condition of a species or natural community throughout its global range, and the state rank applies in the same way but is specific to the species or community type in California. The latest edition of the CNDDDB¹³ classifies Sitka spruce forest as a rare natural community, with a G1 global rank and an S1.1 state rank. These ranks indicate that both globally and within California there either are fewer than six viable “element occurrences” or less than 1,000 individuals or less than 2,000 acres (G1 and S1). Furthermore, the community is considered “very threatened” (S1.1). There is no higher degree of rarity (or threat) in the CNDDDB global or state rankings.¹⁴ In addition, under the Department’s most recently published list of terrestrial vegetation types,¹⁵ the Sitka spruce forest alliance is considered globally “secure” (G5) but “imperiled” (S2) at the state level. Regionally, staff from the Northern Region of DFG has commented on multiple CEQA documents for projects in Humboldt and Del Norte Counties attesting to the conservation value of large, mature Sitka spruce forest stands in the region and recommending the conservation and protection of such stands.¹⁶

In addition to the assigned rarity rankings and the aforementioned DFG comments, DFG provides guidance for ascertaining whether or not a particular stand of a rare vegetation type (i.e., S1-S3 rank) can be considered a “high-quality” occurrence of the given natural community. Specifically, DFG recommends the following (from http://www.dfg.ca.gov/biogeodata/vegcamp/natural_comm_background.asp):

“The judgment of whether a stand is high quality or not involves a flexible set of criteria such as the range of existing sustainable occurrences of this element or vegetation type

¹³ RareFind 4 (online version) and RareFind Application Version 3.1.1, Government Version dated January 1, 2011, data expire July 1, 2011.

¹⁴ Ranks range from 1 (“critically imperiled”) through 5 (“secure”) using NatureServe’s standard heritage program methodology (<http://www.natureserve.org/explorer/ranking.htm#interpret>). The protocol for assigning a conservation status rank is based on scoring an element against 10 conservation status factors, which are grouped into three categories based on the characteristic of the factor: rarity (six factors), trends (two factors), and threats (two factors). Once assigned, scores for the individual factors within each of these categories are pooled, and the resulting three summary scores are combined to yield an overall numeric score, which is translated into a calculated rank.

¹⁵ See DFG’s September 2010 *List of California Terrestrial Natural Communities* at <http://www.dfg.ca.gov/biogeodata/vegcamp/pdfs/natcomlist.pdf>.

¹⁶ E.g., Comments from Gary B. Stacey, Regional Manager, DFG Northern Region, Redding to (1) Michael Wheeler, Senior Planner, Humboldt County Planning Division, dated March 20, 2008 regarding Initial Study and Proposed Mitigated Negative Declaration for the Beau Pre Heights Subdivision, McKinleyville, Humboldt County; and (2) Jim Bernard, Airport Manager, Border Coast Regional Airport Authority, dated October 21, 2008 regarding Draft Environmental Assessment and Environmental Impact Report (SCH #2006112120) for the Terminal Replacement Project, Del Norte County.

based on site quality, defensibility, size, and surrounding landscapes. These criteria vary based on the type of vegetation or natural community and the range of existing occurrences known. For example, it is likely that although there are many individual stands (or occurrences) and many thousands of acres of Douglas-fir/Vine maple/Oregon grape association...in northwestern California, there are only a few that reflect the most exemplary qualities of natural vegetation including:

- lack of invasive exotic species,
- no evidence of human-caused disturbance such as roads or excessive livestock grazing, or high-grade logging,
- evidence of reproduction present (sprouts, seedlings, adult individuals of reproductive age), and
- no significant insect or disease damage, etc.

For this community, these characteristics exemplify high quality, sustainable, old growth characteristics...”

Certain evidence suggests that the Sitka spruce forest on the subject site represents high quality stand of the rare Sitka spruce forest natural community type that indeed warrants the sensitive ranking status assigned to it by DFG. First, the biological report submitted with the LUP application (Exhibit No. 7) and a site visit by Commission staff noted the forest community as composed primarily of large, mature Sitka spruce trees (averaging 40-55 inches diameter at breast height [dbh]) with intermixed large, mature grand fir and Douglas-fir trees (averaging 24-55 inches and 30-48 inches dbh, respectively). Stands of Sitka spruce described as “old-growth” in the CNDDDB (e.g., at Patricks Point State Park) document trees of similar girth. Other characteristics suggesting the forest on the subject site meets the criteria for classification as a “late succession forest stand”¹⁷ include its dense canopy closure with multiple canopy layers, the presence of downed logs, and its size (greater than 20 acres). Second, according to both Sawyer *et al.*¹⁸ and DFG, large, contiguous stands of mature Sitka spruce forest are rare in California due to the species’ limited range (restricted primarily to low elevations within the coastal fog belt of Del Norte and Humboldt Cos.) and because agricultural and residential development in coastal areas have resulted in the removal of these forests. In addition, timberland silvicultural practices have converted Sitka spruce to more economically valuable forest types such as redwood and Douglas-fir. Thus, the size, age, and species composition of the forest habitat on the subject site (over 50 acres of mature forest dominated by large Sitka spruce trees with lesser amounts of large grand fir and Douglas-fir trees) appears to represent a significant, high quality stand of the natural community type in the region. Third, the forest vegetation in both overstory and understory layers is composed primarily of native species. Invasive exotic species diversity and density are quite low in this particular stand, and the forest understory layers contain a diversity of native species (e.g., dogwood, salmonberry, cascara, twinberry, evergreen huckleberry, elderberry, salal, false Solomon’s seal, California blackberry, rattlesnake plantain, hedge nettle, ferns, sedges, and various other species). Fourth, no evidence of human-caused disturbance

¹⁷ Title 14, California Code of Regulations, Section 895.

¹⁸ Sawyer, J.O., T. Keeler-Wolf, and J.M. Evens. 2009. *A Manual of California Vegetation*. Second Edition. California Native Plant Society, Sacramento, CA.

within the forest habitat, such as roads or excessive livestock grazing or high-grade logging, was observed or documented. The intact, non-fragmented nature of the forest habitat on the subject site is apparent on recent aerial photos of the area (Exhibit No. 4). Fifth, according to the biological report and comments on the project submitted by DFG staff, the mature forest habitat provides important ecosystem functions such as nesting and roosting habitat for various species of birds and raptors known to forage in the area and for various mammal species, including Sonoma tree vole, a DFG “species of special concern” listed in the CNDDDB (G3/S3).^{13 14} DFG staff documented a vole nest within the forest habitat, though no determination was made on the vole species. Moreover, the biological report (Exhibit No. 7) documented at least three “seepage areas” that qualify as wetlands within the forest understory, which demonstrates the diversity of habitats and range of ecosystem functions contained in this particular forest stand. Finally, aside from its overall statewide status (imperiled), the location of this occurrence of the forest type at the geographic edge of its distribution (the continuous distribution of Sitka spruce ranges from Alaska to just south of Humboldt Bay a mere few miles from the project site, except for a disjunct population of the species that occurs near Fort Bragg in Mendocino County) equates to these trees likely having a genetic structure different from the more central populations to the north. The relatively rare genes harbored by these populations may help the species cope with environmental shifts, such as those resulting from the current global warming and concomitant climate change.^{19 20} For all of these reasons the Commission finds that the Sitka spruce forest stand that would necessarily be bisected by any otherwise permissible road through the area may represent a rare “high quality” occurrence of the rare natural community in California.

Therefore, the Commission finds that there is evidence to suggest that this particular forest stand, which lies in part on the subject properties, may qualify as ESHA under the Coastal Act. However, the Commission lacks sufficient information to determine with certainty whether the area is ESHA, because the County has not provided sufficiently detailed information regarding this issue.

The County, in its submittal of the subject LUP amendment application, did not recognize the Sitka spruce forest stand that would necessarily be fragmented by the future new road through the area as being rare or environmentally sensitive, even though the biological report prepared in support of the LCP amendment application documents the forest stand as a “sensitive community type” (Exhibit No. 7, page 4). In addition, the County did not address the question of whether the Sitka spruce forest on site constitutes a “high quality” occurrence of a sensitive natural community. The County did, however, recommend measures (to be included as conditions of approval of the coastal development permit for the future new road construction project) to protect sensitive bird nesting habitat that may be present in the area, such as conducting pre-construction surveys and avoiding any documented nests until after the nesting season.

(f) SUSCEPTIBILITY OF SITKA SPRUCE FOREST HABITAT TO DISTURBANCE

¹⁹ Lessica, P. & F.W. Allendorf. 1995. When are peripheral populations valuable for conservation? *Conservation Biology*, Vol. 9, No. 4, pp. 753-760.

²⁰ Gapare, W.J., S.N. Aitken, & C.E. Ritland. 2005. Genetic diversity of core and peripheral Sitka spruce (*Picea sitchensis* (Bong.) Carr) populations: implications for conservation of widespread species. *Biological Conservation* 123: 113-123.

The Commission next considers the second part of the ESHA test – i.e., whether the rare forest habitat could be easily disturbed or degraded by human activities and development. Because the forest habitat continuously spans the length of the hillside that lies between Humboldt Hill Road and Tompkins Hill Road, there is no way to develop a road extension through the area without fragmenting the forest habitat itself. In general, road development contributes to habitat fragmentation because it divides a larger landscape into smaller patches and converts interior habitat into edge habitat. Populations of some species may become isolated, increasing the risk of local extirpations or extinctions and leading to a loss of biodiversity. Not only would road fragmentation of the forest habitat on the subject site lead to a direct loss of rare habitat, but also it would reduce the effective (usable) habitat near the road for certain species (e.g., deer) and potentially lead to the direct mortality of forest fauna. Biologists generally agree that fragmented forest stands typically are more susceptible to disease, disturbance, and degradation than larger ones. In addition, the development of a new road through the area would serve as a means of dispersal for and establishment of a suite of invasive species. This, in turn, would lead to an increase in habitat alteration, replacement of native species, and alteration of ecosystem processes. Therefore, the Commission finds that the Sitka spruce forest habitat on the subject site could be easily disturbed and degraded by human activities and development.

(g) CONCLUSION ON LUP AMENDMENT CONSISTENCY WITH SECTION 30240(A)

In conclusion, the Commission finds that the proposed LUP amendment could not be found consistent with Section 30240(a) the Coastal Act if the Sitka spruce forest on the subject site is ESHA. Section 30240 prohibits all but resource-dependent use in ESHA and only allows resource-dependent use if it does not significantly disrupt habitat values. The proposed LUP amendment could allow for a land use (i.e., public roadway development and related uses) that not only is not resource-dependent but that could be expected to result in direct removal of a significant acreage of forest ESHA and the fragmentation of the remaining ESHA such that the habitat values would be significantly disrupted and the areas significantly degraded.

In order to confirm that the Sitka spruce forest stand on the subject site truly represents a rare “high quality” occurrence of a rare habitat type that would qualify as ESHA under the Coastal Act, additional site specific and regional information is needed on the Sitka spruce forest, such as information on stand regeneration, crown diameter, the presence of snags and other special habitat elements, approximate size and age of the stand, sensitive species survey results, relationship of the state to wildlife habitat value (e.g., WHR classification), locations and sizes of other mature Sitka spruce forest stands in the region, and potentially other information.

The Commission need not determine with certainty that the Sitka spruce forest area is ESHA and whether the LUP amendment is consistent with the ESHA protection policies of the LCP in that respect, because the Commission has already determined that the proposed LUP amendment is inconsistent with other Coastal Act policies regarding the conversion of agricultural lands and the filling of wetlands and must be denied for these reasons, as discussed above.

(h) DEVELOPMENT ADJACENT TO ESHA

Section 30240(b) of the Coastal Act requires that development adjacent to ESHA not significantly degrade ESHA. The County has not submitted evidence demonstrating that the

subject road that could be allowed under the proposed LUP amendment would be developed in a way that could adequately protect adjacent ESHA and ensure its continuance.

In addition to mature Sitka spruce forest, the biological report completed in support of the proposed LUP amendment notes the presence of forest wetlands (described and mapped as three wetland seeps) dominated by wetland-oriented plants such as slough sedge, skunk cabbage, and different species of ferns. In addition, several natural drainages, including some with riparian habitat, occur on the site. The Humboldt County LCP considers all wetlands and riparian habitat to be environmentally sensitive.

The road layout drawn by Omsberg & Preston (Exhibit No. 6) shows the preliminary road right-of-way alignment to be located less than 30 feet from the documented wetland seeps and would cross through several natural drainages considered to be ESHA elsewhere along the preliminarily proposed road alignment. It is not clear how the development of the new road would affect the hydrology and vegetation composition of the forested hillside where the seeps are located and the areas where the drainages would be crossed. Moreover, runoff from a new road through these areas would collect oil and grease drippings from vehicles as well as sediment other contaminants deposited on the roadway. Grading, soil disturbance, and vegetation removal can result in the discharge of sediment into site runoff, which, upon entering coastal waters and wetlands, degrades habitat quality and adversely affects sensitive species that depend on the wetland habitat. Sediment is considered a pollutant that affects visibility through open water (such as streams), and affects plant productivity, animal behavior (such as foraging) and reproduction, and the ability of animals to obtain adequate oxygen from the water. With respect to potential effects on fish and fish habitat, sediment is often a major pollutant of concern, because fine sediments have been well documented to fill pore spaces between larger gravel and cobble, eliminating the relatively coarse sediments required for egg and fry survival of many freshwater-spawning fish. In addition, sediment is the medium by which many other pollutants are delivered to wetland and aquatic environments, as many pollutants are chemically or physically associated with the sediment particles.

The County did not complete an analysis of how wide a buffer between roadway development and adjacent ESHA would need to be to ensure the protection and continuance of the ESHA. Such an analysis should be based an examination of a various factors, such as the biological significance of lands adjacent to the ESHA and the degree to which they are functionally related to ESHA resources; the sensitivity of species to disturbance such that the most sensitive species will not be disturbed significantly by the permitted development; the susceptibility of the land to erosion; the use of natural topographic features to buffer habitat areas; the type and scale of development proposed; and/or other factors. The County, in its staff report findings for approval of the subject LUP amendment, did state that various mitigation measures will be incorporated to the future road construction project (at the time that the permits are processed) to address polluted stormwater runoff, minimize wetland impacts, and avoid sensitive species. However, none of these mitigation measures are incorporated into the proposed LUP amendment as submitted. As the standard of review for coastal development permit applications within the area covered by the certified Humboldt County LCP is consistency with the LCP, a CDP approved for any otherwise permissible road could be approved without such mitigation measures if they are not mandated by the policies of the LCP. Moreover, the geotechnical feasibility study conducted

by Busch Geotechnical Consultants in 2007, recommends vegetation clearing for 100 feet on each side of the centerline and then reevaluating the alignment, including conducting subsurface investigations. This would significantly impact riparian and wetland vegetation associated with the seeps and natural drainages in the area. The County proposes to minimize vegetation removal associated with the future road construction only “to the extent that it is possible while maintaining adequate visibility and road clearances.”

Therefore, the Commission concludes that the proposed LUP amendment is inconsistent with Coastal Act Section 30240(b) because any otherwise permissible road that would be allowed under the LUP amendment as submitted would not protect adjacent ESHA and ensure its continuance. Therefore, the proposed LUP amendment must be denied.

(i) CONCLUSION

In summary, the Commission cannot determine at this time whether or not the proposed LUP amendment is consistent with Section 30240(a) of the Coastal Act, as the Commission cannot conclude with certainty that the Sitka spruce forest habitat that exists in areas that would be traversed by the proposed roadway constitutes ESHA. If the Sitka spruce forest habitat does constitute ESHA, the amendment would be inconsistent with Section 30240(a), as the amendment could facilitate the development of a use that is not dependent on the resource. The Commission does conclude, however, that the proposed amendment is inconsistent with Section 30240(b) of the Coastal Act, as development of any otherwise permissible road through the area would not protect adjacent wetland ESHA (forest seep areas and natural drainages) and ensure their continuance, as is required by Section 30240(b). Therefore, the proposed LUP amendment as submitted is inconsistent with the Coastal Act’s ESHA protection policies and must be denied.

G. INTERNAL CONSISTENCY WITH THE LAND USE PLAN

As described above, the proposed amendment would permissively allow for a future road improvement project (“beyond repair and maintenance”) by adding it to the list of permissible projects identified in subsection (j) to Section 3.22-B of the Humboldt Bay Area Plan. According to the existing certified language of Section 3.22-B, the future road improvement project “*shall be consistent with Sections 3.30 et seq...*” of the HBAP. Section 3.30 et seq. of the HBAP contains various polices related to the protection of natural resources in the planning area. These policies include, among others, Sections 30230, 30231, 30233, and 30240 of the Coastal Act and various development policies related to environmentally sensitive habitats, wetland buffers, road construction within watersheds containing wetlands, and riparian corridors (see Exhibit No. 12 for a copy of the relevant policies contained within HBAP Section 3.30).

Amending the LUP as proposed to permissively allow for a new road extension between Humboldt Hill Road and Tompkins Hill Road would be inconsistent with Sections 30233 and 30240 of the Coastal Act for the various reasons discussed above. Therefore, the LUP amendment as submitted would result in internal inconsistencies in the certified LUP, and the LUP amendment would not be consistent with the Coastal Act. Therefore, the proposed LUP amendment must be denied.

PART THREE: CALIFORNIA ENVIRONMENTAL QUALITY ACT

On May 12, 2009, the County of Humboldt, as the lead agency in the discretionary review of the proposed LUP amendment, found that the project was not subject to environmental review under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code (PRC) Section 21080.9 and 14 Cal. Code Regs 15265(B), as the Commission's certification of the subject amendment is the functional equivalent of environmental review. The County also noted that the future road construction that would result from the approval of the subject LUP amendment would be subject to CEQA review through the County's permitting process.

In addition to making a finding that the amendment is in full compliance with the Coastal Act, the Commission must make a finding consistent with PRC Section 21080.5(d)(2)(A), which requires that the Commission not approve or adopt an LCP:

...if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effects which the activity may have on the environment.

The Commission incorporates its findings on LUP and Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed herein, the proposed amendment is inconsistent with the agricultural resources, wetland fill, and ESHA protection policies of the Coastal Act. A feasible alternative is available, in the form of denying the LCP amendment, which would substantially lessen any significant adverse direct, indirect, and cumulative impacts that the LUP amendment may have on the environment. Therefore, the Commission finds that the proposed project cannot be found consistent with the requirements of the Coastal Act to conform to CEQA. Therefore, the proposed LUP amendment must be denied.

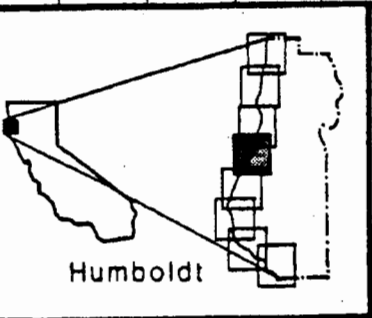
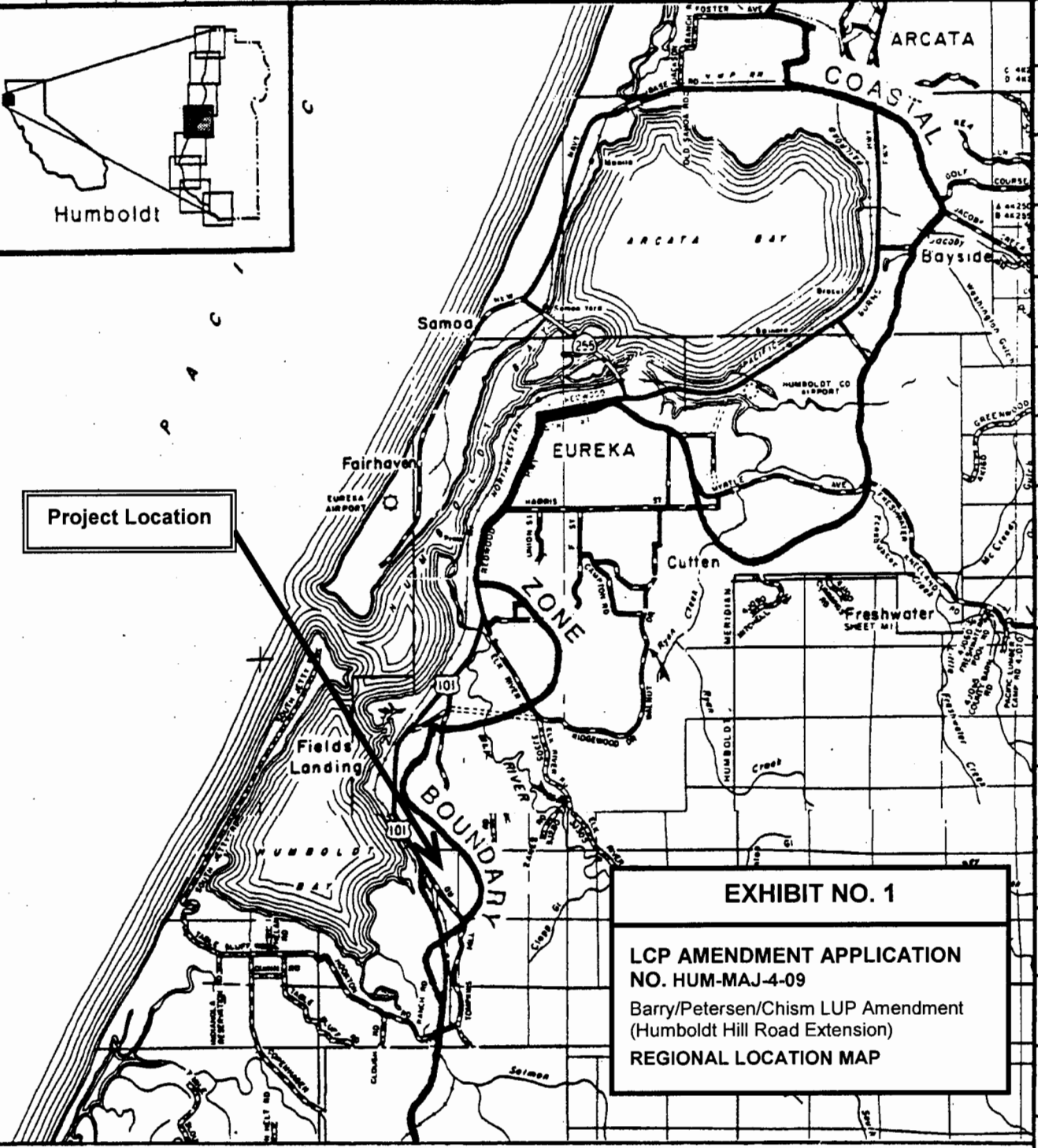
EXHIBITS

1. Regional Location Map
2. Vicinity Map
3. Parcel Map
4. 2010 Aerial Photo
5. Conceptual Site Plan
6. Conceptual Road Plans
7. Preliminary Biological Report

8. Preliminary Geologic Report
9. Preliminary Feedback from County Public Works
10. Board of Supervisors Resolution of Transmittal for HUM-MAJ-4-09
11. Proposed Text Changes to Section 3.22 of the LUP (Humboldt Bay Area Plan)
12. Excerpt from Section 3.30 of the LUP Relevant to Section 3.22
13. County Staff Report and Findings for Approval of the Subject LUP Amendment

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Project Location

EXHIBIT NO. 1

**LCP AMENDMENT APPLICATION
NO. HUM-MAJ-4-09**

Barry/Petersen/Chism LUP Amendment
(Humboldt Hill Road Extension)

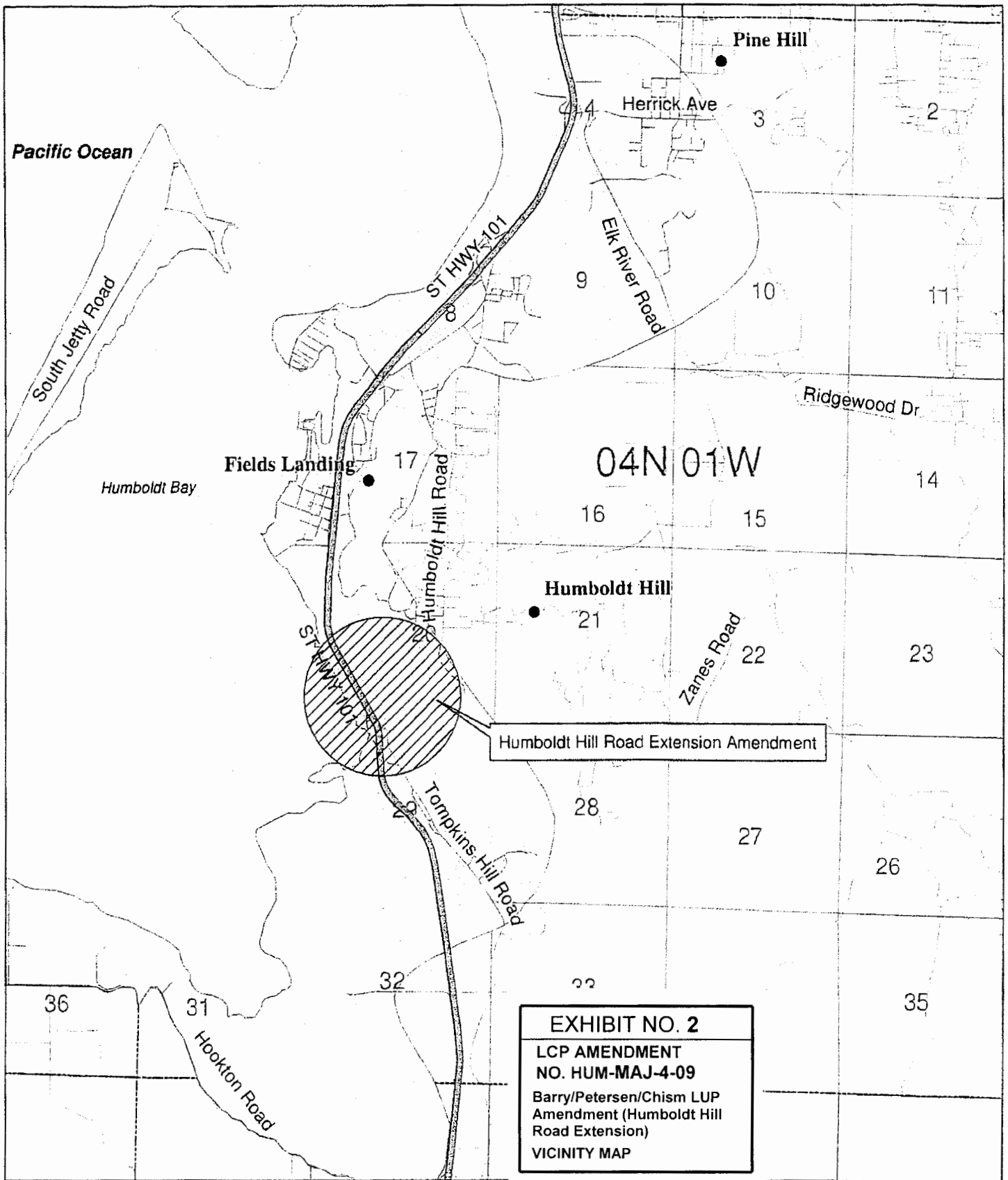
REGIONAL LOCATION MAP



LOCATION MAP



County of Humboldt



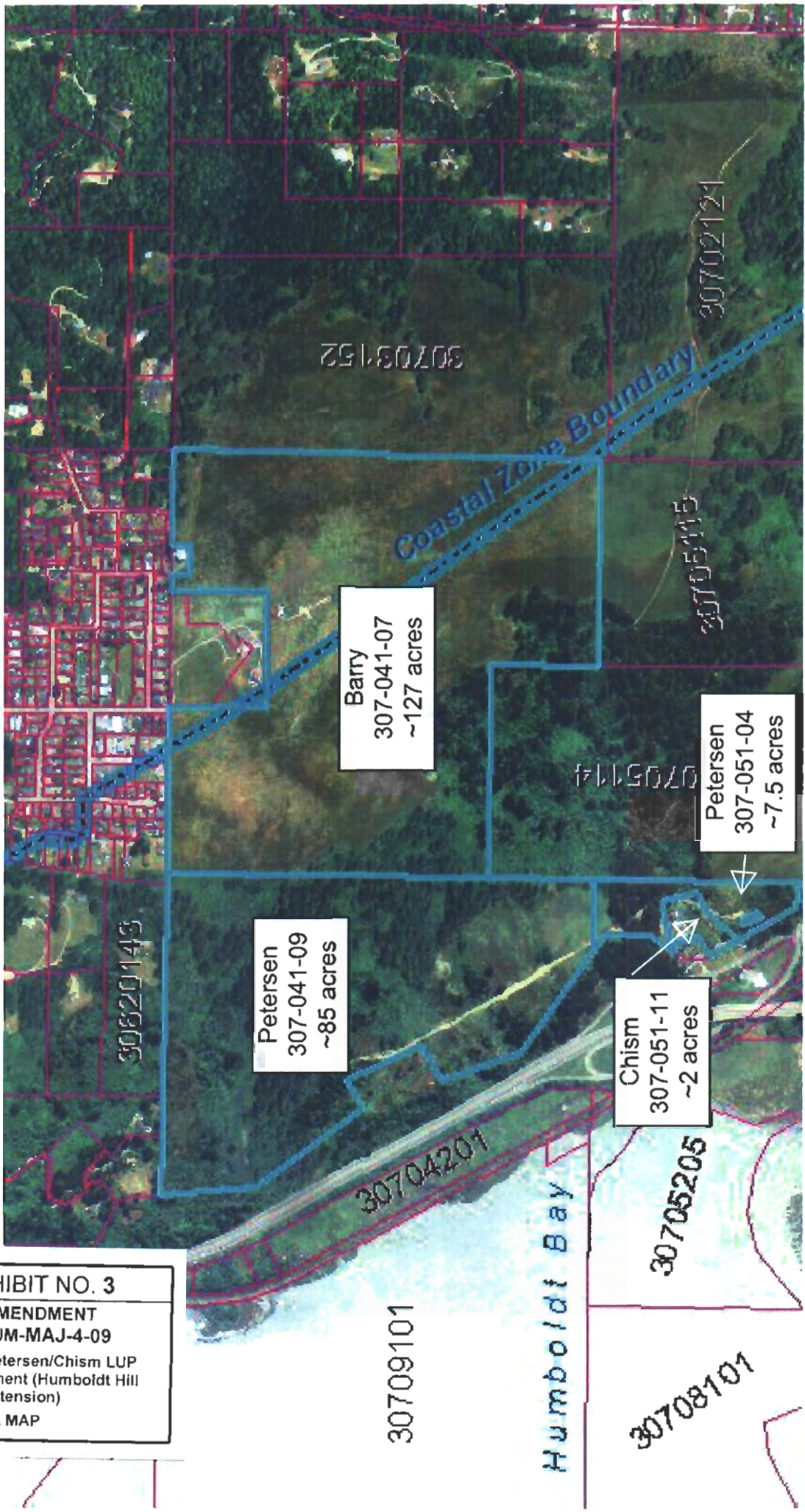
Humboldt County Coastal Plan Update
 Humboldt Bay Area Plan Amendment

Location Map

1 inch equals 3,659 feet

 Humboldt Bay Area Planning Area





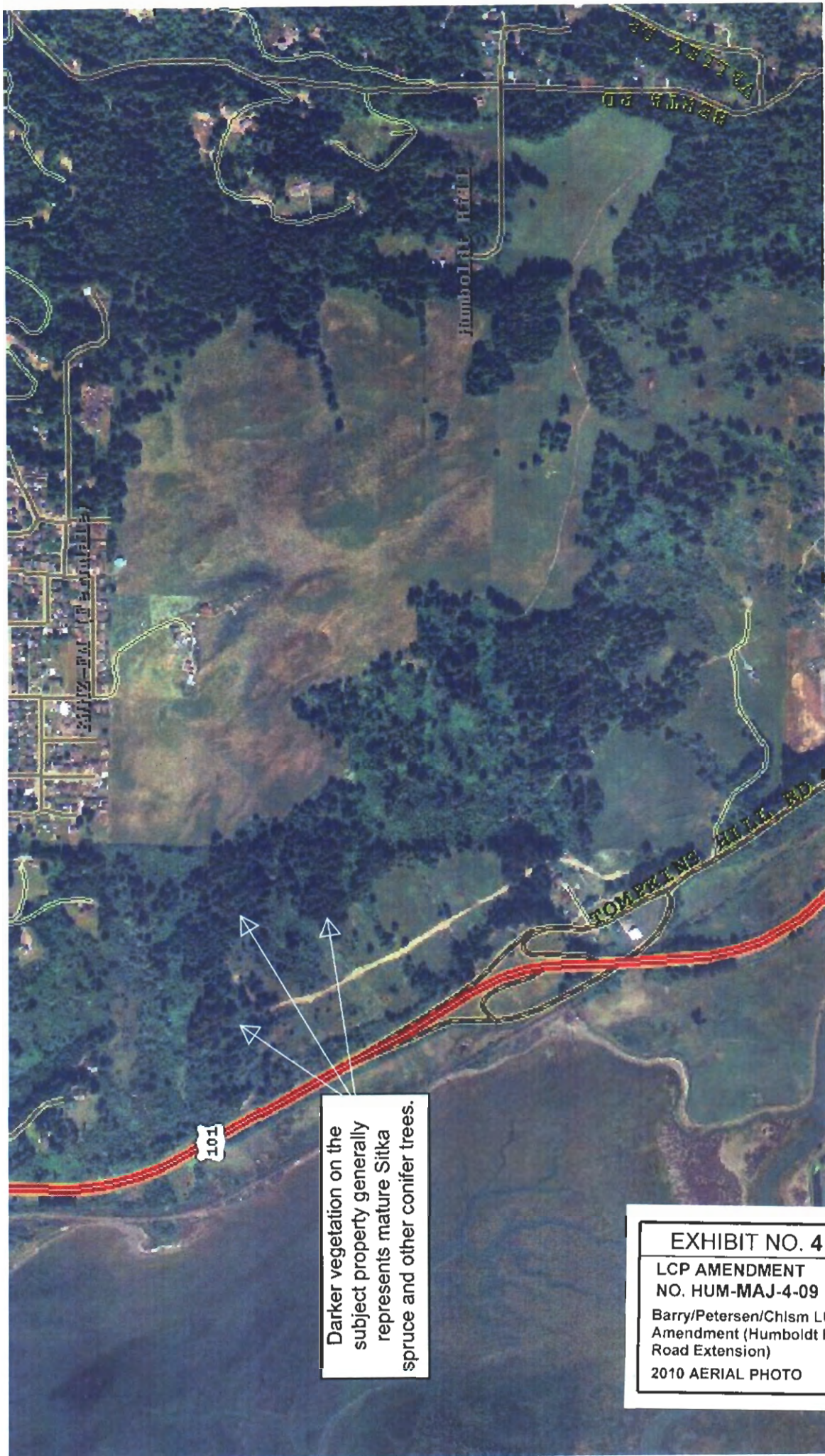
Barry
307-041-07
~127 acres

Petersen
307-051-04
~7.5 acres

Petersen
307-041-09
~85 acres

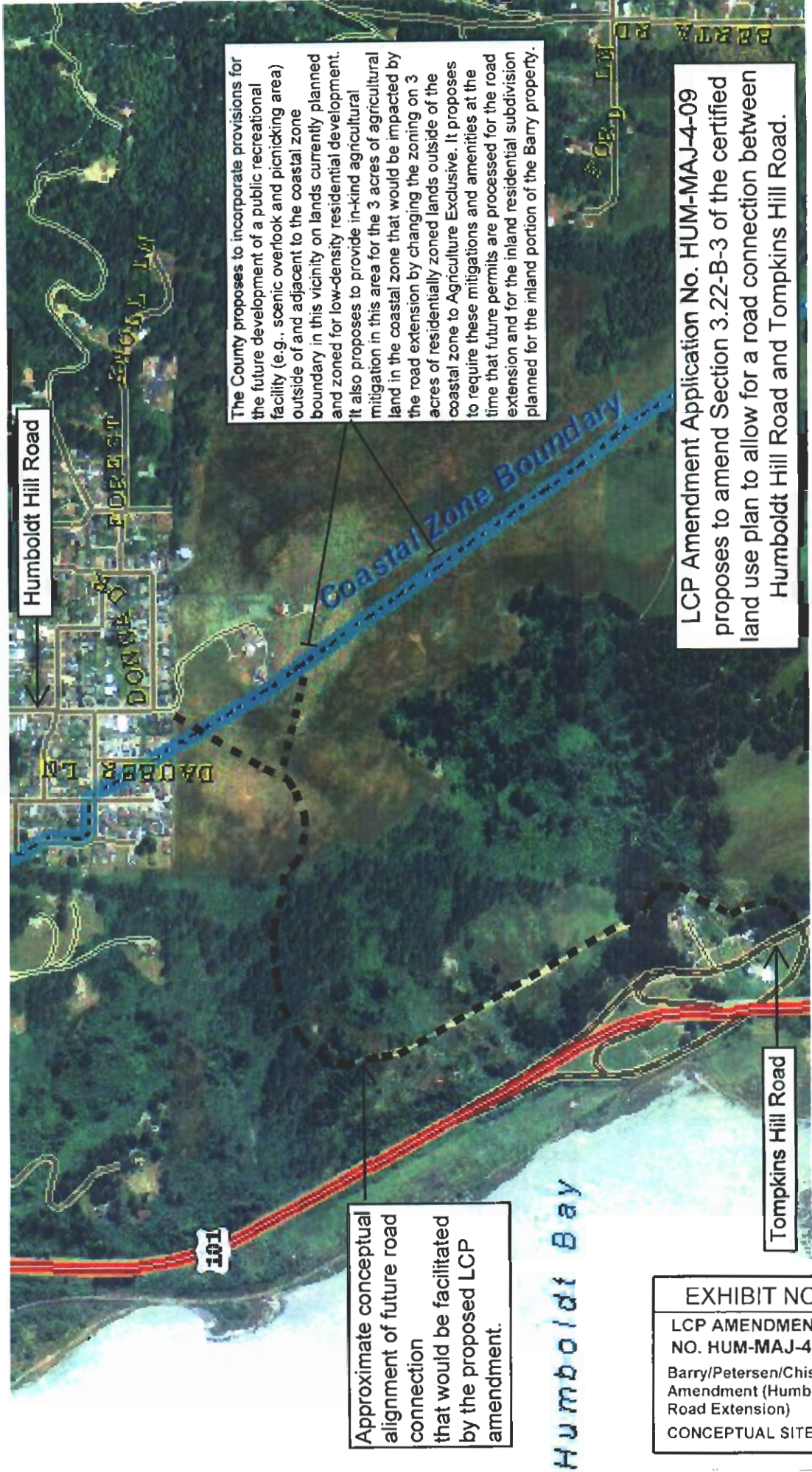
Chism
307-051-11
~2 acres

EXHIBIT NO. 3
 LCP AMENDMENT
 NO. HUM-MAJ-4-09
 Barry/Petersen/Chism LUP
 Amendment (Humboldt Hill
 Road Extension)
 PARCEL MAP



Darker vegetation on the subject property generally represents mature Sitka spruce and other conifer trees.

EXHIBIT NO. 4
LCP AMENDMENT
NO. HUM-MAJ-4-09
Barry/Petersen/Chism LUP
Amendment (Humboldt Hill
Road Extension)
2010 AERIAL PHOTO



Humboldt Hill Road

DAVIES LN
DOWNEY FOREST

Coastal Zone Boundary

The County proposes to incorporate provisions for the future development of a public recreational facility (e.g., scenic overlook and picnicking area) outside of and adjacent to the coastal zone boundary in this vicinity on lands currently planned and zoned for low-density residential development. It also proposes to provide in-kind agricultural mitigation in this area for the 3 acres of agricultural land in the coastal zone that would be impacted by the road extension by changing the zoning on 3 acres of residentially zoned lands outside of the coastal zone to Agriculture Exclusive. It proposes to require these mitigations and amenities at the time that future permits are processed for the road extension and for the inland residential subdivision planned for the inland portion of the Barry property.

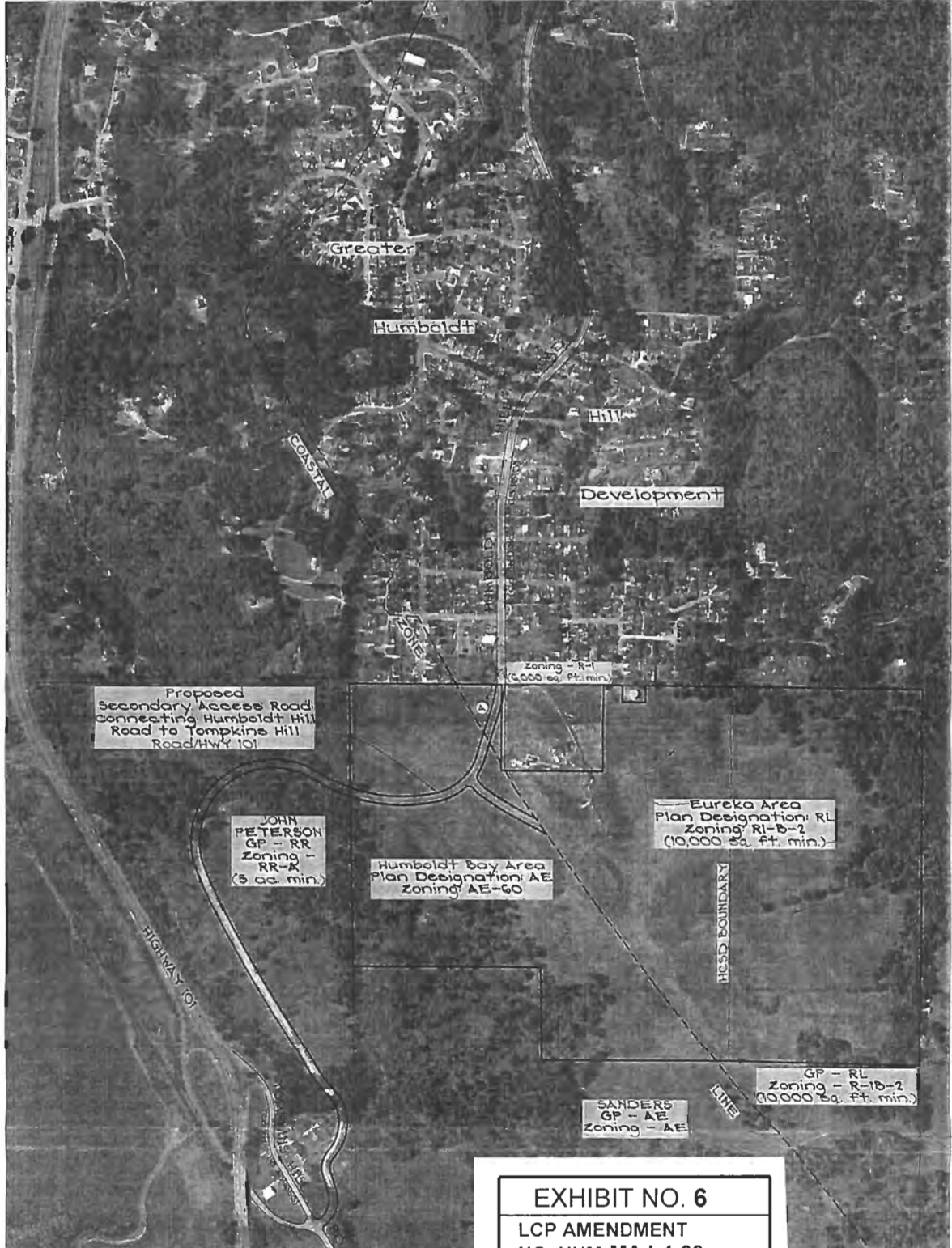
LCP Amendment Application No. HUM-MAJ-4-09 proposes to amend Section 3.22-B-3 of the certified land use plan to allow for a road connection between Humboldt Hill Road and Tompkins Hill Road.

Approximate conceptual alignment of future road connection that would be facilitated by the proposed LCP amendment.

Tompkins Hill Road

Humboldt Bay

EXHIBIT NO. 5
LCP AMENDMENT
NO. HUM-MAJ-4-09
Barry/Petersen/Chism LUP
Amendment (Humboldt Hill
Road Extension)
CONCEPTUAL SITE PLAN



Proposed Secondary Access Road connecting Humboldt Hill Road to Tompkins Hill Road/Hwy 101

JOHN PETERSON
GP - RR
Zoning - RR-A
(5 ac. min.)

Humboldt Bay Area
Plan Designation: AE
Zoning: AE-GO

Eureka Area
Plan Designation: RL
Zoning: RL-B-2
(10,000 sq. ft. min.)

SANDERS
GP - AE
Zoning - AE

GP - RL
Zoning - RL-B-2
(10,000 sq. ft. min.)

EXHIBIT NO. 6
LCP AMENDMENT
NO. HUM-MAJ-4-09
Barry/Petersen/Chism LUP
Amendment (Humboldt Hill
Road Extension)
CONCEPTUAL ROAD PLANS
(1 of 8)

AREAS

Total Area	=	2132 acres
Non-Coastal Triangle (A)	=	21 acres
Non-Coastal area within HCSD boundary	=	551 acres
Coastal area within HCSD boundary	=	771 acres
Non-Coastal area outside of HCSD boundary	=	821 acres
Proposed road area within coastal zone	=	31 acres

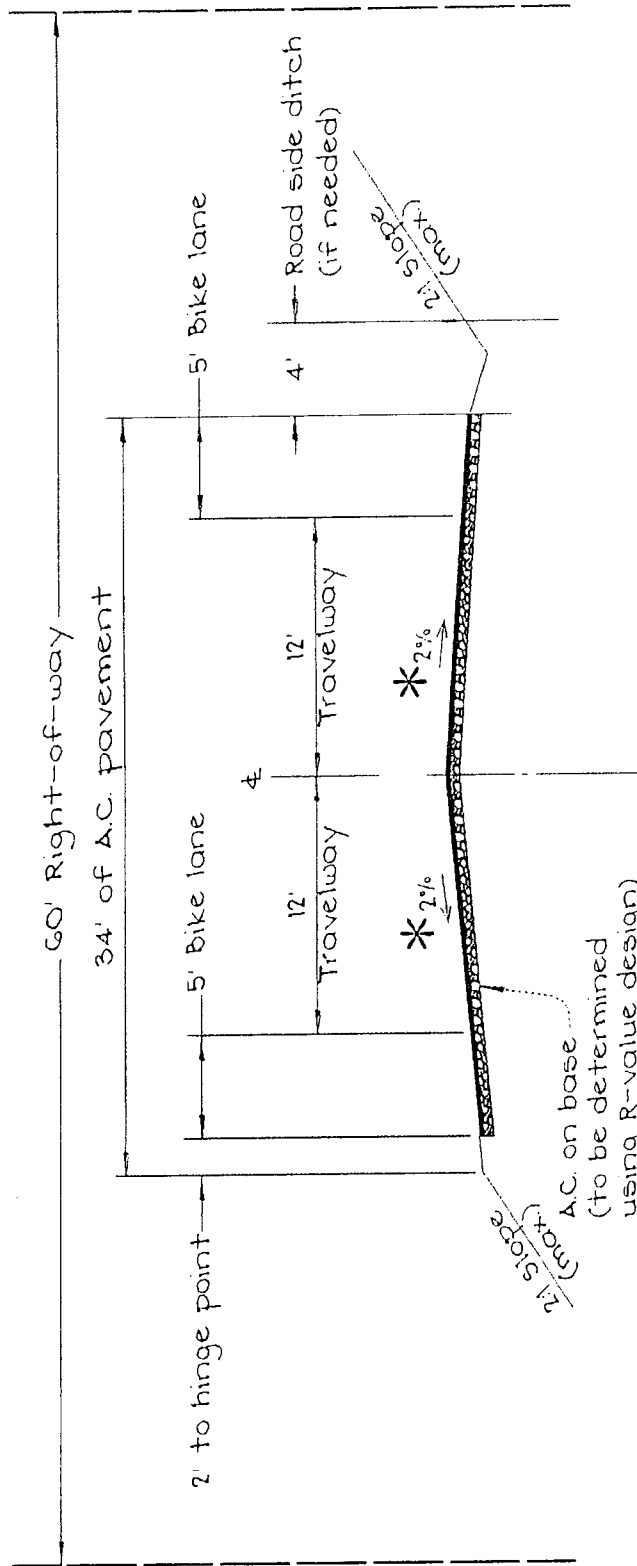


SHEET 1A

APN's 307-041-007 & 307-031-052

<p>OSBERG & DESIGN, INC. 1001 22nd Street Berkeley, CA 94710 Tel: 415.863.1100 Fax: 415.863.1101 www.osbergdesign.com</p>	<p>HUMBOLDT HILL</p> <p>PATRICK BARRY of the County of Humboldt Shasta Ave. Box 81, Talmage, CA 95557</p>
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BARRY-PETERSON ROAD



* Cross-slope to vary depending on drainage & super-elevation considerations.

TYPICAL ROAD CROSS-SECTION

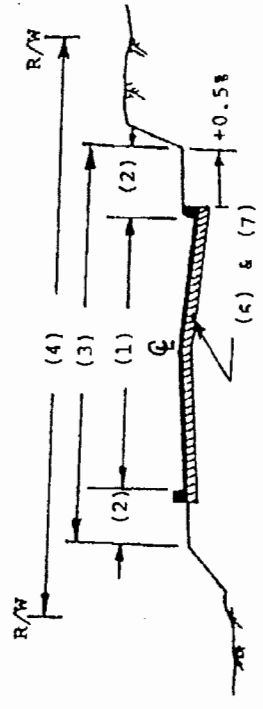
Not to scale

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DESIGN STANDARDS

ROADWAY CATEGORY 5 (TWO LANE - WIDE TRAVELED WAY)

TYPICAL SECTION



Service Provided:

Mobility	Volume
Moderate to High Over 40 MPH	0 - 400 ADT

Notes:

- (1) Traveled Way Width: 24 ft.
- (2) Shoulder Width: 4 feet when required by Dept. of Public Works
- (3) Roadbed Width: As approved by the Dept. of Public Works
- (4) Right of Way Width: Minimum 50 ft.

- (5) Drainage: Must be adequate to protect road and adjacent properties and approved by the Department of Public Works
- (6) Structural Section: Depends upon results of engineering analysis of materials and soil, and approval by Dept. of Public Works
- (7) Surface: Asphalt Concrete (A.C.) or Double Seal with curbs as approved by the DPW
- (8) Parking: Permitted as per approval of DPW

Geometric Standards:

ELEMENT	DESIGN SPEED/TERRAIN											
	Flat					Rolling					Mountainous	
	40	50	60	30	40	50	60	30	40	50	20	
Grade (1)	7	6	5	12	10	8	6	12	10	9	15	
Maximum Grade *	11	9	8	18	15	12	9	18	15	13	22	
Sight Distance	30	40	50	65	70							
Stopping	200	275	350	600	See							
Passing	1100	1500	1800	2300	State							
Intersection	300	400	500	650	Design							
Minimum Curve Radius	300	550	850	1500	Manual							
Horizontal Clearance to obstructions	10	10	10	10	10							
Surface Cross Slope	2%	2%	2%	2%	2%							

Notes: Minimum paved gutter with dike is 2'-wide. Shoulder will be paved when specified by Dept. of Public Works

For super-elevation requirements see Section 2-312 of the Roadway Design Manual

* For short distances (300' maximum and/or approved by the Department of Public Works) (1) Minimum Grade 1%
 For further information see Humboldt County Road Design Manual

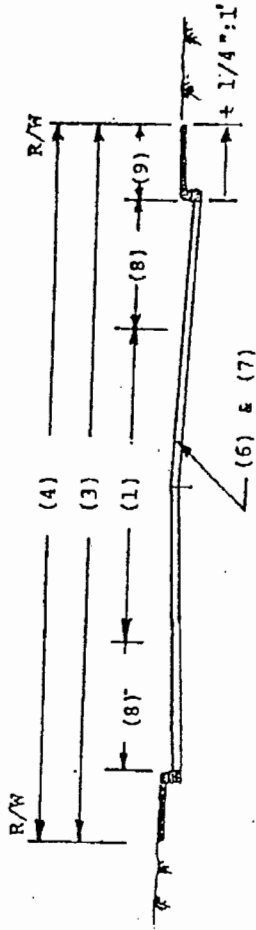
Figure 5

ROADWAY CATEGORY 6 (TWO LANE-WIDE TRAVELED WAY WITH SIDEWALKS AND ON-STREET PARKING)

Service Provided:

Mobility	Volume
Moderate to High Over 40 MPH	Over 400 ADT

TYPICAL SECTION



Notes:

- (1) Traveled Way Width: 24 ft.
- (2) Shoulder Width: 8 feet when required by Department of Public Works
- (3) Roadbed Width: As approved by the Department of Public Works
- (4) Right of Way Width: Minimum 50 ft.
- (5) Drainage: Must be adequate to protect road and adjacent properties and approved by the Department of Public Works
- (6) Structural Section: Depends upon results of engineering analysis of materials and soil, and approval by Dept. of Public Works
- (7) Surface Recommendation: Asphalt Concrete (A.C.) or Double Seal with curbs as approved by the Department of Public Works
- (8) Parking Lane: A minimum of 8 ft. wide by 40 ft. long, or as approved by Dept. of Public Works
- (9) Curb and Sidewalk: As approved by the Department of Public Works

Geometric Standards

ELEMENT	DESIGN SPEED/TERRAIN									
	Flat		Rolling			Mountainous				
Grade (1): Maximum Grade *	40	50	60	30	40	50	60	30	40	50
	7	6	5	12	10	8	6	12	10	15
Sight Distance	30	40	50	65	70	9	12	18	15	22
	200	275	350	600	See State Design Manual	15	18	22	15	22
Stopping	1100	1500	1800	2300	State Design Manual	10	12	15	10	15
Intersection	300	400	500	650	1500	10	12	15	10	15
Minimum Curve Radius	300	550	850	1500	10	10	10	10	10	10
Horizontal Clearance to Obstructions	10	10	10	10	10	10	10	10	10	10
Surface Cross Slope	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%

For superelevation requirements see Section 2-312 of the Roadway Design Manual

Topography may require deletion of parking on one side

* For short distances (300' maximum and/or approved by the Department of Public Works)
 (1) Minimum Grade 1% or 0.5% concrete if curb and gutter constructed

For further information see Humboldt County Road Design Manual

November 17, 2008

Humboldt County Planning Commission
3015 H Street
Eureka, CA 95501

Re: Alternative Access Route through Patrick Barry and John Peterson Property

Dear Planning Commissioners:

This letter is a follow-up to the October 16, 2008 letter with the large exhibit showing a proposed secondary access from the south end of Humboldt Hill Road through the Patrick Barry and John Petersen property that connects to Tompkins Hill Road at the interchange with State Route 101. This follow-up letter evaluates three alternative road alignments in this corridor. The three alternative alignments are in the forested areas on the John Petersen property from Point "A" to Point "B" (see Road Alignment Exhibit Plats).

The three alternatives (A, B and C) have different standards and varying impacts to biological resources. The following chart depicts the alternatives.

Barry – Petersen Road Alternatives

Alternative	Minimum Curve Radius	Average Grade A-B	Maximum Grade	Proximity to Identified Seeps*	Length A - B	Adherence to County Road Standards (Collector)
A	300'	16%	16%	Close	1920'	Completely
B	200'	15%	16%	>50'	2050'	Mostly
C	100'	13½ %	16%	>50'	2250'	Minimally

*See November 10, 2008 letter from Mad River Biologist

All alternatives are proposed to have 34 feet of AC pavement which includes 2 – 12 foot travelways and 2 – 5 foot bike lanes. The total length for alternative "A" is approximately 6,100 feet or 1.16 miles.

Stephen G. Nesvold, P.E.
RCE 25681, Expires 12/31/09

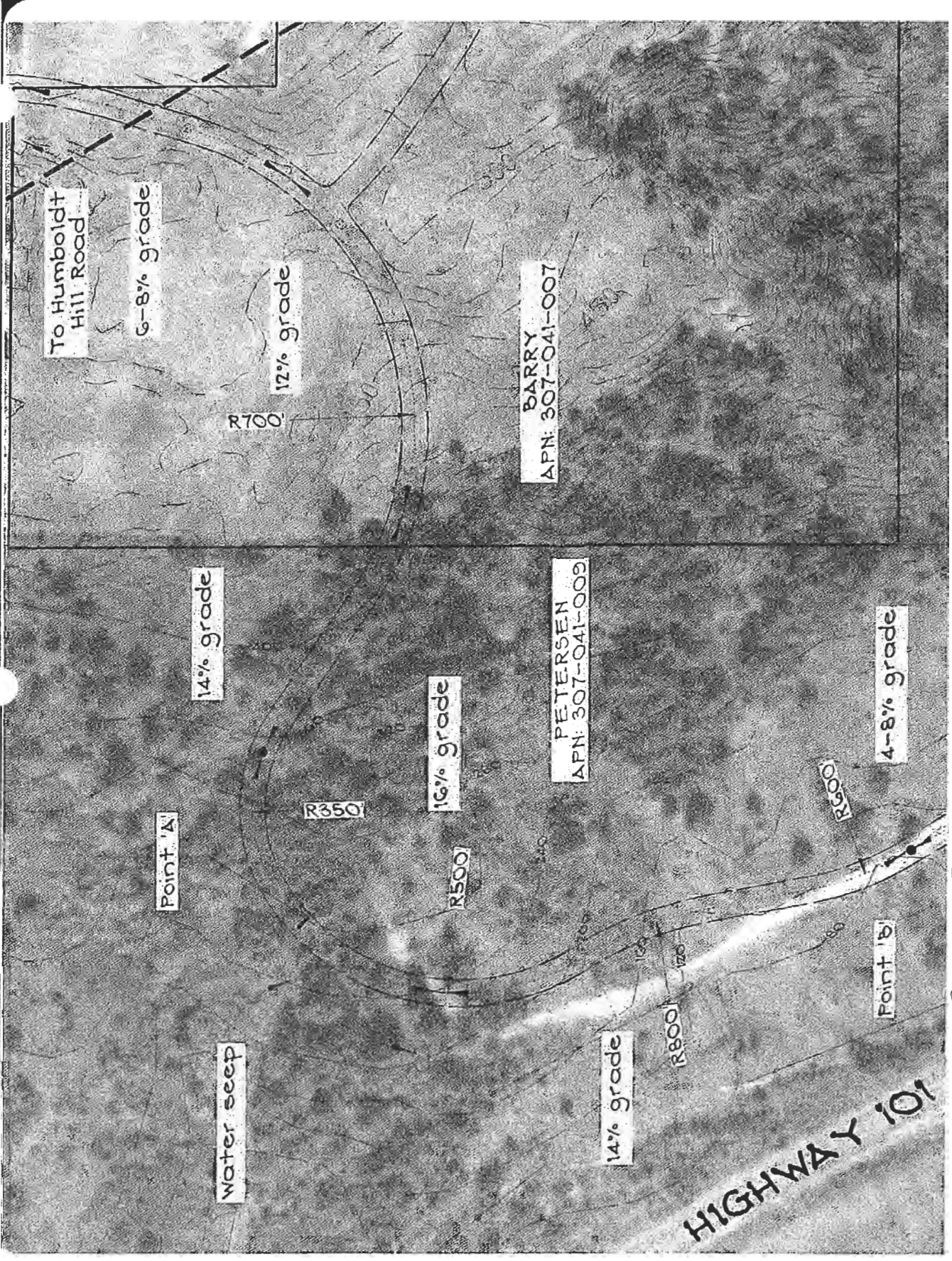


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SCALE: 1" = 300'



OMBERG & DEUSION
304 N. Street
Livermore, CA 94551
Telephone: (925) 413-0851
Fax: (925) 443-0422
SURVEYORS ENGINEERS PLANNERS

ALTERNATIVE 'A'
ROAD ALIGNMENT
EXHIBIT PLAT

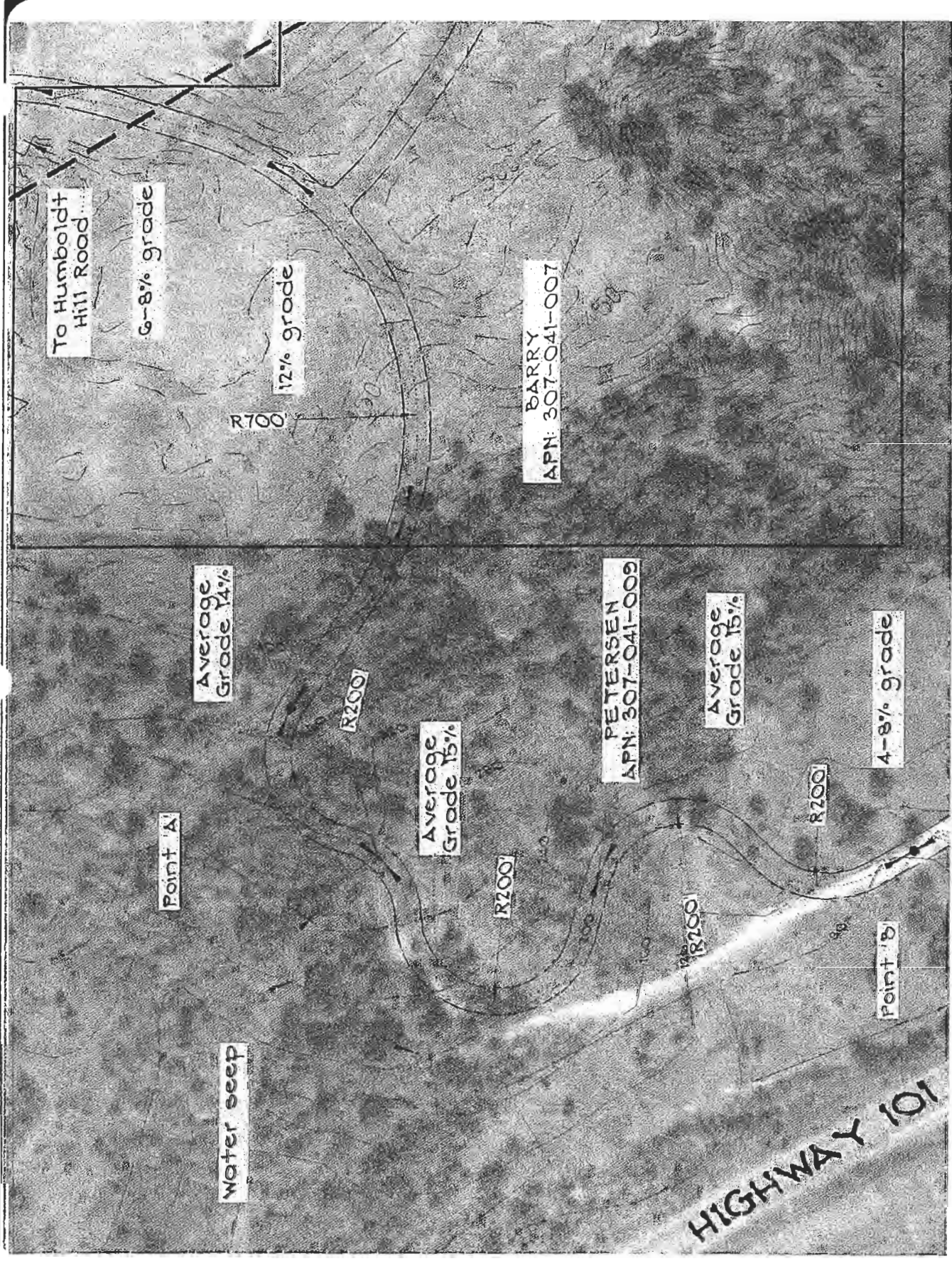
DRAWN BY TRK
DATE 11/13/08

JOB NO. 04-1506

798



SCALE: 1" = 300' ±

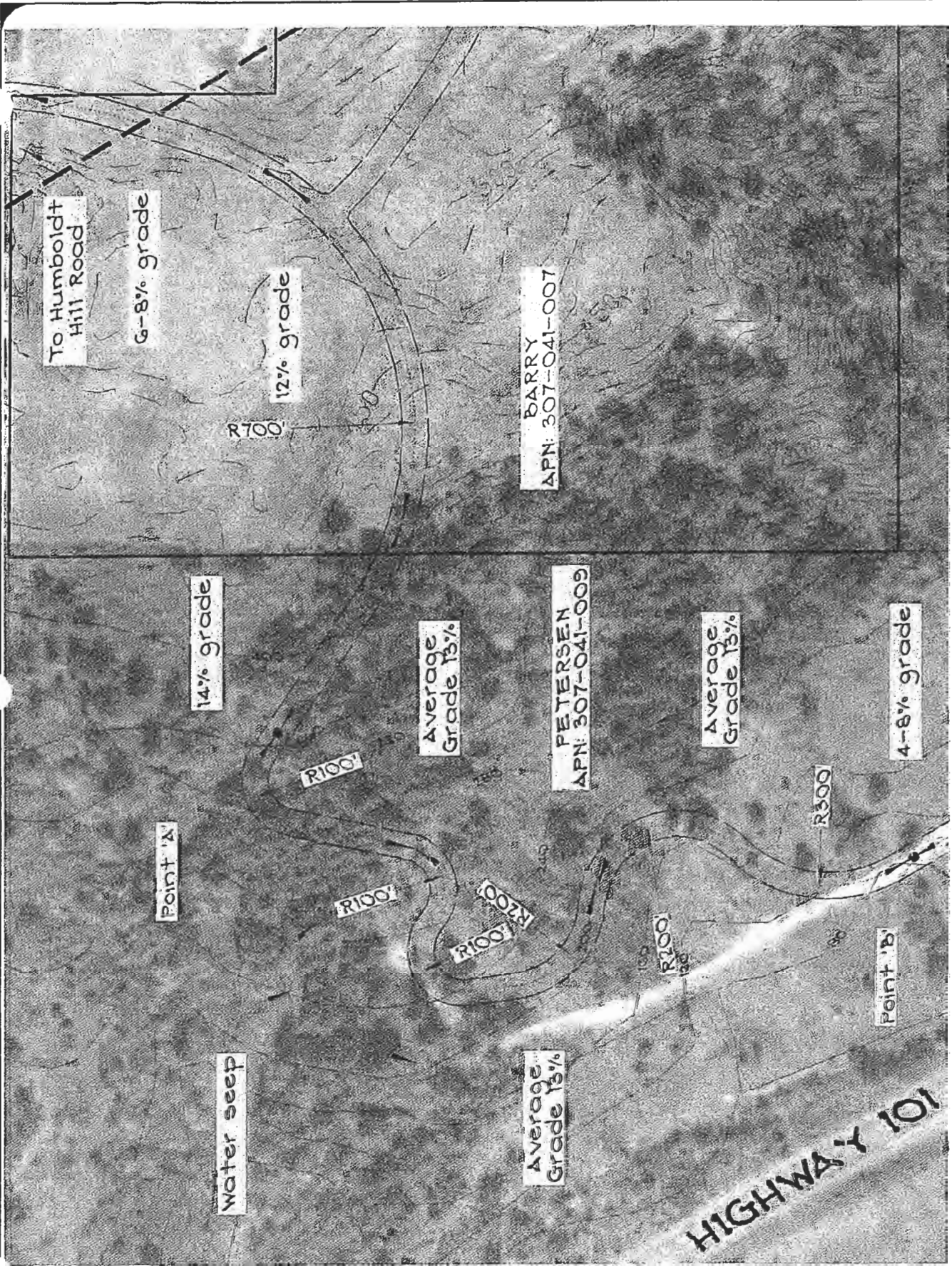


OSBERG & DEUSTON
204 "N" Street
Turlock, California
95301
Tel: 209/441-8653
Fax: 209/441-8654
SURVEYORS PLANNERS
ENGINEERS

ALTERNATIVE 'B'
ROAD ALIGNMENT
EXHIBIT PLAT

DRAWN BY TRK
DATE 11/13/08

JOB NO.
04-1506



898



SCALE: 1" = 300' ±

DMSDEG & DESIGN
 304 N. Street
 Ukiah, California 95501
 Telephone: (707) 444-8811
 Fax: 443-6472
 SURVEYORS PLANNERS ENGINEERS

DRAWN BY DATE
 TRK 11/13/08

ALTERNATIVE 'C'
 ROAD ALIGNMENT
 EXHIBIT PLAT

JOB NO.
 04-1506

**MAD
RIVER
BIOLOGISTS**

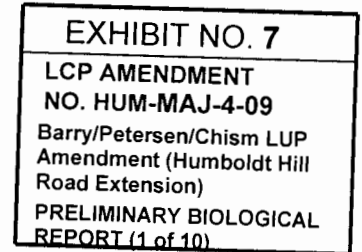
417 Second Street, Suite 201, Eureka, CA 95501

Voice: 707/442-4302 • Fax: 707/442-4303 • E-mail: MRB@madriverbio.com

October 20, 2008

To: Marty McClelland
McClelland Consulting
107 Dean Lane
Kneeland, CA 95549

Re: Humboldt Hill Secondary Access Road Preliminary Biological Review
Humboldt County, California



Dear Mr. McClelland,

As requested, a reconnaissance level assessment of biological resources was conducted on September 26, 2008 by Mad River Biologists along the proposed secondary access road that would connect Humboldt Hill Road to Tompkins Hill Road. The purpose of the site visit was to determine if any wetland habitats and/or other biological resources of concern occur in the area that will be affected by the proposed road.

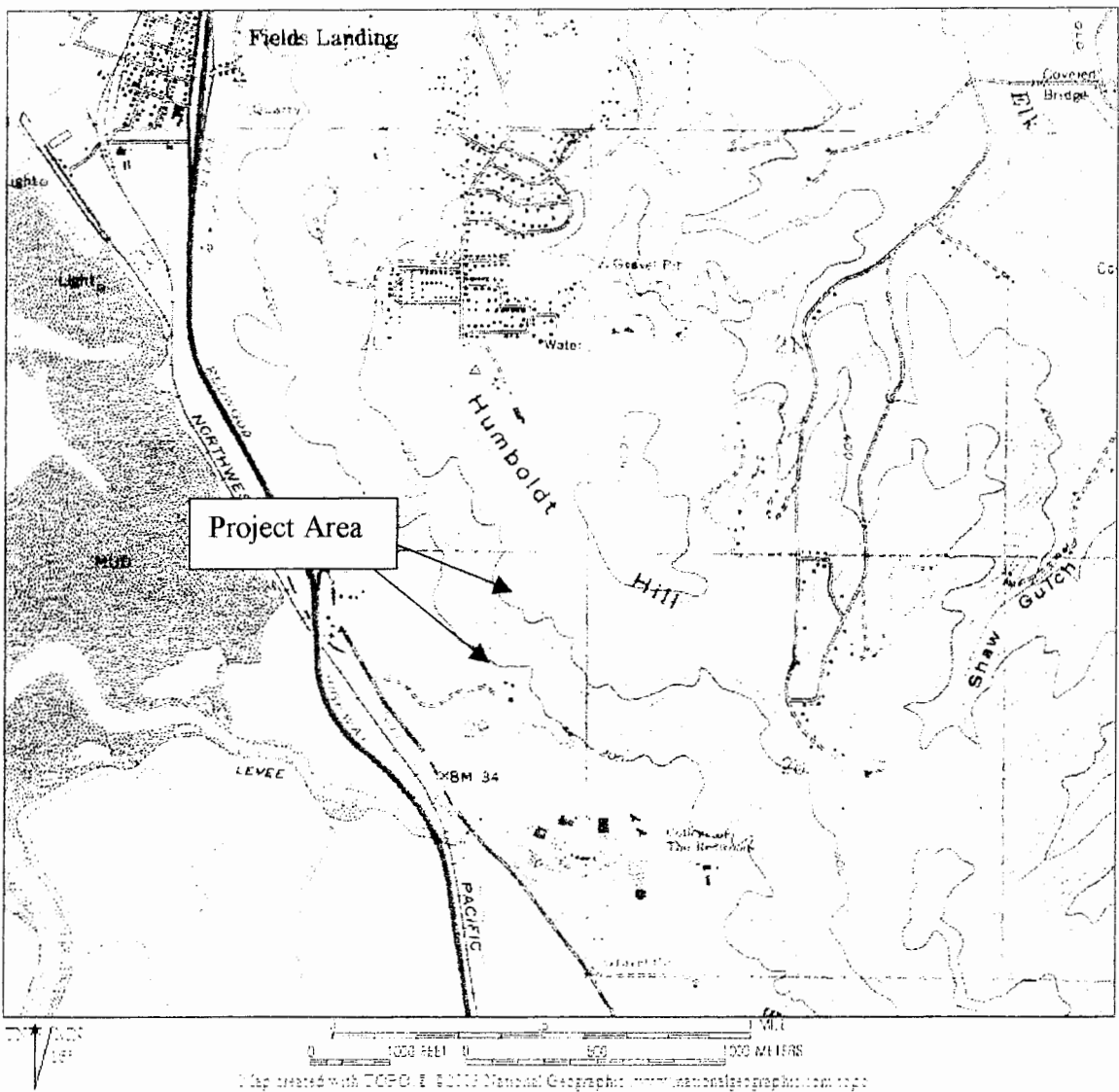
A list of special-status plants (Attachment A) was compiled by conducting a query of the California Natural Diversity Data Base (CNDDDB) and California Native Plant Society (CNPS) On-line Inventory of Rare and Endangered Vascular Plants of California in September of 2008 for the project region. The project region was defined as the Fields Landing 7.5-minute USGS quadrangle and the surrounding eight quadrangles (Eureka, Arcata South, Cannibal Island, Ferndale, Mcwhinney Creek, Fortuna, and Hydesville).

A list of sensitive wildlife species (Attachment A) was generated by querying the CNDDDB for the project region, which includes species on California Endangered Species Act (CESA), Federal Endangered Species Act (ESA), and the California Department of Fish and Game Special Concern Species (CSC) lists. Additional species known to occur or that may be expected to occur in the geographical region based on local knowledge are included as well.

General Site Description

The project area is located on the western side of Humboldt Hill, east of Highway 101, south of Humboldt Hill Road, and north of Tompkins Hill Road (Figure 1). The project area contains three general habitat types. The portion of the project area located at the top of the hill consists of open grassland. Below the grassland the hillside is forested with mature Sitka spruce forest. The bottom of the hill opens into meadows with some riparian habitat along a drainage located directly east of the Tompkins Hill Road off-ramp.

Figure 1 Project Vicinity Map



The grasslands at the top of Humboldt Hill (the eastern portion of the project area) are dominated by upland species including sweet vernal grass (*Anthoxanthum odoratum*), colonial bentgrass (*Agrostis capillaris*), soft chess (*Bromus hordeaceus*), silver hairgrass (*Aira caryophylla*), orchard grass (*Dactylis glomerata*), intermediate oatgrass (*Danthonia intermedia*), pale flax (*Linum bienne*), and Douglas iris (*Iris douglasii*).

The forested portion of the project area is primarily Sitka spruce forest with an average canopy closure of 70-75%. The overstory consists of Sitka spruce (*Picea sitchensis*), grand fir (*Abies grandis*), and Douglas-fir (*Pseudotsuga menziesii*). The Sitka spruce trees average 40-55 inches diameter at breast height (dbh), the grand firs average 24-55 inches dbh, and the Douglas-firs average 30-48 dbh. The understory cover is approximately 40-50% and is composed of the following species: dogwood (*Corylus cornuta*), salmonberry (*Rubus spectabilis*), cascara sagrada (*Rhamnus purshianus*), twinberry (*Lonicera involucrata*), evergreen huckleberry (*Vaccinium ovatum*), elderberry

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(*Sambucus racemosa*), salal (*Gaultheria shallon*), and several small holly trees (*Ilex aquifolium*). The herb layer cover is approximately 50-70% and consists primarily of: false Solomon's seal (*Smilacina stellata*), sword fern (*Polystichum munitum*), Dewey's taper-fruit sedge (*Carex deweyana*), California blackberry (*Rubus ursinus*), rattlesnake plantain (*Goodyera oblongifolia*), foxglove (*Digitalis purpurea*), lady fern (*Athyrium filix-femina*), and hedge nettle (*Stachys adjugoides*).

The western portion of the project area down slope from the forest is composed of meadows with seasonal drainages and a perennial creek. An existing dirt road runs parallel to Hwy 101, which would be expanded and improved as part of the proposed project.

Results

Three seepage areas that qualify as wetlands were found along the proposed road alignment on the forested portion of the slope. Additionally, three drainages are located at the bottom of the slope that cross the existing road spur. Two of these drainages are culverted, and the third would require a culvert prior to implementation of the proposed project.

The seeps located within the forest meet the parameters of federal jurisdictional wetlands and are characterized by a predominance of hydrophytic (wetland) plant species.

Dominant species include: Sitka spruce, cascara sagrada, slough sedge (*Carex obnupta*), skunk cabbage (*Lysichiton americana*), deer fern (*Blechnum spicant*), lady fern, and false lily-of-the-valley (*Maianthemum dilatatum*). The soils are hydric (chroma of 1) and appear to remain saturated, if not ponded, for very long periods during the growing season.

Two drainages and one perennial creek cross the existing dirt road at the western end of the project area. Both drainages and the creek had running water at the time of the site visit. The drainages are characterized by the presence of soft rush (*Juncus effusus*), and pennyroyal (*Mentha pulegium*), both obligate wetland plants. The drainage closest to the forest is not currently culverted; however, the other drainage and the creek are both currently culverted. The perennial creek (located directly east of the Tompkins Hill Road off-ramp) is vegetated with willows (*Salix* sp.) and other riparian vegetation such as small flowered bulrush (*Scirpus microcarpus*).

Mature Sitka spruce forest is present and could potentially provide nesting habitat for raptors, as well as other wildlife and protected plant species. Eucalyptus trees on site, located at the bottom of the hill near Tompkins Hill Road, could provide nesting habitat for raptors as well. A red shouldered hawk was heard calling repeatedly at the time of the site visit. This species is known to utilize eucalyptus trees for nesting. An osprey was also observed flying over the site.

Recommendations

A detailed biological site assessment is to be conducted as part of a further environmental assessment prior to the issuance of any coastal development permit. The design of the roadway is to be in compliance with the biological resource protection and other policies and standards as found in the adopted Coastal Plan and related zoning and development

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regulations. Recommendations resulting from the site specific assessment is to be included as part of the road design and as conditions of project approval. A mitigation monitoring and reporting plan is to be prepared and adopted as a part of the road extension project permitting process.

Efforts should be made to avoid disturbing the seeps (federal jurisdictional wetlands) that occur in the forest. Once plans are made a site specific evaluation shall take place and all wetlands should be delineated. DFG/County-approved and permitted culvert repair work shall occur outside of the rainy season (October 15 thru April 15), and incorporate appropriate best management practices as identified by the resource agencies.

Botanical surveys shall be conducted at the appropriate seasons in all areas that will be impacted by the proposed project and have the potential to house special status plants. Efforts shall be made to avoid removing any mature Sitka spruce trees due to the fact that this habitat is listed in the CNDDDB as a sensitive community type.

Tree and shrub removal shall be restricted during the bird breeding/nesting season (February - August). Fish and Game Code Section 3513 states that it is unlawful to take or possess any migratory non-game bird as designated in the Migratory Bird Treaty Act.

All trees that have the potential to provide nesting and/or roosting habitat for raptors shall be preserved unless surveys are conducted and no sensitive species are found. Fish and Game Code Section 3503.5 protects all birds-of-prey (raptors) and their eggs and nests. These regulations may require that elements of the proposed project, specifically, the production of significant noise disturbance (i.e. noise significantly above ambient levels), be reduced or eliminated during critical phases of the nesting cycle (generally, February through August). If construction activities likely to result in noise levels high enough to constitute harassment of potentially nesting raptors cannot be conducted outside of the nesting season, it is recommended that surveys be conducted to determine presence or probable absence of nesting individuals.

If you have any further questions, please do not hesitate to call. MRB would be happy to conduct the necessary surveys to document the biological resources within the proposed project area.

Sincerely,

Laurel Goldsmith
Staff Biologist
Mad River Biologists

40910

References

- California Natural Diversity Database (CNDDDB). 2006. Rarefind, Version 3.0.5, updated January 4, 2006. Sacramento, California, USA.
- California Native Plant Society (CNPS) On-line inventory of rare and endangered plants of California. V6-05c 7-09-05. <http://cnps.web.aplus.net/cgi-bin/inv/inventory.cgi>
- Cowardin, L.M., V. Carter, F.C. Golet, E.T. LaRoe, 1979. Classification of wetlands and deepwater habitats of the United States. Performed for the office of Biological Services, U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. FWS/OBS-79-/31.
- Environmental Laboratory. 1987. Corps of Engineers wetlands delineation manual, Technical Report Y-87-1. Department of the Army Waterways Experiment Station, Corps of Engineers, Vicksburg, Mississippi.
- Hickman, James C., Ed. 1993. The Jepson manual: higher plants of California. University of California Press, Berkeley, California.
- McLaughlin, J. & F. Harradine, 1966. Soils of coastal Del Norte County. Department of Soils and Plant Nutrition, University of California, Davis in cooperation with County of Del Norte, California.
- Reed, Porter B. Jr., 1988. National List of Plant Species That Occur in Wetlands: 1988 National Summary. Compiled by National Ecology Research Center, U.S. Fish and Wildlife Service.

Attachment A: List of Special Status Plants and Animals Reported from the Project Region

Plant Species	Status *	Habitat Characteristics (CNDDB 2008) ¹
<i>Abronia umbellata</i> ssp. <i>breviflora</i> pink sand verbena	List 1B.1 G4G5T2/ S2.1	Coastal dunes and coastal strand from north coast of California into Oregon. Foredunes and interior dunes with sparse cover; 0-12m.
<i>Anomobryum julaceum</i> slender silver-moss	List 2.2 G4G5/S1.3	Broad-leaved upland forest, lower montane coniferous forest, North Coast coniferous forest / damp rock and soil on outcrops, usually on road cuts; 100-1000 m.
<i>Astragalus pycnostachyus</i> var. <i>pycnostachyus</i> coastal marsh milk-vetch	List 1B.2 G2T2/S2.2	Mesic sites in dunes or along streams or coastal salt marsh; 0-3m.
<i>Carex arcta</i> northern clustered sedge	List 2.2 G5/S1S2	Bogs and fens, North Coast coniferous forest (mesic); 60-1,400m.
<i>Carex leptalea</i> bristle-stalked sedge	List 2.2 G5/S2?	Bogs and fens, meadows (mesic), marshes and swamps; 0-790m.
<i>Carex lyngbyei</i> Lyngbye's sedge	List 2.2 G5/S2.2	Marshes and swamps (brackish or freshwater); 0-10m
<i>Carex praticola</i> meadow sedge	List 2.2 G5/S2S3	Moist to wet meadows; 0-3200m.
<i>Castilleja affinis</i> ssp. <i>litoralis</i> Oregon coast Indian paintbrush	List 2.2 G4G5T4/ S2.2	Coastal bluff scrub, coastal dunes, coastal scrub/ sandy; 15-100m.
<i>Castilleja ambigua</i> ssp. <i>humboldtensis</i> Humboldt Bay owl's-clover	List 1B.2 G4T2/S2.2	Found in coastal salt marsh habitat, in association with <i>Spartina</i> , <i>Distichlis</i> , <i>Salicornia</i> , <i>Jaumea</i> . 0-3m. Known only from Humboldt and Marin Counties.
<i>Clarkia amoena</i> ssp. <i>whitneyi</i> Whitney's farewell-to-spring	List 1B.1 G5T2/S1	Coastal bluff scrub, coastal scrub; 10-100m.
<i>Cordylanthus maritimus</i> ssp. <i>palustris</i> Point Reyes bird's-beak	List 1B.2 G4?T2/S2.2	Found in coastal salt marsh habitat, in association with <i>Spartina</i> , <i>Distichlis</i> , <i>Salicornia</i> , <i>Jaumea</i> , etc.; 0-15m.
<i>Erysimum menziesii</i> ssp. <i>eurekaense</i> Humboldt Bay wallflower	FE, SE List 1B.1 G3?T1/S1.1	Endemic to coastal dunes (foredunes) around Humboldt Bay; 0-10m.
<i>Erythronium revolutum</i> coast fawn lily	List 2.2 G4/S2.2	Bogs and fens, Broadleafed upland forest, North Coast coniferous forest / mesic, streambanks; 0-1065m.
<i>Fissidins pauperculus</i>	List 1B.2	North coast coniferous forests (damp coastal soil);

¹ California Department of Fish and Game Natural Diversity Data Base. 2008

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Plant Species	Status *	Habitat Characteristics (CNDDDB 2008) ¹
minute pocket-moss	G3/S1.2	10-100m.
<i>Gilia capitata</i> ssp. <i>pacifica</i> Pacific gilia	List 1B.2 G5T3T4/ S2.2?	Coastal bluff scrub, coastal prairie, valley and foothill grasslands; 5-300m.
<i>Gilia millefoliata</i> dark-eyed gilia	List 1B.2 G2/S2.2	Coastal dunes; 2-20m.
<i>Hesperevax sparsiflora</i> var. <i>brevifolia</i> Short-leaved evax	List 1B.2 G4T3/S3.2	Coastal bluff scrub, coastal dunes, sandy bluffs and flats; 0-200m.
<i>Hesperolinon adenophyllum</i> glandular western flax	List 1B.2 G2/S2.3	Chaparral, cismontane woodland, valley and foothill grassland, usually serpentinite.
<i>Lathyrus japonicus</i> sand pea	List 2.1 G5/S1.1	Coastal dunes, 1-30m.
<i>Lathyrus palustris</i> marsh pea	List 2.2 G5/S2S3	Bogs and fens, mesic sites in lower montane coniferous forest, marshes and swamps, North Coast coniferous forest, coastal prairie, and coastal scrub; 1-100m.
<i>Layia carnosa</i> beach layia	FE, SE List 1B.1 G2/S2.1	On sparsely vegetated, semi-stabilized dunes, usually behind foredunes; 0-75m.
<i>Lilium occidentale</i> western lily	FE, SE List 1B.1 G1/S1.2	Coastal scrub, freshwater marsh, bogs and fens, coastal bluff scrub, coastal prairie, North Coast coniferous forest. On well-drained, old beach washes overlain with wind-blown alluvium and original topsoil; usually near margins of Sitka spruce; 2-185m.
<i>Lycopodium clavatum</i> Running-pine	List 2.2 G5/S3.2	In California, known only from Humboldt County. North Coast coniferous forest, marshes and swamps; forest floors in shady and semi-exposed mesic areas, 45-1640m.
<i>Mitella caulescens</i> leafy-stemmed mitrewort	List 4.2 G5/S4.2	Broadleaved upland forests, lower montane coniferous forests, meadows and seeps, North Coast coniferous forests/mesic; 6-1710m.
<i>Monotropa uniflora</i> Indian pipe	List 2.2 G5/S2S3	Broadleaved upland forest, North Coast coniferous forest; often under redwoods or western hemlock; 10-200m.
<i>Montia howellii</i> Howell's montia	List 2.2 G3G4/S3.2	Meadows, North Coast coniferous forests, vernal pools. Vernal mesic sites; often on compacted soil. 0-400m. Rediscovered in California in 1999.
<i>Packera bolanderi</i> var. <i>bolanderi</i> seacoast ragwort	List 2.2 G4T4/S1.2	Coastal scrub, northcoast coniferous forest, sometimes on roadsides.
<i>Puccinellia pumila</i> dwarf alkali grass	List 2.2 G4?/S1.1?	In California, known only from Humboldt and Mendocino counties. Mineral spring meadows and coastal salt marshes; 1-10m.
<i>Sidalcea malachroides</i> maple-leaved checkerbloom	List 4.2 G3G4/ S3S4.2	Broadleaved upland forest, coastal prairie, coastal scrub, and North Coast coniferous forest. Woodlands and clearings near coast; often in disturbed areas; 2-760m.

7 of 10

Plant Species	Status *	Habitat Characteristics (CNDDB 2008) ¹
<i>Sidalcea malviflora</i> ssp. <i>patula</i> Siskiyou checkerbloom	List 1B.2 G5T1/S1.1	Coastal prairie, broad-leaved upland forest. Open coastal forest; 15-65m.
<i>Sidalcea oregana</i> ssp. <i>eximia</i> coast checkerbloom	List 1B.2 G5T1/S1.2	Endemic to Humboldt County. Meadows and seeps, North Coast coniferous forest, and lower montane coniferous forest; 0-1800m.
<i>Spergularia canadensis</i> var. <i>occidentalis</i> western sand spurry	List 2.1 G5T4?/S1.1	Coastal salt marsh; 0-3 m.
<i>Usnea longissima</i> long-beard lichen	G4/S4.2	North coast coniferous forest and broadleaved upland forest. Grows in the "redwood zone" on a variety of trees, including big leaf maple, oaks, ash, Douglas-fir, and bay; 0-2000 ft. in California.
<i>Viola palustris</i> marsh violet	List 2.2 G5/S1S2	Swampy, shrubby places in coastal scrub or coastal bogs; 0-15m.

Fish Species	Status*	Habitat Characteristics
<i>Oncorhynchus clarki clarki</i> coast cutthroat trout	CSC G4T4/S3	Small, low gradient coastal streams and estuaries from the Eel River in California to the Oregon border.
<i>Eucuclogobius newberryi</i> tidewater goby	FE, CSC G3/S2S3	Brackish water habitats along the California coast from Agua Hedionda Lagoon, San Diego County, to the mouth of the Smith River. Found in shallow lagoons and lower stream reaches.

Amphibian Species	Status*	Habitat Characteristics
<i>Rhyacotriton variegates</i> Southern torrent salamander	CSC G3G4/S2S3	Old, well-shaded, permanent streams and seepages, or within splash zone or on moss-covered rock within trickling water. Coastal redwood, Douglas-fir, mixed conifer, montane hardwood-conifer habitats.
<i>Ascaphus truei</i> Western tailed frog	CSC G4/S2S3	Restricted to perennial montane streams. Montane hardwood-conifer, redwood, Douglas-fir, ponderosa pine habitats. Tadpoles require water below 15°C.
<i>Rana aurora aurora</i> Northern red-legged frog	CSC G4T4/S2?	Found in humid forests, woodland, grasslands, and streamsides in nw California, generally near permanent water. They can be found far from water, in damp woods and meadows during non-breeding season.

Reptile Species	Status*	Habitat Characteristics
<i>Actinemys marmorata</i> <i>marmorata</i> Northwestern pond turtle	CSC G3G4T3/S3	Ponds, marshes, rivers, streams and irrigation ditches with aquatic vegetation. They need basking sites and suitable upland habitat (sandy banks or grassy open fields) for egg-laying.

Bird Species	Status*	Habitat Characteristics
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8 of 10

Bird Species	Status*	Habitat Characteristics
<i>Phalacrocorax auritus</i> Double-crested Cormorant (rookery sites)	None G5/S3	Double-crested Cormorant is a colonial nester on coastal cliffs, offshore islands, and along lake margins in the interior of the state
<i>Ardea herodias</i> Great Blue Heron (rookery site)	None G5/S4	Great Blue Herons occur widely in lakes, ponds, rivers and marshes (Fix and Bezner 2000).
<i>Ardea alba</i> Great Egret (rookery)	None G5/S4	Occur in coastal lowland pastures, sloughs and marshlands as well as along coastal rivers inland (Harris 1996).
<i>Egretta thula</i> Snowy Egret (rookery)	None G5/S4	Open mudflats and tidal sloughs, exposed rocky or sandy ocean coast (locally), salt- and freshwater marshes, wet meadows, lakeshores, and (to a limited extent) upland pasture provide foraging areas.
<i>Nycticorax nycticorax</i> Black-crowned Night-Heron (rookery)	None G5/S3	Black-crowned Night Herons forage nocturnally in freshwater and salt marshes, pond edges, mudflats, crop lands and along slow-moving streams. This species roosts and nests in dense stands of trees and brush).
<i>Pandion haliaetus</i> Osprey (nesting)	CSC G5/S3	Ospreys forage over bodies of water and roost and nest on exposed treetops, towers, pilings, or similar structures near lakes, reservoirs, rivers, estuaries, and the open sea coast (Fix and Bezener 2000). A common summer resident and breeder, some individuals will also over-winter near major feeding areas (Harris 1996).
<i>Haliaeetus leucocephalus</i> Bald Eagle (nesting & wintering)	FD, SE G5/S2	Bald Eagle nesting habitat is generally located in uneven-aged, multi-storied stands with old-growth components (Anthony et al., 1982). They typically occur within two miles of water bodies that support adequate food supply (Lehman 1979, USDI 1986). Habitat for migratory birds is generally along the coast following the salmon runs (Buehler 2000).
<i>Accipiter striatus</i> Sharp-shinned Hawk (nesting)	G5/S3	Sharp-shinned Hawks occupy dense to semi-open coniferous, deciduous or mixed forests; occasionally along riparian edges (Fix and Bezener 2000). Birds in migration and in winter will use woody hollows and coniferous forest.
<i>Accipiter cooperi</i> Cooper's Hawk (nesting)	G5/S3	Locally, nesting may occur in suitable localities such as; Lanphere dunes, Mad River County Park (Harris 1996), and isolated woodlands near Manila. the coniferous forests from Lanphere dunes to Samoa.
<i>Rallus longirostris levipes</i> California Clapper Rail	FE, SE G5T1/S1	This species is a perennial inhabitant of tidal salt marshes of the greater San Francisco Bay system.
<i>Charadrius alexandrinus nivosus</i> Western Snowy Plover (nesting/coastal population)	FT, CSC G4T3/S2	In Northern California, snowy plovers breed and winter along ocean beaches and gravel bars of the Eel River (Colwell et al. 2002). Nesting occurs above the high tide line in sandy substrate, and occasionally on driftwood (LeValley 1999).

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Bird Species	Status*	Habitat Characteristics
Mammal Species	Status*	Habitat Characteristics
<i>Arborimus pomo</i> Red Tree Vole	FSC, CSC G3/S3	Red Tree Voles primarily inhabit Douglas fir forests but may occupy redwood or Sitka spruce forests and areas with salal shrubs (Whitaker 1998).

Note: This list was compiled from a search of the Fields Landing, Eureka, Arcata South, Cannibal Island, Ferndale, Mcwhinney Creek, Fortuna, and Hydesville, 7.5 minute USGS quadrangles of the California Department of Fish and Game Natural Diversity Data Base (CNDDDB 2008 and California Native Plant Society on-line inventory (CNPS 2008).

CSC: CDFG Species of Special Concern

FSC: Federal Species of Concern

SE: State Endangered

ST: State Threatened

FE: Federal Endangered

FT: Federal Threatened

List 1B: CNPS 1B List, Endangered, Threatened or Rare in California

List 2: CNPS 2 List, Rare in California, But More Common Elsewhere

List 4: CNPS 4 List, Plants of Limited Distribution, A Watch List

G/S: CNDD Global/State Rank for Rarity and Threat Significance

None: No status is given, but rookery sites are monitored by CDFG



BUSCH GEOTECHNICAL CONSULTANTS

EXHIBIT NO. 8
LCP AMENDMENT NO. HUM-MAJ-4-09 Barry/Petersen/Chism LUP Amendment (Humboldt Hill Road Extension) PRELIMINARY GEOLOGIC REPORTS (1 of 11)



September 15, 2007

BUSCH GEOTECHNICAL CONSULTANTS

Mock Wahlund
Owner/Broker
Coldwell Banker Cutten Realty
2120 Campton Road, Suite C
Eureka, CA 95503

RE: Feasibility of constructing a road to county standards from the end of Humboldt Hill Road to the College of the Redwoods Exit

Dear Mock:

Introduction

We are delivering this report under the terms of BGC Contract #07-049 dated 9/11/2007. The purpose of the report is to provide you with our opinion about the geotechnical feasibility of constructing a road built to County standards from Humboldt Hill Road to the College of the Redwoods exit at US101. In particular, we reviewed an alignment provided to us on a working project map (O&P, 2007). Our Figure 1 illustrates that portion of the proposed alignment we investigated in the field.

Tasks in our scope of work included:

- ☐ Meeting project agent Marty McClelland in our office to discuss the current needs of the project and to develop a scope-of-work;
- ☐ Contracting the work;
- ☐ Reviewing a report and detailed feasibility-level geologic hazards and risks maps (2) for ground that includes most of the proposed road alignment, which we prepared for a different client (BGC, 1988);
- ☐ Reviewing the California Geologic Survey (CGS, formerly the CDMG or California Department of Mines and Geology) Special Studies

P.O. BOX 222 • ARCATA, CA 95518-0222 • 707-822-7300 • FAX 707-822-9011

Geotechnical and Geologic Studies for Land Development and Resource Management
Please visit our website at buschgeotech.com

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Zones (Earthquake Fault) Map that includes the property (CDMG, 1991);

- ☐ Reviewing the CGS Landslides and Geomorphic map that includes the property (CDMG, 1985);
- ☐ Reviewing stereo pairs of aerial photographs of the area that we have on file (see **References Cited**);
- ☐ Walking the alignment (as possible given the dense brush cover in places) to inspect the slopes in it and within about 100 ft of it on both sides for signs of slope instability, deep soil creep, emergent water, and possible fault traces);
- ☐ Analyzing the field, map, and photographic data to provide the overall assessment in this report.

In August of 1988, former BGC Staff Engineering Geologist Kevin O'Dea and BGC Principal, Bob Busch, completed feasibility-level mapping of geologic hazards on what then was the 90-acre Brazil property (BGC, 1988). The purpose of that work was to provide potential buyers with a preliminary map showing the types and locations of geologic hazards and the associated risks that would have to be investigated and considered if the Brazil property were to be developed into a residential community. Work products from the job included a short report that presented conclusions and the assumptions underlying the work, plus two maps. One map illustrated the location of potential geologic hazards, notably fault traces, areas of known and possible instability, areas of probable deep soil creep, and areas of possible soil piping hazards. The second map illustrated the same property in terms of levels of risk from the possible hazards.

The current proposed alignment crosses much of that property (now owned by others) plus contiguous upslope lands (see Figure 1). In this report, "the site" is the alignment and the ground bordering it upslope and downslope for about 100 ft. That is, we did not re-evaluate the entire property. On September 12, 2007, BGC Staff Geologist Martha Woodward revisited the property to re-evaluate our 1988 mapping in light of the proposed road alignment, and to expand our assessment into the contiguous properties that would be crossed by a road built in the vicinity of the proposed alignment. She spent approximately six hours onsite inspecting the ground and taking field notes. After discussing her findings with Bob, she completed the in-house work and a draft of this report.

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Consequently, we opted to simply discuss the issues and redo the maps at another time, if requested.

Map 1 of BGC (1988) identified three specific existing slope failures near Highway 101, but none upslope. Our slope instability hazard mapping was generalized based solely on slope gradients and the location of drainages. That is, we identified no other active or inactive features within the boundaries of the property, but we inferred that the potential for instability exists in the valley walls of the drainages. Since we issued these two maps this area of Humboldt County has been struck by the three strong ($M > 6.5$, < 7.5) earthquakes of April 1992, and others. In addition, the County experienced exceptionally heavy rains during the 1997 El Nino, the 1998 La Nina, and other winter storms. None of these events triggered a landslide within the road alignment area we studied to prepare this 2007 report. This suggests that future detailed onsite mapping will be able to eliminate some of our preliminary hazard zones and "downgrade" the associated risk levels (shown on Map 2 of the report), at least in places.

Summary of 2007 Conclusions about the Proposed Road Alignment

1. Where re-evaluated, our 1988 feasibility-level geohazards mapping is generally accurate. It was not in our scope-of-work to critically evaluate our previous mapping outside of the road alignment and slopes within about 100 ft of it.
2. An existing gravel-and dirt- road occupies much of the proposed alignment. We observed localized minor rills and soil slumps along the existing road cutbank. These conditions indicate that a road built to County standards must have appropriately sloped cut banks, proper drainage control, and proper erosion- and sediment-control. A site-specific road alignment study will be able to provide specific recommendations to address these issues.
3. **The proposed alignment does not cross any active landslides.** The road crosses mainly Moderately Stable slopes (per Appendix III) with a LOW risk of failure (Appendix IV). It is possible that a second phase of field mapping after brush clearing might identify one or more dormant or

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inactive shallow-seated landslides within the alignment. If this were to happen, road design would have to avoid undercutting or surcharging each feature and draining concentrated water onto it. In general, a dormant landslide in the Pacific Northwest formed during past, wetter conditions, and the risk of reactivation is LOW under static conditions if the portion of the road crossing it is properly engineered. An inactive feature can more easily be reactivated but also can be safely crossed if it is identified ahead of time and the crossing is engineered properly.

4. The proposed alignment crosses many risers (seven or more), each presumably of fault origin. Some of these risers are Moderately Stable and others are Provisionally Stable. The road will have to pass through each riser at grade, which will create a "through-cut" for a short distance in the riser. Through-cuts raise engineering design issues (water-control and erosion-control issues). Standard solutions are available.
5. The proposed alignment crosses four drainages. Slope gradients in these drainages vary in steepness up to about 60% (where investigated). Slopes vary from Moderately Stable to Provisionally Stable. The valleywall slopes have a higher soil creep rate and the soil probably creeps to a slightly deeper depth. It is feasible to cross these drainages and address soil creep hazards using standard road construction practices. Drainage control will be an important aspect of design. It is possible, if not likely, that soil pipes (underground tunnels) are present in localized areas such as valley bottoms in fine sand. A detailed road alignment study is likely to identify any potentially critical soil pipe areas. It is possible to mitigate the risk associated with soil pipes using standard techniques.
6. **We recognized no slope instability hazard or other geologic or soils hazard that would preclude constructing a road in the general vicinity of the proposed alignment.**
7. If the project goes forward, the proposed alignment should be cleared of brush (not trees) for about 100 ft on each side of the centerline. When a preliminary grading plan has been developed, the alignment should be re-evaluated. The evaluation should include subsurface investigations.

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8. If the Little Salmon fault were to rupture, it is likely that the road and all of the utilities within it would be significantly damaged at the rupture locations. However, that same hazard exists elsewhere on Humboldt Hill where roads and utilities cross fault strands.
9. The long duration, high accelerations of a great ($M > 8.0$) Cascadia zone earthquake could trigger landsliding of road cutslopes and fillslopes and of the land itself. Again, this condition exists elsewhere on Humboldt Hill and in Humboldt County in general.

Limitations

The conclusions in this report are based on a limited amount of fieldwork that did not include subsurface excavations. In addition, in places the brush was impenetrably dense (requiring the geologist to crawl on her hands and knees). We therefore cannot exclude the possibility that one or more active or inactive small landslides exist within the alignment (in the brush-covered areas). That limitation stated, we have a HIGH level of confidence that in fact there is no active or inactive landslide within the alignment. We furthermore believe that, if we are incorrect and there is a landslide present, it would be a shallow-seated, small failure that conventional road construction techniques could address cost-effectively.

Closure and Authentication

We thank you for hiring us and hope that our conclusions will support your project. We put a "rush" on your job to support your meeting schedule.

We are available to reproduce our 1988 mapping with the alignment plotted on it, and to provide a detailed road alignment study after the alignment is surveyed and brushed and a preliminary grading plan has been completed. The detailed study would provide soils and slope information to support the final design of cutslopes and fillslopes, plus information to support drainage-control efforts. We have provided similar information for other road projects (e.g., BGC, 2007, 2003, 2002).

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Again, we thank you for hiring Busch Geotechnical Consultants.

Sincerely,

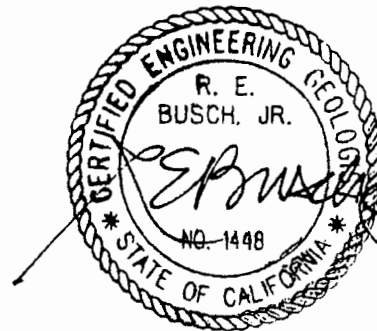
Busch Geotechnical Consultants

Unavailable

Martha A. Woodward
Staff Geologist, Project Geologist

Bob Busch

R. E. Busch, Jr., Ph.D.
C.E.G. #1448



Attachments: Appendices II, III, IV
Repository\Geotech closed\Wahlund\Wahlund.road.ss.feas.doc

REFERENCES CITED

- BGC [Busch Geotechnical Consultants]. 2006. Results of geotechnical study of proposed road alignment for Trillium Creek subdivision, Fickle Hill, Arcata, California. [Pryor: Bayside Builders]. Unpubl. rept. for client dated December 22. 14 pp. + appends. + over-sized map.
- BGC [Busch Geotechnical Consultants]. 2004. Results of road alignment investigation, Santos subdivision, McKinleyville, California [APN 508-232-003]. Unpubl. rept. for client [Spencer Engineering] dated 7 October. 13 pp. + appends. + over-sized map.
- BGC [Busch Geotechnical Consultants]. 2002. Results of limited-scope engineering geology investigation, proposed expansion, Elk Valley Road, Crescent City, California. Unpubl. rept. for client [Stover Engineering] dated 11 December. 14 pp. + appends.
- BGC [Busch Geotechnical Consultants]. 1988. Preliminary geologic hazard and risk maps of the 90-acre Brazil property, southern flank of Humboldt Hill, a site cut by six suspected traces of the Little Salmon fault. Unpubl. rept. for

7 of 11



client [Buchanan] dated August 15. 8 pp. + 4 pp. appends. + two over-sized maps.

CAH&A [Clair A. Hill & Associates]. 19???. Mid Humboldt County topographic mapping, shts 13 and 19 of 75. Scale, 1"=500'; CI=10'. (Map compiled from 1:24,000-scale B&W aerial photographs dated 8/5/69, 8/25/69, and 9/3/69.

CDMG [California Division of Mines and Geology]. 1985. Geology and geomorphic features related to landsliding, Fields Landing 7.5' quadrangle, Humboldt County, California. Compiled by R. Kilbourne and S. D. Morrison. OFR 85-4 SF. Scale, 1:24,000.

CDMG [California Division of Mines and Geology]. 1991. Special Studies Zones, Fields Landing Quadrangle. CDMG.

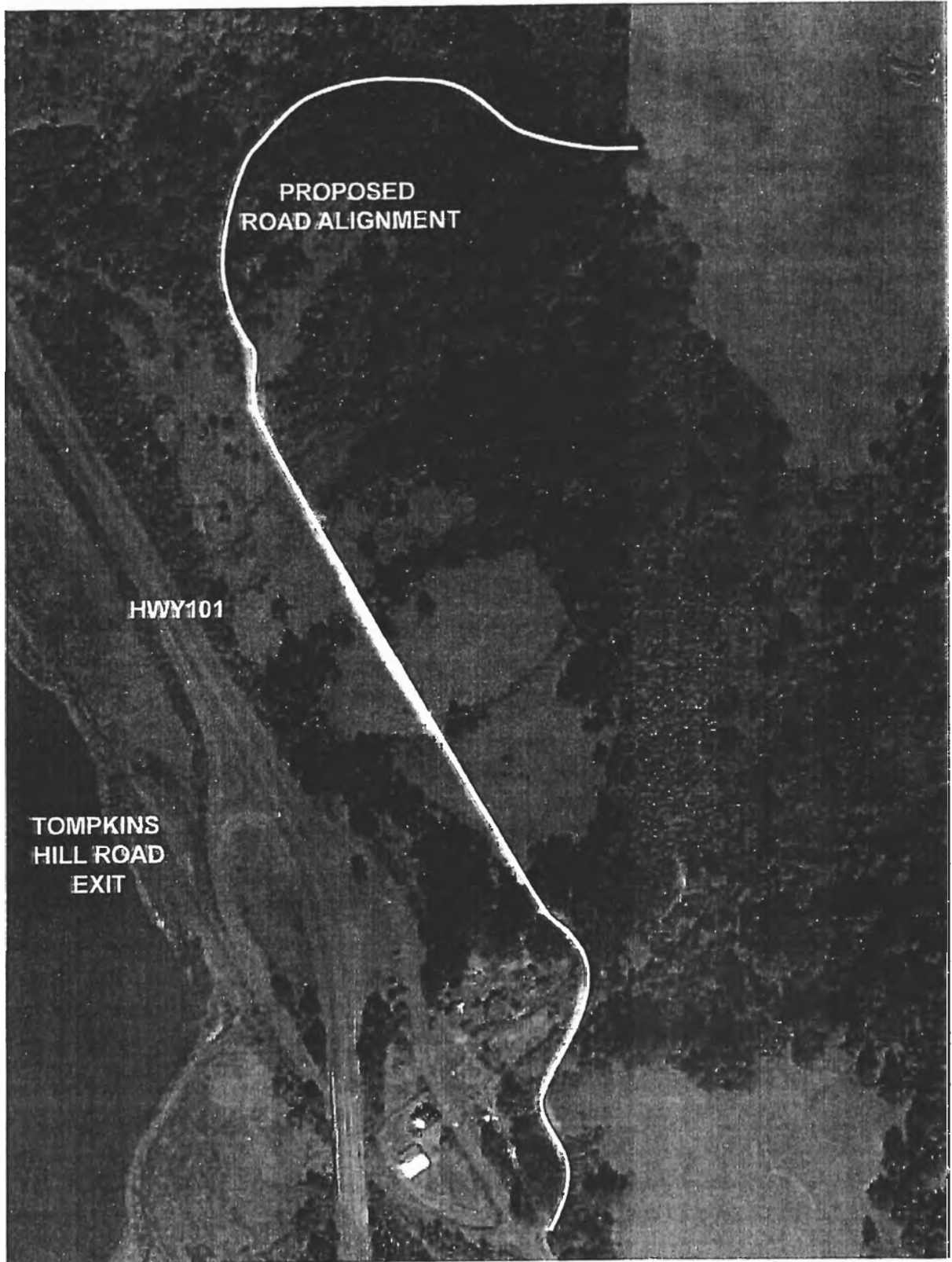
HC [Humboldt County]. 1974. B&W aerial photographs HC 74-2-11A-23, -24 and -25. Scale, 1:12,000.

O&P [Omsberg & Preston]. 2007. Humboldt Hill, Patrick Barry. Scale, 1"=300'.

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Figure 1. Proposed road alignment.



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Reference: 006032

November 21, 2007

Mr. Patrick Barry
c/o Mr. Mock Wahlund
Coldwell-Banker Cutten Realty
2120 Campton Road
Eureka, CA 95503

**Subject: Geologic Feasibility of Development of the Barry Ranch, Humboldt Hill,
California**

Mr. Barry:

It has come to our attention that during recent meetings related to the update of the Humboldt County General Plan, comments were made regarding the relative difficulty of developing the Barry Ranch property due to geologic (faulting) constraints. It has been suggested that the property may not be developable at all. As no one has contacted us directly to discuss the development potential of the site or the geologic constraints that might limit it, and no geologic reporting related to the site has been completed, we can only characterize these comments as "uninformed." The purpose of this letter is to clarify the issue regarding development potential of the site so that the planning process can move forward.

As you know, we completed a preliminary round of subsurface investigation (trenching) last fall in the northwestern portion of the ranch property (we now understand this area is likely to retain its Agricultural zoning status and will not be developed). This area is the most complex from a geomorphic standpoint (that is, the ground surface is most irregular here), and we encountered numerous faults. As we described in previous correspondences, however, these faults are of varying ages, and most of them appear too old to be relevant under the State guidelines regarding active faults (Alquist-Priolo Earthquake Fault Zone Act). Once we complete our assessment of site soils as we have proposed and can clarify soil ages across the property, we are confident that the geologic constraints can be identified and development can occur with the appropriate setbacks from relevant faults.

We have not to date investigated the majority of the property. These as yet unstudied portions of the property are not characterized by the complex landscape present in the northwestern corner, and presumably are not as complex geologically. Based on the results from the areas where we have completed investigations, it is reasonable to assume that significant portions of the property are imminently developable, assuming that the necessary studies are completed. For planning purposes, we can assume that development of the site will not be as dense as the areas to the north on Humboldt Hill due to the presence of undevelopable areas along relevant faults; the land north of the Barry Ranch was developed prior to the Alquist-Priolo Act requiring site-specific investigation of fault rupture potential, so it is likely that development occurred across potentially active faults. If planned effectively, with roads, parks, and greenbelts along faults, the intervening

Mr. Patrick Barry
c/o Mr. Mock Wahlund
Geologic Feasibility of Development of the Barry Ranch, Humboldt Hill, California
November 21, 2007
Page 2

areas of the Barry Ranch are likely to be perfectly suitable for residential development. In short, it is our opinion that faulting does not represent a fatal flaw regarding the development potential of the Barry Ranch property.

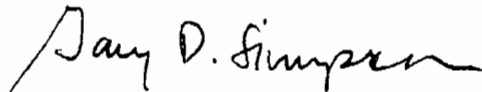
Although it is impossible to accurately estimate the cost of completing subsurface investigations across the property, it is likely on the order of \$300,000+. Based on the scale of the development, this level of investigation does not appear to represent an unreasonable amount that would preclude development of the site; you would certainly understand the financial complexities of the development more than us.

We are, of course, available to discuss the geologic conditions of the site with you or anyone interested in understanding the potential development constraints. Please encourage any interested parties to call our office.

We hope that this letter provides the information that you need at this time.

Respectfully,

SHN Consulting Engineers & Geologists, Inc.



Gary D. Simpson, C.E.G.
Geosciences Director/Senior Geologist

GDS:lms

MEMO
HUMBOLDT COUNTY
DEPARTMENT OF PUBLIC WORKS
LAND USE DIVISION

EXHIBIT NO. 9
LCP AMENDMENT NO. HUM-MAJ-4-09 - Barry/Petersen/ Chism LUP Amendment (Humboldt Hill Road Extension) PRELIMINARY FEEDBACK FROM COUNTY PUBLIC WORKS (1 of 2)

TO: Michael Richardson, Senior Planner
FROM: Robert W. Bronkall, Associate Engineer *[Signature]*
DATE: June 30, 2008
RE: LOCAL COASTAL PLAN AMENDMENT, LCP-08-01
HUMBOLDT BAY AREA PLANNING AREA

RECEIVED

JUN 30 2008

HUMBOLDT COUNTY
PLANNING DIVISION

BARRY/PETERSON/CHISUM 307-041-07, -09; 307-051-04, -11
MILLER/NORTON/PIERSON/FRAZIER 306-391-16; 306-121-45; 306-361-01, -03
REARDON 304-151-05, -06; 304-181-04; 305-011-01; 305-021-08 THRU -11; 307-051-04

The Department supports the establishment of circulation routes as identified in the proposed Local Coastal Program (LCP) amendment. However, the proposed routes shown in the general plan and on the proposed amendment are both graphical in nature. To my knowledge, the Department has not prepared or approved any plan lines for the proposed routes.

The graphical exhibit for Miller/Norton/Pierson/Frazier shows two circulation routes. The narrative only describes the westerly route. The easterly route extends from the end of London Drive, down a knoll on Pierson/Frazier properties, and connects to the stub-out at the end of King Salmon Road (at U.S. 101). It is the opinion of the Department that the easterly route provides a better circulation pattern than the westerly route.

Until such time as the routes are accurately defined, there may be an issue with the proposed zoning not lining up with the engineered location of the road. Further, environmental considerations may further effect the location of the road. Therefore, the Department recommends the following:

1. That the amendment recognize the great importance of well planned circulation routes.
2. That the amendment recognize that in some instances circulation routes may be detrimental to the environment; but that the detriment to the environment is less than the detriment to the overall greater-good and well-being of the community of not having well planned and engineered circulation routes.
3. That a funding source be provided for the Department of Public Works to develop plan lines for the proposed circulation routes; and that the proposed zoning be defined to match the engineered corridor.

In the event that this project must move ahead without engineered plan lines, the Department encourages that the project materials clearly indicate the intent of the LCP by adding notations similar to the following:

This is an undefined corridor for a future circulation route. The exact location of the route is to be determined at a later date based upon sound engineering principles. It is the intent of the LCP to allow for the construction of a future circulation route in which the exact engineered location has not yet to been established. The location of the proposed zoning is blanket in nature and is intended to coincide with the future engineered location of the route, wherever located on the subject properties.

4. That a description be added for the easterly route that extends from the end of London Drive, down a knoll on Pierson/Frazier properties, and connects to the stub-out at the end of King Salmon Road (at U.S. 101).
5. That the description for the Reardon amendment clearly note that the circulation route forks into two routes in which one connects to Slack/Winzler property and the other connects to Bassford Road.
6. An additional project should be added: southerly extension of Hubbard Lane.

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BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CAL
Certified copy of portion of proceedings; Meeting on May 12, 2009

Resolution No. 09-27

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT MAKING THE REQUIRED FINDINGS AND APPROVING THE LISTED AMENDMENTS TO THE HUMBOLDT COUNTY FRAMEWORK PLAN AND THE HUMBOLDT BAY AREA LOCAL COASTAL PLAN WHICH WILL ALL BECOME EFFECTIVE UPON CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION, AND DIRECTING STAFF TO SUBMIT THE PROPOSED AMENDMENTS TO THE COASTAL COMMISSION FOR CERTIFICATION.

WHEREAS the proposed amendments were initiated to advance County goals to facilitate future development of the road connection between Humboldt Hill and Tompkins Hill Road and Highway 101 to implement policy in the Eureka Community Plan and provide secondary emergency access to development at the top of Humboldt Hill, and

WHEREAS, Community Development Services - Planning Division reviewed evidence about the proposed amendments, and referred the proposed amendments to involved reviewing agencies for site inspections, comments and recommendations; and

WHEREAS, the Planning Division prepared, posted for public review, and filed with the Planning Commission reports with evidence, findings, and conclusions showing that evidence does exist in support of making the required findings for approving the proposed amendments to the Humboldt County Framework Plan and the Humboldt Bay Area Local Coastal Plan; and

WHEREAS, the Planning Commission reviewed and considered said reports and other written and oral testimony presented to the Commission; and

WHEREAS, the Planning Commission held a public hearing on this matter to receive other evidence and testimony; and

WHEREAS, the Planning Commission adopted resolutions contained in this staff report recommending the Board of Supervisors approve the proposed amendments.

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

1. The Board of Supervisors finds the project is not subject to environmental review under the California Environmental Quality Act pursuant to Public Resources Code Section 21080.9 and 14 Cal. Code Regs 15265 (b) as Coastal Commission Certification of the plan and zone 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 based on the described evidence; and
3. The Board of Supervisors adopts the Plan Amendments as recommended by the Planning Commission by adopting this resolution, which will become effective upon certification by the Coastal Commission, and
4. The Board of Supervisors specifically adopts the recommended amendments to the Circulation Element of the Humboldt County Framework Plan and Section 3.22 B (3) of the Humboldt Bay Area Local Coastal Plan (upon certification of the Coastal Commission) to

allow and add a road connection between Humboldt Hill Road and Tompkins Hill Road as called for in the Eureka Community Plan.

5. The Board of Supervisors directs Planning Division staff to submit the proposed amendments to the Coastal Commission for certification; and
6. Modifications to the amendments required by the Coastal Commission for certification shall be brought back to the Board of Supervisors for consideration at a future public hearing, and
7. The individual amendments included in this resolution are severable such that if any part or parts are found to be invalid, this resolution on all the other projects will remain in full force and effect.


Chair, Humboldt County Board of Supervisors

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

AYES: Supervisors: Neely, Clendenen, Smith

NOES: Supervisors: Lovelace

ABSENT: Supervisors: Duffy

STATE OF CALIFORNIA

County of Humboldt

)
) SS.
)

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.

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

WITNESS my hand and official seal.

Clerk of the Board
Humboldt County Board of Supervisors

By: Nikki Turner – Deputy Clerk of the Board

Date:

May 12 2009

By:

Nikki Turner
Deputy

2 of 4

**RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT
Resolution Number 08-124**

MAKING THE REQUIRED FINDINGS RECOMMENDING APPROVAL OF THE SPECIFIED LOCAL COASTAL PLAN AMENDMENTS AND AMENDMENTS TO THE CIRCULATION ELEMENT MAPS OF THE FRAMEWORK PLAN THAT APPLY TO COASTAL AREAS.

WHEREAS the proposed amendment was initiated to advance County goals to facilitate future development of the road connection between Humboldt Hill and Tompkins Hill Road and Highway 101 to implement policy in the Eureka Community Plan and provide secondary emergency access to development at the top of Humboldt Hill, and

WHEREAS, the County Planning Division reviewed evidence about the proposed amendments, and referred the proposed amendments to involved reviewing agencies for site inspections, comments and recommendations; and

WHEREAS, the County Planning Division prepared, posted for public review, and filed with the Planning Commission reports with evidence, findings, and conclusions showing that evidence does exist in support of making the required findings for approving the proposed amendments to the local coastal plan; and

WHEREAS, the Planning Commission reviewed and considered said reports and other written and oral testimony presented to the Commission; and

WHEREAS, the Planning Commission held a public hearing on this matter to receive other evidence and testimony;

NOW, THEREFORE, be it resolved, determined, and ordered by the Humboldt County Planning Commission that the following findings be and are hereby made regarding the proposed Humboldt Hill Extension amendments to the map in the Circulation Element of the Framework Plan, and the list of public roadway improvement projects in Section 3.22B(3) of the Humboldt Bay Area Plan:

1. The proposed project is hereby modified to mitigate potential impacts of the project on agricultural land conversion, soil erosion, stormwater pollution, biological resources, geologic instability, and traffic safety. The project now includes the requirement as a part of the future subdivision of the property, Plan and Zoning Amendments on the non-coastal portion of the Barry Property along the south or west property lines to achieve no net loss of land designated Agricultural Exclusive; three (3) acres of the property will go from Residential Single Family to Agricultural Exclusive.

The proposed project is also modified to require, at a minimum, any residential subdivision on the non-coastal part of the property conform with all the recommendations in the Geotechnical Feasibility Study titled 'Feasibility of constructing a road to county standards from the end of Humboldt Hill Road to the College of the Redwoods Exit' by Busch Geotechnical Consultants, dated September 15, 2007, the supplemental geologic feasibility analysis by SHN Consulting Engineers dated November 21, 2007, the Traffic Analysis by Omsberg and Preston, dated December 12, 2007, and the Preliminary Biological Review by Mad River Biologists, dated October 20, 2008.

The project is also modified to require at a minimum, installation of fences and animal crossings on the Barry property at the time of road construction to protect farm animals from automobile traffic on the future road right of way, and to ensure continued good access for farm animals to all parts of the property zoned Agricultural Exclusive.

The project is modified to prohibit any increased assessment costs from the road construction. Further it prohibits increases in stormwater runoff from the future development of the non coastal lands to the lands located within the Coastal zone (excepting the new roadway).

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To reduce to insignificant levels stormwater pollution impacts from soil erosion, the project is also modified to require the road improvement plans use Best Management Practices and on-site detention facilities for new subdivisions on the non-coastal part of the property.

To reduce potential impacts of the future road project on biological resources to less than significant levels, the project is also modified to require submittal of a wetland delineation, and studies on wildlife, fisheries, and botanical resources, and requires consultation with the Department of Fish and Game, US Army Corps of Engineers, and the US Fish and Wildlife Service on the adequacy of those studies prior to issuance of a Coastal Development Permit for construction of the road.

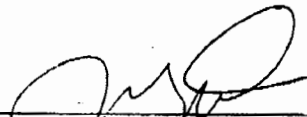
A revised plot plan submitted by the property owner on November 5, 2008 shows a modified alignment that avoids a steep area near the base of the slope. It shows that a portion of the existing roadway is to be decommissioned, and the underlying area restored.

2. Based on the submitted evidence and testimony, and the modifications incorporated herein, the Planning Commission makes all the findings in Attachment 1 of the Planning Division staff report for the proposed amendments. The general location of the new road segment is shown in maps attached to the staff report, and is intended to coincide with the future engineered location of the route, wherever located on the subject properties.
3. The Planning Commission recommends that the Board of Supervisors of the County of Humboldt:
 - Hold a public hearing in the manner prescribed by law.
 - Adopt the Planning Commission's findings.
 - By resolution, approve the General Plan Amendments described above and the modifications incorporated herein, and submit them to the Coastal Commission for certification
 - Direct the Clerk of the Board to give notice of the decision to interested parties.

Adopted after review and consideration of all the evidence on December 4, 2008.

The motion was made by COMMISSIONER Herman and second by COMMISSIONER Emad and the following ROLL CALL vote:

AYES: COMMISSIONERS: EMAD, GEARHEART, HERMAN, SMITH
NOES: COMMISSIONERS: HANSEN, KELLY, MURGUIA
ABSENT: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:



Jeffrey Smith, Chairperson

4 of 4

ATTACHMENT 4

Amended Section 3.22 B(3) of the Humboldt Bay Area Plan
(Additions are shown in underline text)

3. Public Roadway Projects

Public roadway improvement projects shall not, either individually or cumulatively, degrade environmentally sensitive habitats or coastal scenic areas. Improvements (beyond repair and maintenance) shall be consistent with Sections 3.30 et seq and shall be limited to the following:

- a. Reconstruction and restoration of existing roadways, including bridge restoration and replacement, highway planting, construction of protective works such as rock slope protection and slope corrections, reconstruction of roadways following damage by storms or other disasters, and improvement of roadside rests.
- b. Operational improvements, such as traffic signals, guardrails and curve corrections, and intersection modifications such as the Elk River interchange improvements.
- c. Roadside enhancements, such as construction or improvement of roadside rests and vista points consistent with Section 3.40 and removal of roadside signs consistent with Section 3.40.
- d. Minor improvement projects, such as modifying encroachments or ramps, construction turnouts, and channelized intersections.
- e. Except in coastal scenic areas, climbing and passing lanes.
- f. Expansion of substandard roadway shoulders.
- g. Construction of bikeways.
- h. The Elk River Interchange.
- i. Relocation of New navy Base Road to accommodate major coastal dependent industrial development on and adjacent to Samoa Airport site.
- j. Extension of Humboldt Hill Road to Tompkins Hill Road to implement policies in the 1995 Eureka Community Plan, and to improve public safety by providing a secondary access to residential development at the top of Humboldt Hill.

EXHIBIT NO. 11

LCP AMENDMENT NO.
HUM-MAJ-4-09 - Barry/Petersen/
Chism LUP Amendment
(Humboldt Hill Road Extension)
PROPOSED TEXT CHANGES
SOR SECTION 3.22 OF THE
LUP

The referenced Section of the HBAP (3.30) referenced in the above Section 3.22 is as follows (in applicable part):

3.30 NATURAL RESOURCES PROTECTION POLICIES AND STANDARDS

*** 30240. ...

*** 30233. ...

... ..

B. DEVELOPMENT POLICIES

1. Identification of Environmentally Sensitive Habitats

a. *Environmentally sensitive habitats within the Humboldt Bay Planning Area include:*

- (1) *Wetlands and estuaries, including Humboldt Bay and the mouth of the Mad River.*
- (2) *Vegetated dunes along the North Spit to the Mad River and along the South Spit.*
- (3) *Rivers, creeks, gulches, sloughs and associated riparian habitats, including Mad River Slough, Ryan Slough, Eureka Slough, Freshwater Slough, Liscom Slough, Fay Slough, Elk River, Salmon Creek, and other streams.*
- (4) *Critical habitats for rare and endangered species listed on state or federal lists.*

b. *Proposed development occurring within areas containing these sensitive habitats shall be subject to conditions and requirements of this chapter. Should an area proposed for development appear, upon examination of the maps to be within or contain the indicated habitat, but upon field inspection is found not to contain the indicated habitat, then the development is exempt from requirements of the section. As an interim measure for habitat areas not currently identified on the maps, information obtained during the CEQA review process will be used by the County in reviewing applications for coastal development permits. The review of these sensitive habitat areas and the identification of appropriate land uses and/or mitigation measures shall be in cooperation with the Department of Fish and Game. The County shall review requests to amend the Environmentally Sensitive Habitat Maps in terms of the entire plan proposal and supporting policies. Accommodation of new resource information on the Environmentally Sensitive Habitat Maps may also require amendments to the certified land use plan and zoning.*

- (1) *Wetland areas shall be identified according to the Coastal Act's definitions of wetlands...*

... ..

6. Wetland Buffer

EXHIBIT NO. 12
LCP AMENDMENT NO. HUM-MAJ-4-09 - Barry/Petersen/ Chism LUP Amendment (Humboldt Hill Road Extension)
EXCERPT FROM THE SECTION 3.30 OF THE LUP RELEVANT TO SECTION 3.22 PROPOSED FOR AMENDMENT (1 of 5)

- a. *No land use or development shall be permitted in areas adjacent to coastal wetlands, called Wetland Buffer Areas, which degrade the wetland or detract from the natural resource value. Wetland Buffer Areas shall be defined as:*
 - (1) *The area between a wetland and the nearest paved road, or the 40 foot contour line (as determined from the 7.5' USGS contour maps), whichever is the shortest distance, or,*
 - (2) *250 feet from the wetland, where the nearest paved road or 40 foot contour exceed this distance, or*
 - (3) *Transitional Agricultural lands designated Agriculture Exclusive shall be excluded from the wetland buffer.*
- b. *New development; except for:*
 - (1) *development permitted in 3.30B2,3, and 4*
 - (2) *wells in rural areas; and*
 - (3) *new fencing, so long as it would not impede the natural drainage shall be sited to retain a setback from the boundary of the wetland sufficient to prevent adverse effects to the wetland's habitat values.*
- c. *within an urban limit line, the setback shall be either 100 feet or the average setback of existing development immediately adjacent as determined by the "string line method." That method shall be used which provides development setbacks similar to those occurring on adjacent parcels and adequately protects the wetland.*
- d. *Outside an urban limit line, the setback shall be between 100 and 200 feet, depending upon the size and sensitivity of the wetland, drainage boundaries, vegetation, adjacent uses, and the potential impacts of the project on the wet habitat values. The precise width of the setback shall be sufficient to prevent significant effects to the wetland.*
- e. *In both urban and rural areas, setbacks of less than the distance specified above may be permitted only when the prescribed buffer would prohibit development of the site for principle use for which it is designated. Any such reduction in setback shall still retain the maximum setback feasible, and may require mitigation measures, in addition to those specified below, to ensure new development does not adversely affect the wetland's habitat values.*
- f. *All new development within the wetland buffer shall include the following mitigation measures:*
 - (1) *Not more than 25% of the lot surface shall be effectively impervious.*
 - (2) *The release rate of storm runoff to adjacent wetlands shall not exceed the natural rate of storm runoff for a 50 year storm of 10 minute duration.*
 - (3) *Storm water outfalls, culverts, gutters, and the like shall be dissipated.*

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- (4) *Septic systems or alternative waste disposal systems must meet standards of the Humboldt-Del Norte Health Department and the Regional Water Quality Control Board.*
- (5) *Areas disturbed during construction, grading, etc., within 100 feet of the mean high water line, shall be restored to original contours and sufficiently and promptly replanted with vegetation naturally occurring in the immediate area.*
- (6) *Development and construction shall minimize cut and fill operations and erosion and sedimentation potentials through construction of temporary and permanent sediment basins, sediment basins, seeding or planting bare soil, diversion of runoff away from graded areas and areas heavily used during construction, and, when feasible, avoidance of grading during the rainy season (November through April).*

g. The County shall request the Department of Fish and Game to review plans for development within 200 feet of the boundary of the wetland.

7. Road Construction Within Watersheds Containing Wetlands

Road construction within watersheds containing wetlands, as identified on the sensitive habitat maps, other than for timber harvest purposes (road construction controls for this activity are currently regulated by the California Department of Forestry in Timber Harvest Plans), shall employ suitable techniques and measures necessary to prevent erosion and minimize surface runoff. This shall include, but is not limited to:

- a. Limiting soil exposure time and disturbed area;*
- b. Minimizing uninterrupted slope length through surface roughening and serrated slopes;*
- c. Temporary slope stabilization if grading operations occur during wet weather months (October through May) including, mulches, nettings, chemical and natural binders, rip-rap, etc.;*
- d. Immediate vegetative plantings of disturbed slopes at finished grades;*
- e. Control of runoff through controlled water and drainage systems with dissipated discharges and receiving stream bank protection;*
- f. Diversion of runoff away from graded areas and areas traveled during project development;*
- g. Temporary and permanent sediment control through use of dikes, filter berms, and sediment basins.*

8. Coastal Streams, Riparian Vegetation And Marine Resources

*** 30230. ...

*** 30231. ...

... ..

b. Within the Humboldt Bay Planning Area the following coastal streams (as mapped on USGS 7.5' Quads) have been identified:

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...

c. *New development within stream channels shall be permitted when there is no less environmentally damaging feasible alternative, where the best feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to:*

- (1) Wetlands, fishery, and wildlife enhancement and restoration projects.*
- (2) Road crossings, consistent with the provisions of Section 3.41 E 5e.*
- (3) Maintenance dredging for flood control and drainage purposes consistent with the Transitional Agricultural Lands policies.*
- (4) Development consistent with the provisions of 3.41 E 5, below.*

New fencing, so long as it would not impede the natural drainage or would not adversely affect the stream environment or wildlife.

d. *Riparian corridors on all perennial and intermittent streams shall be, at a minimum, the larger of the following:*

- (1) 100 feet, measured as the horizontal distance from the stream transition line on both sides.*
- (2) 50 feet plus four times the average percent of slope, measured as a slope distance from the stream transition line on both sides of intermittent and perennial streams.*
- (3) Where necessary, the width of riparian corridors shall be expanded to include significant areas of riparian vegetation adjacent to the corridor, slides, and areas with visible evidence of slope instability, not to exceed 200 feet measured as a horizontal distance.*
- (4) Notwithstanding the above riparian corridor width requirements, the width of the riparian corridor may be reduced where such a reduction would not result in the removal of woody vegetation, and the County determines, based on specific factual findings, that a reduction will not result in a significant adverse impact to the habitat. New structures, including houses, barns, sheds, etc., shall be placed a minimum of 50 feet from the stream transition lines.*

e. *New development within the riparian corridors shall be permitted when there is no less environmentally damaging feasible alternative, where the best mitigation measures feasible have been provided to minimize adverse environmental effects, and shall be limited to the following uses.*

- (1) Timber management activities, provided:*

...

- (2) Timber harvests smaller than three acres of merchantable timber 18 inches DBH or greater provided that timber harvest*

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practices shall be consistent with those permitted under the forest practices rules for stream protection zones in Coastal Commission special treatment areas. Unmerchantable hardwoods or shrubs shall be protected from unreasonable damage.

- (3) Maintenance and replacement of flood control and drainage channels, fences, levees, dikes, floodgate, and tidegates.*
- (4) Wells in rural areas.*
- (5) Road and bridge replacement or construction, provided that the length of the road within the riparian corridor shall be minimized where feasible, by rights of way which cross streams at right angles and do not parallel streams within the riparian corridor.*
- (6) Removal of trees for disease control or public safety purposes.*
- (7) Removal of firewood for personal use on property consistent with the applicable forest practice rules for stream protection zones in Coastal Commission special treatment areas.*

f. Mitigation measures for development with riparian corridors shall, at a minimum, include retaining snags within the riparian corridor unless felling is required by CAL-OSHA or permitted by California Department of Forestry forest and fire protection regulations, and retaining live trees with visible evidence of current use as nesting sites by hawks, owls, eagles, osprey, herons, or egrets.

- (1) The County shall request the Department of Fish and Game to review plans for development within riparian corridors, the Department may recommend measures to mitigate disruptions to habitats.*

g. Natural drainage courses, including ephemeral streams, shall be retained and protected from development which would impede the natural drainage pattern or have a significant adverse affect on water quality or wildlife habitat. Stormwater outfalls, culverts, gutters and the like, shall be dissipated, and, where feasible, screened. Natural vegetation within and immediately adjacent to the bankfull channel shall be maintained except for removal consistent with the provisions of this section.

...



COUNTY OF HUMBOLDT

AGENDA ITEM NO.

EXHIBIT NO. 13
LCP AMENDMENT NO.
HUM-MAJ-4-09 - Barry/Petersen/
Chism LUP Amendment
(Humboldt Hill Road Extension)
COUNTY STAFF REPORT AND
FINDINGS FOR APPROVAL OF
SUBJECT LUP AMENDMENT
(1 of 15)

For the meeting of May 12, 2009

Date: April 29, 2009
To: Board of Supervisors
From: Kirk Girard, Director of Community Development Services
Subject: Amend Circulation Element of the Humboldt County Framework Plan and Section 3.22 B (3) (Public Roadway Projects) of the Humboldt Bay Area Local Coastal Plan (LCP) to Allow a Future Humboldt Hill Road Extension to Tompkins Hill Road.

RECOMMENDATIONS:

1. Open the public hearing and receive staff report and public testimony.
2. Close the public hearing.
3. Review and deliberate on the proposed Framework Plan and LC P amendments.
4. Adopt Resolution No. ____ (Attachment A), make the required findings as set forth in the Staff Report and Resolution and adopt the amendment to the Circulation Element of the Humboldt County Framework Plan and the amendment to Section 3.22 B (3) (Public Roadway Projects) of the Humboldt Bay Area Local Coastal Plan to allow and add a future Humboldt Hill Road Extension to Tompkins Hill Road to become effective upon certification by the California Coastal Commission.
5. Direct staff pursuant to the Resolution to submit the proposed amendments to the California Coastal Commission for certification.
6. Direct the Clerk of the Board to give notice of the decision to the property owner and any other interested party.

Prepared by Michael Richardson
Michael Richardson, Senior Planner

CAO Approval A.T.L.F.R.

REVIEW: Auditor _____ County Counsel [Signature] Personnel _____ Risk Manager _____ Other _____

TYPE OF ITEM:
____ Consent
____ Departmental
X Public Hearing
____ Other _____

PREVIOUS ACTION/REFERRAL:
Board Order No. I-2
Meeting of: September 25, 2007

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT
Upon motion of Supervisor
Seconded by Supervisor
And unanimously carried by those members present,
The Board hereby adopts the recommended action
contained in this report.

Dated: _____
Kathy Hayes, Clerk of the Board
By: _____

SOURCE OF FUNDING:

The sources of funding for this item will be from the Community Development Services Department – Advance Planning Division's FY 2008-2009 budget (Budget Unit 277).

DISCUSSION:

Summary

The Circulation Element of the Framework Plan and Section 3.22 B (3)(Public Roadway Projects) of the Humboldt Bay Area Local Coastal Plan (LCP) are proposed to be amended to include a road connection between Humboldt Hill Road and Tompkins Hill Road as called for in the Eureka Community Plan (ECP). The proposed Humboldt Hill Extension amendments will facilitate future construction of a secondary access from Humboldt Hill Road to Tompkins Hill Road and Highway 101 on the following Assessor's Parcel Numbers:

Property Owners	Assessor's Parcel Numbers	Present Plan and Zoning	Affected Acreage
Fred and Marcene Barry; John N Peterson; Dellard & Eileen Chisum	307-041-07, -09; 307-051-04, -11	Plan: AE & RR Zoning: AE-60 & RA-5/A	±8 acres

The proposed Framework Plan and LCP amendments affect approximately 8 acres of property, three (3) acres presently designated Agriculture Exclusive and five (5) acres designated Rural Residential. More information about the proposed LCP amendments is presented in Attachment B.

Considerable testimony on the project was provided to the Planning Commission at their hearings on the matter. The Planning Commission reviewed comments from several agencies, which are in Attachment C. The Humboldt Fire District #1, the Humboldt Community Services District, Wiyot Tribe, College of the Redwoods, and CalTrans are supportive of the amendments if specified mitigation measures are adopted at the time the future roads are constructed.

The Department of Fish and Game identified some areas of concern, including impacts from soil erosion, stormwater runoff, and impacts to wetlands, wildlife, fisheries and botanical resources. The recommended mitigation measures address stormwater pollution impacts of future buildout on the property, which will be facilitated by this amendment. The Department of Fish and Game also recommended a wetland delineation, as well as botanical and biological surveys prior to approval of road construction to identify appropriate mitigation measures.

The Coastal Commission stated in their letter that placing fill in wetlands for new roads or the expansion of the capacity of existing roads is not an authorized use for filling of wetlands, and is therefore not consistent with the Coastal Act. They recommend the project avoid any filling of wetlands. They also expressed concern about conversion of agricultural lands, and recommended the County not defer consideration of the project's impacts and appropriate mitigation measures to reduce potential for conversion of agricultural land until when the road is eventually constructed. These issues are addressed in this staff report.

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Impacts on agricultural land conversion of these LCP amendments are reduced by requiring as a part of the future subdivision of the property, Plan and Zoning amendments on the non-coastal portion of the Barry Property along the south or west property lines to achieve no net loss of land designated Agricultural Exclusive; three (3) acres of the property will go from Residential Single Family to Agricultural Exclusive.

Also, installation of cattle fences and animal crossings will be required when the road is constructed. This will further reduce the project's impacts on agricultural land conversion.

To reduce to insignificant levels stormwater pollution impacts from soil erosion, the attached Resolution requires the road improvement plans use Best Management Practices and requires on-site detention facilities for new subdivisions on the non-coastal part of the property to minimize soil erosion from the site.

Extensive public comments both for and against the project were also given at the Planning Commission hearings. Arguments for the project mostly tracked the evidence in support of the required findings described more fully in this staff report (see page 4). Those opposed to the project cited impacts from increased traffic on Humboldt Hill Road, potential increases in crime in the area, adverse impacts to existing agricultural uses, conversion of agricultural lands to non-agricultural uses, impacts on wildlife, visual impacts of the project, potential geologic impacts, and the possibility that other alternative alignments would work just as well, with fewer environmental impacts.

The Planning Commission recommended that the Board of Supervisors approve the plan amendments as recommended by staff on December 4, 2008 on a vote of 4-3. (The Planning Commission Minutes are included in Attachment D of this staff report.) The staff report presents evidence in support of making all 11 findings that must be made by the Board to also approve the proposed Framework Plan and LCP amendments. Potential impacts of the Framework Plan and LCP amendments on coastal resources are considered, and mitigation measures are proposed in the Resolution.

Background

In September 2007, the Board considered a set of LCP amendments, including one for redesignating the entire coastal portion of the subject property (+/- 78 acres) from Agriculture Exclusive to Residential Single Family. During the Board hearing, public testimony on the potential impacts of the future subdivision, particularly potential traffic impacts, public safety impacts from earthquake fault hazards, and the loss of +/- 78 acres of agricultural lands to residential uses was considered. The Board was unable to support those amendments at that time because there was not sufficient information about the potential impacts, and the appropriate mitigation measures.

In response to the expressed concerns, the project was scaled back. Now, the proposed Framework Plan and LCP amendments would only facilitate future construction of a secondary access from the top of Humboldt Hill Road to Tompkins Hill Road; residential use of the coastal portion of the property is no longer being considered. With the change in scope, the amendments would directly impact only approximately 3 acres of agricultural land. This is the project that the Planning Commission recommended be approved, which is now being considered by your Board.

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The Coastal Commission must also certify the amendments before they take effect; the Resolution in the staff report would transmit the proposed amendments to the Coastal Commission for approval.

Findings

The following paragraphs describe the findings, and evidence supporting the eleven (11) findings considered by the Planning Commission in approving the project.

Discussion of 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 plan; or To maintain established uses otherwise consistent with a comprehensive view of the plan.
<p>Evidence Supporting Finding #1 To protect the public in the event of wildland fires, the County's Fire Safe Ordinance was adopted in January, 1992. Section 3112-11 of the ordinance prohibits most subdivisions of property on dead end roads so that people don't become trapped by wildland fires should the one access become unusable. As shown on the maps attached to the staff report, Humboldt Hill becomes a dead end road after the intersection of Loma Avenue, and all property south of that intersection is subject to the dead end road measures of the Fire Safe Ordinance, including the Barry property. This is in conflict with provisions of the 1995 Eureka Community Plan (ECP) that identify this property as an important property to meet the County's housing needs. Section 2620 of the Plan states:</p> <p>"(12). <u>Barry Property</u>: This property is located atop Humboldt Hill. The developer of this property is encouraged to amend the Coastal Zone's Agricultural Exclusive (AE) zone boundary to allow for the Humboldt Hill Road extension to follow the natural topography of the area. This Plan supports an amendment which allows a sufficient amount of land to be developed for the road extension, and for development of lots on the western side of the road which are of a lot size consistent with those proposed on the eastern side. The developer of this property shall be required to designate at least five (5) acres as Parkland consistent with Chapter 4400 of this Plan."</p> <p>The proposed amendments to the Circulation Element of the Framework Plan and Humboldt Bay Area Local Coastal Plan (HBAP or LCP) would resolve the conflict between the Fire Safe Ordinance and ECP. In addition, it is in the public interest to implement the provisions of the adopted Eureka Community Plan as it concerns adequate circulation access and the associated housing once the access is provided.</p>	

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Discussion of Finding #2

Section(s)	Applicable Requirements
§1452.2 Required Findings (Framework Plan)	The proposed Framework Plan and LCP amendments are in the public interest.
<p>Evidence Supporting Finding #2 The response to Finding #1 above states that the proposed amendment is necessary to resolve a conflict between the ECP and the Framework Plan and HBAP. The public interest is served by resolving inconsistencies between the County's regulatory framework.</p> <p>The proposed amendment to the Framework Plan, and HBAP would result in future conversion of approximately three (3) agricultural lands to public right of way uses, which is potentially contrary to public interest because policies in the Framework Plan, ECP and Coastal Act discourage conversion of agricultural lands to other uses. The project may potentially be contrary to policies in the Framework Plan, ECP and Coastal Act that protect biological resources from stormwater pollution, and policies that protect public safety from traffic hazards, and hazards associated with slope stability.</p> <p>Impacts on agricultural land conversion of these Plan Amendments are reduced by requiring as a part of the future subdivision of the property, Plan and Zoning Amendments on the non-coastal portion of the Barry Property along the south or west property lines to achieve no net loss of land designated Agricultural Exclusive; three (3) acres of the property will go from Residential Single Family to Agricultural Exclusive.</p> <p>Also, installation of fences and animal crossings will be required when the road is constructed. This will further reduce the project's impacts on agricultural land conversion.</p> <p>To reduce to insignificant levels stormwater pollution impacts from soil erosion, the Resolution of Approval requires the road improvement plans use Best Management Practices and requires on-site detention facilities for new subdivisions on the non-coastal part of the property to minimize soil erosion from the site.</p> <p>The Resolution also requires at a minimum subdivisions or future road construction conform with the recommendations in the Geotechnical Feasibility Study by Busch Geotechnical Consultants, the Traffic Analysis by Omsberg and Preston, and the Preliminary Biological Review by Mad River Biologists. The impacts of the future road construction on agricultural lands, biological resources and public safety will be further considered and mitigated with the Coastal Development Permit for the actual road construction, which is not a part of the project.</p>	

Discussion of Finding #3

Section(s)	Applicable Requirements
Consistency with the Zoning Ordinance	The proposed Framework Plan and LCP amendments are consistent with the Zoning or the other implementation of the Plan.
<p>Evidence Supporting Finding #3: While some portions of Highway 101 are zoned Public Facility, most roads in the County are not zoned. In 2007, the Board of Supervisors adopted findings to treat these areas as public facilities without specifically designating them as such on the zoning maps.</p> <p>The project site includes approximately 86 acres of lands zoned Agriculture Exclusive. The County Coastal Plan and Zoning establishes the minimum parcel size of 60 acres. The extension of the roadway through the parcel, as conditioned, does not result in the creation of a parcel that is non-conforming as to parcel size.</p> <p>The future road construction project will require public review and a public hearing to consider the Coastal Development Permit; the project will be evaluated against a number of standards in the zoning ordinance for consistency, and mitigation measures will be required to minimize the potential impacts of the project. The applicable zoning requirements include the following:</p> <ul style="list-style-type: none"> • Protection of Natural Drainage Courses - Section 313-122 • Natural Land Forms Protections - Section 313-123 • Protection of Wetlands and Wetland Buffers - Section 313-125 and 129.9 	

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Discussion of Finding #4

Section(s)	Applicable Requirements
Consistency: Administrative Regulations – Title 14, § 13551 And Public Resources Code, § 30200	The proposed Framework Plan and LCP amendments must conform to the policies contained in Chapter 3 of the Coastal Act. Access (including provisions for access with new development projects, public facilities, lower cost visitor facilities, and public access)
<p>Evidence Supporting Finding #4: As described in the introduction, the Barry amendment is intended to facilitate future construction of a secondary access road to the top portion of Humboldt Hill Road. The access inventory included in the local coastal plan shows the nearest coastal access point is approximately 700 feet from the intersection of the future road with Tompkins Hill Road. Accordingly, the future road would be beneficial because it would make it easier for people living on Humboldt Hill Road to get to that access point. The future road is not likely to have any physical impacts on the access point because it is separated from the access point by Highway 101.</p> <p>In addition, the extended road provides a unique opportunity for the placement of a public recreational facility (in the form of a scenic overlook, related parking area or similar facility) through which the public's access to the significant coastal view resources could be accommodated. The development of the non-coastal portion of the site requires the designation of at least five (5) acres as Parkland consistent with the Eureka Community Plan provisions. The expansion of access to the coastal (and non-coastal) visual resources could be integrated into the development of the adjoining area.</p> <p>The proposed road extension would include the public's access and use of the new road and related facilities (pedestrian and bicycle) along the roadway and the use of the new scenic overlook.</p>	

Discussion of Finding #5

Section(s)	Applicable Requirements
Consistency: Administrative Regulations – Title 14, § 13551 And Public Resources Code, § 30200	The proposed Framework Plan and LCP amendments must conform to the policies contained in Chapter 3 of the Coastal Act. Recreation (including protection of water-oriented activities, ocean- front land protection for recreational uses, aqua- cultural uses, and priority of development purposes).
<p>Evidence Supporting Finding #5 The proposed Framework Plan and LCP amendments will change the land use from Agricultural Exclusive and Rural Residential to public facility use. The proposed change in land use will have a potential impact on recreational use of the property because the Agriculture Exclusive Plan and Zone designations allow agricultural related and resource related recreation, whereas the new road wouldn't provide for those uses.</p> <p>The proposed amendments will ultimately result in the installation of a new public road. This road will provide significant scenic, and thus recreational, enhancement to the motoring (and non-motoring) public. In addition, it will provide an opportunity to significantly enhance recreational opportunities through the provision of a scenic overlook or similar facility. Without the road extension, this enhancement to the access to Coastal Visual resources would not be possible.</p> <p>This section of the Coastal Act specifically identifies water-oriented activities, oceanfront lands used for recreational uses, and aquaculture uses as those that are to be protected consistent with the Coastal Act. None of these uses is likely to occur on the subject property because Highway 101 and other development separate it from the ocean. Visitor serving development is not allowed in the AE zone designation.</p>	

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Discussion of Finding #6

Section(s)	Applicable Requirements
Consistency: Administrative Regulations – Title 14, § 13551 And Public Resources Code, § 30200	The proposed Framework Plan and LCP amendments must conform to the policies contained in Chapter 3 of the Coastal Act Marine Resources (including protecting biological productivity, prevent hazardous waste spills, diking, filling and dredging, fishing, revetments and breakwaters, and water supply and flood)
<p>Evidence Supporting Finding #6 Changing the Framework Plan to allow a public road does not seem like it could directly affect marine resources. Indirectly, the Plan will facilitate future construction of a road, which could impact marine resources. Future road construction, which will require a Coastal Development Permit, could impact coastal wetland areas, streams or riparian corridors on the property, which eventually drain into Humboldt Bay.</p> <p>The road alignment has been selected to minimize impacts to wetland areas, streams and riparian corridors on the property consistent with the coastal resource protection measures specified in the Humboldt Bay Area Plan and the following sections of the Coastal Zoning Ordinance: Protection of Natural Drainage Courses -Section 313-122, Natural Land Forms Protections -Section 313-123, and Protection of Wetlands and Wetland Buffers -Section 313-125 and 129.9. For example, the proposed road alignment follows the natural grade as much as possible to minimize the disturbance of natural landforms, and it crosses drainages at 90-degree angles to minimize disturbance to riparian areas. In addition, future road construction will require review under the adopted policies and standards as found within the adopted and certified HBAP Section 3.30 Section B-New Development, subsection 7 Road Construction within watersheds containing wetlands and subsection 8 New Development within Riparian Corridors.</p> <p>To reduce to insignificant levels stormwater pollution impacts from soil erosion, the project is modified to require the road improvement plans use Best Management Practices and on-site detention facilities for new subdivisions on the non-coastal part of the property. The project has also been modified to require conformance of the future road construction with the recommendations of the Preliminary Biological Review by Mad River Biologists, dated October 20, 2008.</p> <p>There is no evidence the proposed Framework Plan and LCP amendments will result in any increase in hazardous waste spills. It will also not result in any diking, filling or dredging, or revetments and breakwaters. There is also no evidence the proposed amendments will affect fishing or water supply. As shown on the maps attached to the staff report, the property is well separated from the ocean.</p>	

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Discussion of Finding #7

Section(s)	Applicable Requirements
Consistency: Administrative Regulations – Title 14, § 13551 And Public Resources Code, § 30200	The proposed Framework Plan and LCP 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 Framework Plan and HBAP to change the approximately 8 acres of property from Agricultural Exclusive and Rural Residential Agricultural use to a public road use would affect land resources.</p> <p>Indirectly, the Plan will facilitate future construction of a road, which would impact land resources. Future road construction, which will require a Coastal Development Permit, could impact coastal wetland areas, streams or riparian corridors on the property. The future road construction would also impact agricultural lands on the property, and could impact archaeological or paleontological resources on the site.</p> <p>To protect these resources, the project has been modified in several ways. To reduce to insignificant levels stormwater pollution impacts from soil erosion, the project is modified to require the road improvement plans use Best Management Practices and on-site detention facilities for new subdivisions on the non-coastal part of the property. The project has also been modified to require conformance of the future road construction with the recommendations of the Preliminary Biological Review by Mad River Biologists, dated October 20, 2008. These include the minimization of grading by following natural contours of the land, minimization of the removal of vegetation (to the extent that it is possible while maintaining adequate visibility and road clearances), the conditioning of construction activities to avoid bird nesting and rearing periods, the application of storm water controls during construction; and the application of dust control measures.</p> <p>There are a number of ways the Humboldt Bay Area Plan protects agricultural lands, including those that occur on this property, consistent with Sections 30241 (a) – (f) of the Coastal Act:</p> <p>(a) <i>Establish stable boundaries separating urban and rural areas,</i></p> <p>The Coastal Zone boundary establishes a very stable boundary between the lands that are planned for urban (non-coastal lands) and rural areas (Planned and zoned Agricultural Exclusive). In addition, the County utilizes the Urban Development mapping process to identify those areas intended to receive urban levels of services. This boundary may also follow the Coastal boundary.</p> <p>(b) <i>Limit conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.</i></p> <p>The conversion of approximately 3.0 acres of land to public road and related purposes serves to facilitate the urban level of development in the non-coastal portions of the property. This development in the non-coastal area serves to facilitate a logical and viable neighborhood locally known as Humboldt Hill and will contribute to the establishment of a stable limit to urban development through the establishment of urban limit lines.</p> <p>(c) <i>Permit the conversion of agricultural land surrounded by urban uses only where the conversion of the land would be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.</i></p> <p>The conversion of land is located immediately contiguous to the urban level of development to the north. The site is included within the boundaries of the Humboldt Community Services District; the local provider of water and wastewater services.</p>	

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Discussion of Finding #7 (continued)

Section(s)	Applicable Requirements
Consistency: Administrative Regulations – Title 14, § 13551 And PRC § 30200	The proposed Framework Plan and LCP 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:</p> <p>(d) Develop available lands not suited for agriculture prior to the conversion of agricultural lands.</p> <p>The conversion of agricultural lands will be directly offset through a change in the Plan Designation and zoning of a portion of the site (outside the Coastal Zone) that is presently planned and zoned for residential development back to Agricultural Exclusive. This would minimize the area of conversion, offset that acreage converted through the installation of the road and provide additional public views from the roadway.</p> <p>In order to carry out and implement the Eureka Community Plan (non-Coastal), access must be provided. There are no other locations of the access road that would be shorter or less environmentally damaging than the one proposed.</p> <p>(e) Assure that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality:</p> <p>The approval of the amendment to accommodate the road is conditioned upon the prohibition of any increased assessment costs from the road construction. Further it is conditioned to provide that no increases in stormwater runoff from the future development of the non coastal lands to the lands located within the Coastal zone (excepting the new roadway) are to be allowed.</p> <p>and</p> <p>(f) Assure that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands does not diminish the productivity of such prime agricultural lands.</p> <p>The project does not include the subdivision of prime lands. In order to minimize the effects of the road extension on the use of the lands for agricultural purposes, the project is conditioned upon providing an agricultural access under the proposed roadway in a location that will facilitate the use of the site for agricultural purposes (without having to cross the surface of the roadway).</p> <p>The project is also consistent with Section 30242 of the Coastal Act regarding the protection of agricultural lands: Section 30242 <i>"All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands."</i></p> <p>The conversion serves to preserve prime agricultural land in other areas of the community by allowing the development of the adjoining lands consistent with the adopted Community Plan. The adjoining development serves to complete the logical extension of the existing community (Humboldt Hill) and concentrate the development consistent with Section 30250. The development proposed is contiguous with existing developed areas to the north and is located within the Community Services District.</p> <p>The project does not include new residential, commercial, or industrial development per se. It does include the construction and use of a public road facility.</p> <p>The project does not include a land division.</p> <p>The project does not include any new hazardous industrial development nor provide an opportunity for such development in the future.</p> <p>The project does include the possibility of a future visitor-serving facility in the form of a scenic overlook (to be located on adjoining non-coastal lands). This facility would not be possible without the road extension, and public access to this significant scenic resource would be lost.</p>	

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Discussion of Finding #7 (continued)

Section(s)	Applicable Requirements
Consistency: Administrative Regulations – Title 14, § 13551 And PRC § 30200	The proposed Framework Plan and LCP 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:</p> <p>The site map included earlier in the staff report shows there are timberland soils on or near the site that would be impacted by the proposed amendment. Approximately 3 acres of timberland soils on the Peterson property, in the Area Planned and Zoned Rural Residential, would be used for the road right of way.</p> <p>The zoning map on file with the Planning Division shows there is an A – Archaeological Resource Area combining zone that applies to the Peterson property, which indicates the potential presence of archaeological or paleontological resources. The Natural Resources Division of Public Works responded to the project stating that their maps show no archaeological resources on site. The potential impacts of the future road use is reduced to less than significant levels by retaining the A- Archaeological Resources combining zone on the property such that any new development will have to conform to the archaeological resource protection measures prescribed by the combining zone, which will include a referral to the North Coast Information Center and If necessary, a site investigation by a qualified archaeologist, and other measures such as changing the location of the road to avoiding ground disturbance of archaeological sites.</p>	

Discussion of Finding #8

Section(s)	Applicable Requirements
Consistency: Administrative Regulations – Title 14, § 13551 And Public Resources Code, § 30200	The proposed Framework Plan and LCP 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 development
<p>Evidence Supporting Finding #8 Placing new development within or close to existing developed areas: The proposed LCP amendments will not directly result in new development, but it will facilitate construction of a future connection between developed residential parcels along Humboldt Hill Road and the Barry property, which is currently vacant, but which is planned and zoned for 400 residential units on the non-coastal portion. Future development on the Barry property will be served by public water and sewer, and is a logical expansion of the residential development on Humboldt Hill Road.</p> <p>Protection of scenic resources: The site is not located within a Coastal View designated area of the Humboldt Bay Area Plan. The coastal zoning of Agriculture Exclusive serves, in part, to maintain the viewshed from public locations to the south and southwest of the site (Highway 101, Humboldt Bay and Hookton Road). These views will be incrementally impacted, especially from the Table Bluff area of Hookton Road. However, this view presently includes various developments that include: the National Wildlife Refuge Structures and facilities, the College of the Redwoods, Highway 101, the community of Fields Landing, the development along Tompkins Hill Road, the development of portions of the Humboldt Hill area (especially along the west side of the community), the cell towers and other development atop Humboldt Hill and, further to the north, the Samoa Peninsula and portions of the City of Eureka.</p> <p>The project substantially increases the opportunity for public access to coastal view resources through the ability to establish a scenic overlook on the non-coastal portion of the site.</p> <p>The view from the site to the south and southwest includes the National Wildlife Refuge, the Table Bluff, the South Humboldt Bay and a portion of the Eel River Valley including the Pacific Ocean and the hills to the south of the Eel River Valley.</p> <p>Encouraging public transit: The proposed amendment will facilitate construction of a future road, which could be used to enhance public transit services to the neighborhoods served by Humboldt Hill Road.</p>	

Discussion of Finding #8 (continued)

Section(s)	Applicable Requirements
Consistency: Administrative Regulations – Title 14, § 13551 And Public Resources Code, § 30200	The proposed Framework Plan and LCP 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</p> <p>Recreational opportunities within new development: The project site does not have nor allow recreational or visitor serving uses. With the extension of the Humboldt Hill Road to Tompkins Hill an opportunity to provide both recreational and visitor serving uses becomes available. This is in the form of the use of the road extension by the travelling public and the combination of a recreational area (park) and scenic overlook of the significant scenic resources in a location that is not now accessible without the road extension.</p> <p>Protection of public safety: The site is subject to the requirements of the Alquist Priolo special study zone. The location of the proposed road extension has been evaluated for the purpose of determining the feasibility of the extension. A report has been prepared by SHN Consulting Geologists and Engineers and is available for review.</p> <p>Structural fire protection needs for the site will not likely increase as the LCP amendments will not result in new development except for a future road. One of the key benefits of the future road is to provide secondary emergency access to the top of Humboldt Hill Road, which would assist with emergency evacuations and structural fire protection in the area. The lands are located within the Humboldt Fire District #1 and the State Responsibility Area.</p> <p>Expansion of Public Works Facilities: The proposed amendments will facilitate future expansion of Humboldt Hill Road, which is a public works facility. Providing secondary emergency access to the top of Humboldt Hill Road would be impossible without this expansion of a public works facility.</p> <p>Priority of Coastal Dependent Uses: There is no evidence the proposed amendments will have any impact on coastal dependent uses.</p> <p>In addition, a route specific evaluation was conducted by Busch Geotechnical Consultants. The recommendations contained within the report are to be applied as conditions to any subsequent permit pertaining to the road extension.</p> <p>The property owner also submitted a study, which concludes the future road would provide adequate emergency access. This will reduce to less than significant levels the potential impacts on public safety of future development with the proposed amendments.</p>	

Discussion of Finding #9

Section(s)	Applicable Requirements
Consistency: Administrative Regulations – Title 14, And Public Resources Code, § 30503	The proposed Framework Plan and LCP amendments must conform to the policies and procedures contained in Chapter 6 of the Coastal Act. (Procedures for processing Plan Amendments). Procedures for Processing Plan Amendments Chapter 6 provides the procedures and policies for the processing of Coastal Plan Amendments. The principle one at this stage of the process relates to public participation.
<p>Evidence Supporting Finding #9 The proposed LCP amendments were circulated to several public, private and other agencies for review and comment. The amendments were subject to public review and hearing at the Planning Commission. General notice was previously provided to the public for the prior hearings. Specific notice has been provided to the public, involved agencies and those individuals who participated in the past. The notice of the hearing was also published in a newspaper of general circulation to provide the maximum opportunity for public notice and participation in the consideration of the proposed amendments.</p>	

Discussion of Finding #10

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 plan designation).
<p>Evidence Supporting Finding #10 In the Eureka Community Plan and the 2003 Housing Element, the Barry property was assigned a development potential of 400 units. (The draft 2009 Housing Element estimates 311 potential units on the site.) The proposed LCP amendments will facilitate future construction of a road that could provide access to homes developed on the property consistent with the Housing Element. The secondary emergency access provided by the future road is necessary to achieve the residential density on the property that is called for in the Housing Element and in the ECP. Thus it could be argued that <u>not</u> approving the proposed amendment would require the specific findings cited above.</p>	

Discussion of Finding #11

Section(s)	Applicable Requirements	Evidence Supporting Finding #11
Consistency with the California Environmental Quality Act	The plan is required to be consistent with the California Environmental Quality Act	The project is not subject to environmental review under the California Environmental Quality Act pursuant to Public Resources Code Section 21080.9 and 14 Cal. Code Regs Section 15265 (b). Coastal Commission Certification of the plan amendments is the functional equivalent of environmental review. Future construction of the road consistent with the Barry amendment will be subject to coastal permit requirements and environmental review, which will provide a comprehensive assessment of the environmental impacts of the project.

Discussion of Alternative Road Alignments

The property owner submitted diagrams showing several possible alignments of the road on the subject property to be considered when the Coastal Permit is ultimately sought. They were also developed to show how to minimize or avoid possible wetlands that have been identified (like the seep areas).

The Coastal Plans suggest that different road standards be considered for those roads that go through sensitive habitat areas. Things like reductions in road widths, use of shoulders, size and location of bike and pedestrian paths, etc. The 'typical' road section that appears to be presently required by county standards is shown as Alternative 1. Other alternatives are presented which would better protect the perched wetland on the site, but would be less desirable from a road safety perspective.

Other alternatives to the proposed Humboldt Hill Road alignments were previously considered and abandoned for the reasons provided below.

Alternative 1 - Extension of Humboldt Hill Road across the Barry property to connect with Boyd Road (located to the southeast of the Barry Property. This alternative would link Humboldt Hill Road to Berta Road. Traffic would then proceed along Elk River Road and ultimately to Herrick Avenue (at the State Highway interchange).

This alternative would not only provide the Humboldt Hill residents with a secondary access, it would also provide those residents of the Berta Road area with a secondary access during those relatively frequent times in which the road is closed due to flooding.

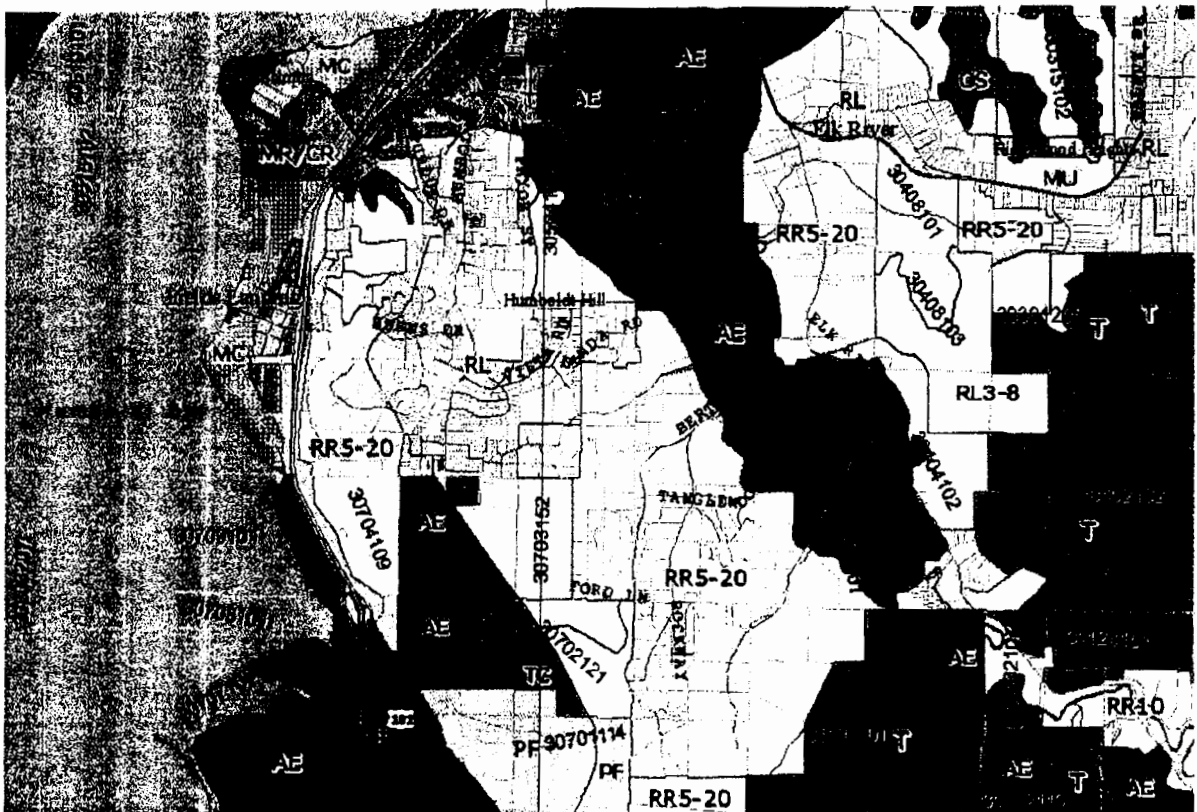
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This alternative was considered during the update of the Eureka Community Plan and not adopted owing primarily to neighborhood opposition of persons living along Berta Road.

This alternative appears to be a good circulation component of the Eureka Plan, even if the road was restricted for emergency use only.

The zoning map below shows the problems of trying to get to Berta Road (and then Elk River road) to the east.

Zoning Map – Barry Property and Vicinity



Alternative 2 - Extension of Humboldt Hill Road across the Barry property to the south and east of the lands owned by the College of the Redwoods (CR). The road would connect to Tompkins Hill Road in a location (not yet identified) just south of CR.

The zoning map below reflects the additional constraints if the road was to be extended to the south around CR to Tompkins Hill Road.

This alternative would face the same problems as the proposed alternative in that it involves the conversion of prime agricultural lands and would involve the construction and feasibility issues concerning geotechnical conditions of the route. It would, owing to the length of the road, involve more agricultural (including timber) land conversions and effect more environmentally sensitive habitats, thus be more environmentally damaging. This alternative will also likely have higher growth inducing impacts by facilitating extension of the urban development area south towards CR on Tompkins Hill Road.

This alternative would also include the connection of one major arterial (Humboldt Hill Road) with another (Tompkins Hill Road) and would not provide for the direct connection or access of the arterial to the regional Highway system (Highway 101).

It is more advantageous to provide connections of the major County roads with the state highway system where feasible, rather than to connect them to intermediate roadways.

Public rights of way do not yet exist for this alternative (nor even preliminary engineering analysis of location).

Lastly, the costs associated with this alternative would be substantially more than the proposed alternative.

Other Alternatives. The connection of Humboldt Hill Road to Highway 101 at one of the two other intersection locations (besides Tompkins Hill), Fields Landing or King Salmon would not meet the purpose of the proposed project - the provision of a secondary access for the top of Humboldt Hill.

In addition, the Fields Landing option appears to have severe soil instability per the County Slope Stability Mapping, and excessive slope problems, so it is unlikely a road constructed in these locations would be able to meet the County's road design standards. In addition, neither option has the needed rights of way.

Public Comment

The Planning Commission received a considerable number of public comments both for and against the project. Proponents mostly pointed to the same evidence in support of the project as the staff report. Many of those opposed to the project cited impacts from increased traffic on Humboldt Hill Road. While the property owner submitted a report demonstrating the measurable effects of the project would not be significant, opponents cited their own experiences with close calls or dangerous traffic situations, particularly the long downhill slope towards the bottom of Humboldt Hill Road.

A number of persons also stated they are concerned with the increased crime in the area they feel would be brought on by the road extension. They consider the dead end nature of Humboldt Hill a deterrent to people committing crimes in the neighborhoods toward the top of Humboldt Hill. A number of neighbors expressed concern about adverse impacts to existing agricultural uses, and conversion of agricultural lands to non-agricultural uses. There were also concerns about the project's impacts on wildlife on the existing agricultural land. They identified a variety of animal species that may be displaced, including fox, raccoons and hawks.

Visual impacts of the project were also a concern of many persons. The new development could be seen from Table Bluff, and would impair the existing view of agricultural uses on the site, which they feel is a significant visual impact.

Others were concerned about potential geologic impacts; they cited known landslides in the area, and they questioned whether it would be a good public investment to build a new road on a slope they feel is unstable and unsafe. There were also a few people who expressed there was insufficient consideration of other alignments for the road, which would maybe work just as well, with fewer environmental impacts.

The property owner submitted information to address some of the public concerns, and mitigation measures were added to the project to address others. It is recognized that many impacts of the project will not occur until the actual construction of the future road, which is subject to a discretionary review process, and may require preparation of an Environmental Impact Report. An Environmental Impact Report may identify additional mitigation measures to reduce the

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impacts of the project on the environment, including the potential impacts to agricultural land, wildlife, geologic stability, soil erosion, biological resources and traffic safety.

FINANCIAL IMPACT:

The direct financial impact of this item on the County is minor. If approved, there will be some costs to bring the project forward to the Coastal Commission, which will be covered by the Department's Advance Planning budget. The estimated costs of that work is \$2,000 - \$4,000. There will be costs associated with the future construction of the road, which will be brought before your Board as a separate item should the project continue to move forward.

OTHER AGENCY INVOLVEMENT:

- Public Works
- Coastal Commission
- Department of Fish and Game
- CalTrans
- Regional Water Quality Control Board

ALTERNATIVES TO STAFF RECOMMENDATIONS:

Your Board could choose to postpone consideration of the proposed amendments until the application for the subdivision of the Barry Property is submitted. Staff does not recommend this alternative because it would discourage development of the property consistent with the Eureka Community Plan compared to the recommended approach.

Your Board could impose additional mitigation measures at this time. For example, your Board may require the portion of the property zoned Agricultural Exclusive be placed into a conservation easement prior to construction of the road to prevent any further conversion of these lands into non-agricultural uses.

Your Board could require additional mitigation measures to address the visual impacts of the project. For example, your Board could require landscaping along the road at the time of construction, or require planting of trees and shrubs in strategic areas around the future subdivision to screen the future development from views from Table Bluff. Your Board should implement these additional requirements if it feels the staff recommended mitigation measures do not adequately mitigate the impacts of the project.

ATTACHMENTS:

- A. Resolution No. _____
- B. Evidence in Support of the Project
- C. Agency Comments
- D. Planning Commission Minutes, Resolution of Approval