

**CALIFORNIA COASTAL COMMISSION**

NORTH COAST DISTRICT OFFICE  
710 E STREET • SUITE 200  
EUREKA, CA 95501  
VOICE (707) 445-7833  
FACSIMILE (707) 445-7877



# Th17a

Staff: Jim Baskin  
Staff Report: December 23, 2011  
Hearing Date: January 12, 2012  
Commission Action:

TO: Commissioners and Interested Parties

FROM: Charles Lester, Executive Director  
Robert S. Merrill, North Coast District Manager  
Jim Baskin, Coastal Planner

SUBJECT: **County of Del Norte LCP Amendment No. DNC-MAJ-1-09 Part C (Hogberg)**  
(Meeting of January 12, 2012, in Santa Monica)

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## SYNOPSIS:

### Amendment Description:

Del Norte County is requesting certification of LCP Amendment No. DNC-MAJ-1-09 Part C (Hogberg) to the County's certified Land Use Plan (LUP) and Implementation Plan (IP) to re-designate the land use and zoning designations of an approximately three-acre area comprised of a one-acre parcel and a two-acre parcel from 2-acre residential density to 1-acre residential density. The specific change to the LUP land use designation for the two parcels is from Rural Residential – One Dwelling Unit per Two Acres (RR 1/2) to Rural Residential – One Dwelling Unit per One Acre (RR 1/1). The specific change to the IP zoning designation for the two parcels is from Medium Density Rural Residential-Agriculture – One Unit per Two Acres Density with Manufactured Housing Combining Zone (RRA-2-MFH) to High Density Rural Residential-Agriculture – One Unit per Acre Density with Manufactured Housing Combining Zone (RRA-1-MFH), respectively.

### Summary of Staff Recommendation:

The staff recommends that the Commission, upon completion of a public hearing, certify both portions of the requested LCP amendment **as submitted**. Commission staff believes the amendment to the Land Use Plan (LUP) designation would be consistent with the policies and standards of Chapter 3 of the Coastal Act. In addition, Commission staff believes that the changes to the properties' zoning designation would conform with and adequately carry out the provisions of the County's amended Land Use Plan as amended.

Staff believes certification of the LUP amendment to increase the maximum permissible residential development density from one dwelling unit per two acres to one dwelling unit per acre over a three-acre area conforms with and carries out the Chapter 3 policies of the Coastal Act for the following reasons:

- The inland location of the site over two miles from the sea, would not directly or cumulatively adversely impact public access or coastal recreational opportunities nor significantly generate demand for such facilities, or interfere with the accommodation of coastal dependent development or other priority uses;
- The subject property would remain restricted to relatively low intensity land uses and is situated in a location where the biological resources, environmentally sensitive habitat areas, and coastal water quality of the surrounding area would not be adversely affected either directly or cumulatively from the increase in development density;
- The property to be redesignated is located within an area where street infrastructure is in place adequate for current levels of service and reserve capacity, and with roadway widths and surface improvements that could serve the proposed increase in residential development density, including emergency vehicle ingress and egress to the project area;
- The petitioner has provided information demonstrating the site's capability for the future development of domestic water and onsite sewage disposal systems to serve development at the proposed increased permissible residential density; and
- The location and geographic extent of the proposed redesignation would leave a band of lower permissible residential density between the subject property and nearby timberlands to serve as a transitional buffer for protecting the resources within that area.

Staff also believes that the proposed revisions to the parcels' zoning designations would conform with and adequately carry out the Land Use Plan (LUP) policies as amended. In reviewing the County's proposed Implementation Plan amendment, staff found that the proposal to designate the parcels as High Density Rural Residential - Agriculture with Manufactured Housing Combining Zone designations would conform with and carry out the LUP policies regarding the development of rural lands, including land divisions, outside of urban and exurban areas designated for receiving centralized water and wastewater treatment community services. Moreover, while the proposed change in LUP designation for the subject property would increase residential development potential in the general vicinity of designated timberlands, a buffer in the form of a one unit per two-acre residential zoning district would be retained between the properties being rezoned and the timberlands to ensure that a transition from lower to higher residential density would continue to be provided. Retaining such a transition in zoning is consistent with LUP transitional zoning policies and helps ensure that permissible future development of the site would not compromise timber production on the adjoining timberlands inconsistent with provisions in the LUP for protecting the long-term productivity of timberlands.

**The appropriate motions and resolutions to adopt the staff recommendation are found on pages 3-4.**

**Analysis Criteria:**

The relationship between the Coastal Act and a local government's Local Coastal Program 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 specify 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.

This analysis evaluates the policies and standards of the Coastal Act and the LCP directly affected by the subject land use plan and zoning changes. Subsequent development that might be proposed will require a coastal development permit and will need to be reviewed by the County for conformance to the certified LCP, as amended.

**Additional Information:**

For additional information about the LCP Amendment, please contact James R. Baskin at the North Coast District Office at (707) 445-7833. Please mail correspondence to the Commission at the above address.

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**PART ONE: RESOLUTIONS**

**A. APPROVAL OF THE LUP AMENDMENT PORTION OF AMENDMENT NO. DNC-MAJ-1-09 PART C AS SUBMITTED**

**MOTION 1:** I move that the Commission certify Land Use Plan Amendment No. DNC-MAJ-1-09 Part C as submitted by the County of Del Norte.

**STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:**

Staff recommends a **YES** vote. Passage of the motion will result in certification of the land use plan amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

**RESOLUTION TO CERTIFY THE LAND USE PLAN AMENDMENT:**

The Commission hereby certifies the Land Use Plan Amendment No DNC-MAJ-1-09 Part C as submitted by the County of Del Norte and adopts the findings set forth below on the grounds that

the amendment conforms with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment complies with the California Environmental Quality Act because either: 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment; or 2) there are no further feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

**B. APPROVAL OF THE IP AMENDMENT PORTION OF AMENDMENT NO. DNC-MAJ-1-09 PART C AS SUBMITTED**

**MOTION 2:** I move that the Commission reject Implementation Program Amendment No. DNC-MAJ-1-09 Part C for the County of Del Norte as submitted.

**STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:**

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Program Amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**RESOLUTION:**

The Commission hereby certifies the Implementation Program Amendment No. DNC-MAJ-1-09 PART C for the County of Del Norte as submitted and adopts the findings set forth below on grounds that the Implementation Program as amended, conforms with and is adequate to carry out the provisions of the Land Use Plan, as amended and certified, and certification of the Implementation Program Amendment will meet the requirements of the California Environmental Quality Act, because either: 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment; or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program Amendment.

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**PART TWO: INTRODUCTION**

**I. BACKGROUND**

The County of Del Norte's LCP amendment is proposed at the behest of Stan Hogberg, owner of a two-acre parcel (APN 12-171-06) located along the eastern side of Dundas Road, approximately one mile northeast of the City of Crescent City in unincorporated Del Norte County (see Exhibit Nos. 1 and 2). At the Commission meeting of November 15, 2006, the Commission denied certification of a similar LCP amendment that would have affected seven

parcels, including the property that is the subject of the current LCP amendment, Del Norte County LCP Amendment No. DNC-MAJ-2-06 (Hogberg). The property subject to the amendment in 2006 entailed a ten-acre area of one-, two-, and three-acre rural residential parcels abutting a forested area lying along the margins of the Elk Creek basin, planned and zoned for timber production. The proposed amendment would have reclassified all seven properties' land use and zoning density from a two-acre per dwelling maximum residential density / two-acre minimum parcel size to one-acre equivalents. The Commission found the amendments to increase the potentially allowable residential density, including on property directly adjoining the forested and riparian wetland areas, to be inconsistent with Coastal Act policies for the protection of timberlands and ESHA, and the changes to the zoning to be not in conformance with and inadequate to carry out the policies of the LUP with respect to the protection of resource lands from more urbanized development. As the Commission's action differed from the written staff recommendation to approve the amendment with the inclusion of certain suggested modifications, on March 16, 2007, the Commission subsequently adopted revised findings to support the denial.

The current LCP amendment is being requested by Del Norte County at the behest of owner Stan Hogberg, seeking the same changes to the land use classification and zoning district but for a smaller sub-set of the properties proposed for designation in 2006, namely just the Hogberg and Goodrich owned parcels totaling three acres (see Exhibit Nos. 8-10 & 17). The amendment is proposed to facilitate further subdivision of the two-acre Hogberg parcel that would not be possible under the current land use plan and zoning designations. The amendment would also change the land use and zoning designations on the adjoining one-acre Goodrich parcel to match that of its current nonconforming one-acre size. In scaling back the geographic scope of the proposed land use plan and zoning reclassifications, the proposed amendment leaves unchanged the current one unit per two acre land use classification and zoning district that applies to a 330-foot-wide band of land between the Hogberg and Goodrich properties and the timberlands to serve as a transitional buffer of less dense rural residential between the resource lands and the higher density residential area further to the west.

## **II. AMENDMENT DESCRIPTION**

The County has applied to the Commission for certification of an amendment to map designations within both the Land Use Plan (LUP) and Implementation Program (IP) portions of its certified Local Coastal Program (LCP). The amendment to the LUP involves a change in the permissible maximum density in the project site's Rural Residential land use designation from one dwelling per two acres (RR 1/2) to one dwelling per acre (RR 1/1). The proposed IP amendment would revise the zoning designation of the subject three-acre area from Medium Density Rural Residential-Agriculture – One Unit Per Two Acres Density with Manufactured Housing Combining Zone (RRA-2-MFH) to High Density Rural Residential-Agriculture – One Unit Per Two Acres Density with Manufactured Housing Combining Zone (RRA-1-MFH). As summarized in Table One, below, the change in development potential of these plan and zoning designation changes on the three acres would be: (a) facilitating the permissibility of a future subdivision of a two acre parcel into two one-acre lots; (b) enlarging the permissible developable area from 86,385 square-feet to 96,293 square-feet; and (c) expanding the maximum aggregate area for permissible above-grade structural improvements from 19,602 square-feet to 26,136

square-feet, through altering the minimum lot size, minimum interior side yard, and maximum lot area coverage percentage prescriptive development standards from two to one acres, 20 feet to 10 feet, and 15% to 20%, respectively.

**Table One: Changes in Potential Development Intensity on APNs 112-171-03 & -06**

PRESCRIPTIVE STANDARD CATEGORY	CURRENT RR1/2   RRA-1 REQUIREMENTS		PROPOSED RR1/1   RRA-1 REQUIREMENTS	
	STANDARD	EXISTING	STANDARD	RESULTING
<i>Residential Density</i>	<i>1 dwelling / 2 acres</i>	<i>1 – 1-acre parcel 1 – 2-acre parcel</i>	<i>1 dwelling / 1 acre</i>	<i>3 – 1-acre parcels</i>
<i>Minimum Lot Size</i>	<i>2 acres</i>	<i>1 – 1-acre parcel 1 – 2-acre parcel</i>	<i>1 acre</i>	<i>3 – 1-acre parcels</i>
Minimum Front Yard Setback	25 feet	9,930 square-feet encumbered	25 feet	9,930 square-feet encumbered
Minimum Exterior Side Yard Setback	20 feet	±6,605 square-feet encumbered	20 feet	±6,605 square-feet encumbered
<i>Minimum Interior Side Yard Setback</i>	<i>20 feet</i>	<i>±19,816 square-feet encumbered</i>	<i>10 feet</i>	<i>±9,908 square-feet encumbered</i>
Minimum Rear Yard Setback	20 feet	7,944 square-feet encumbered	20 feet	7,944 square-feet encumbered
<i>Maximum Lot Coverage</i>	<i>15%</i>	<i>19,602 square-feet available</i>	<i>20%</i>	<i>26,136 square feet available</i>

The specific zoning map revisions to the County’s coastal zoning ordinance proposed for amendment are attached as Exhibit No. 17. The existing zoning map is also included in Exhibit No. 5.

**III. SUBJECT PROPERTY**

The subject site proposed for the LCP amendment consists of a rectilinear three-acre area comprised of a one-acre parcel and a two-acre parcel situated south of the intersection of Dundas Road with Elk View Road, approximately 1½ mile northeast of the City of Crescent City (see Exhibit Nos.1-4). The two parcels were created by aliquot grant deed conveyances and/or record of survey recordation conducted prior to the Subdivision Map Act.

The property is situated on the eastern side of the Crescent City Coastal Plan on a low divide between the Elk Creek and Jordan Creek drainages, at an elevation of approximately 25 to 35 feet above mean sea level and has flat to slightly sloped topography. Single-family residences have been developed on both the Goodrich one-acre and Hogberg two-acre properties, as have similar residences on surrounding parcels. The two-acre Hogberg lot, slated for a future land division, is currently unimproved on its southern half. Vegetation cover on the portions of the properties not cleared for residential uses is comprised of remnants of second-growth coast redwood forest with a variably thick understory composed of red alder (*Alnus rubra*), evergreen huckleberry (*Vaccinium ovatum*), salal (*Gaultheria shallon*), swordfern (*Polystichum munitum*) and thimbleberry (*Rubus parviflorus*). A biological assessment prepared for the related Hogberg subdivision proposal found no special status fish or wildlife species utilizing the properties for habitat and no wetlands within 200 yards of the site (see Exhibit No. 16).

The subject site lies within the LCP's "Crescent City" sub-region and is subject to the specific area policies for "Planning Area No. 4, Crescent City Surrounding Area." The subject property is designated in the Land Use Plan as Rural Residential – One Dwelling Unit per Two Acres (RR 1/2), as certified by the Commission on December 14, 1981 (see Exhibit No. 5). The property is zoned Medium Density Rural Residential Agriculture with Manufactured Housing Combining Zone (RRA-2-MFH), certified by the Commission on October 12, 1983 (see Exhibit Nos. and 5). Adjoining properties to the immediate north and south are similarly zoned RRA-2. The parcels to the west across Dundas Road and to the north across Elk View Drive have a Rural Residential – One Dwelling Unit per One Acre (RR 1/1) land use plan designation as implemented by a High Density Rural Residential Agriculture with Manufactured Housing Combining Zone (RRA-1-MFH) zoning designation (see Exhibit No. 17). A roughly 40-acre private woodlot parcel situated one-half block (330 feet) to the east of the project area across Tsunami Lane is designated as Timberland on the land use map and zoned Coastal Timber (CT).

The subject property is not within any viewpoint, view corridor, or highly scenic area as designated in the Visual Resources Inventory of the LCP's Land Use Plan. Due to the property's inland location, low relief, and densely vegetated setting, public views to and along the ocean across the property are non-existent.

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### **PART THREE: AMENDMENTS TO THE LAND USE PLAN**

#### **I. ANALYSIS CRITERIA**

To approve the amendments to the Land Use Plan (LUP), the Commission must find the LUP, as amended, will remain consistent with the policies of Chapter 3 of the Coastal Act.

#### **II. FINDINGS FOR CERTIFICATION OF LUP AMENDMENT NO. DNC-MAJ-1-09 PART C AS SUBMITTED**

The Commission finds and declares that the proposed LUP amendment, as submitted, would be consistent with the policies of the Coastal Act.

##### **A. Consistency with Coastal Act Policies Regarding the Location of New Development**

##### **1. Relevant Coastal Act Policies**

Section 30250(a) reads as follows:

*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. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*<sup>1</sup> [Emphases added.]

2. Consistency Analysis.

Due to its location beyond the limits of the Crescent City municipal water, wastewater treatment, and fire protection districts, the project area is outside the Urban Services Boundary as shown on the Land Use Map for the County's Crescent City Planning Area sub-region. As such the Dundas Road area is considered "rural," whereby permitted uses in the area must depend upon the development of onsite domestic water and wastewater treatment systems. The site is within a "State Responsibility Area" with respect to fire protection being primarily provided by the California Department of Forestry and Fire Protection (CALFIRE) with a mutual assistance agreement with the Crescent Fire Protection District. Emergency first responders serving the area include the Del Norte County Sheriff's Office and Del Norte Ambulance. Dundas Road consists of a two-way, 40-foot-width, paved/gravel surfaced, County-maintained local roadway which provides ingress/egress to and from the project site to Parkway Drive, a 100-foot-wide area collector street and former segment of Highway 101. Electrical public utilities are provided to the project area by PacifiCorp.

The proposed amendment to the Land Use Plan would allow for the division of the two-acre Hogberg property into two one-acre parcels for a potential increase of one parcel. Based upon information provided by the petitioner, the Hogberg property is suitable for the development of additional onsite domestic water supply and wastewater treatment systems to support the additional building site (see Exhibit No. 12). In addition, based upon a circulation evaluation prepared by the petitioner's engineering consultant, the Dundas Road network, including its intersections with Elk View Road and Parkway Drive, has adequate reserve capacity and operates at levels of service, respectively, to accommodate the additional traffic generated from development under the proposed plan and zoning designations (see Exhibit Nos. 11 and 15). In addition, PacifiCorp indicates that adequate electrical service capacities exist within the sub-station network serving the Crescent City area.<sup>2</sup>

Potential Cumulative Effects of the Amendment

If certified as submitted, the changes in land use and zoning designations could result in additional property owners seeking similar amendments to the plan and zoning designations applying to their properties, such as amendment proposals that would increase residential densities on other RR1/2|RRA-2 designated rural residential properties within the Dundas Road neighborhood area lying a minimum of 330 feet from the Elk Creek watershed Timberland|CT designated resource lands. For purposes of assessing potential cumulative effects the subject LCP amendment might have, a cumulative impact assessment was conducted on similar parcels

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<sup>1</sup> See Findings Section II.C. of Part Four for an analysis of the proposed LCP amendment's consistency with the rural land division standards of Coastal Act Section 30250(a).

<sup>2</sup> Mike McGaughey, PacifiCorp. Pers. comm.

in the project vicinity. These lands comprise the 12-acre area of lots fronting the east side Dundas Road, adjoining the project site to the south. This area is currently developed as a series of nine parcels ranging from one to two acres in size (see Exhibit No. 13). Under its current two-acre plan and zone designations, no additional lots could be created in the study area.

Although much of these area is already built out at one-acre per dwelling densities, predating the certification of the LCP, if the whole of the area were to be redesignated similar to that for the Hogberg proposal, a total of three one-acre lots in addition to the Hogberg lot split could conceivably be platted within this area. Notwithstanding this increase in development potential in the remaining subdividable portion of the study area, if the whole of the area were to be redesignated, any such new lots would take the form of in-fill development on the two-acre parcels scattered in among the existing one-acre parcels. Thus the primary change in the character of the area such an LCP amendment proposal would propose would be from that of a rural neighborhood area having a diversity of one- and two-acre lot sizes to one comprised of a series of uniform one-acre parcels. Based upon the various studies prepared for the subject LCP amendment, even under such a scenario of full build-out, the current improvements on the roads serving the area would be sufficient to serve the suburban area on the northern flanks of the Elk Creek watershed without adverse impacts on the circulation infrastructure, particularly with respect to road capacity, intersection levels of service, and emergency first responder access (see Exhibit Nos. 11 and 15).

Accordingly, the one new residential dwelling that would be facilitated by the proposed redesignation from RR1/2 to RR1/1 land use designation would be located in an area able to accommodate the additional water and wastewater service demands it would engender. In addition, adequate public services are available to serve the resulting new development such that no significant adverse effects on coastal resources, either individually or cumulatively, would result. Therefore the Commission finds that the proposed amendment to the LUP land use map would be consistent with Section 20350(a) of the Coastal Act regarding the location of new development relative to public services.

B. Consistency with Coastal Act Policies for the Protection of Timberlands and Environmentally Sensitive Habitat Areas.

1. Relevant Coastal Act Policies

Section 30243 states, in applicable part:

*The long-term productivity of soils and timberlands shall be protected...*

Section 30240(b) states:

*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.*

## 2. Consistency Analysis.

The proposed LUP amendment would result in a doubling in the potentially allowable maximum residential density on the three-acre project area. Under the current one-dwelling per-two-acres land use designation, no additional residences could be developed on either the Goodrich one-acre lot (APN 112-171-03) or the Hogberg two-acre parcel (APN 112-171-06). With the proposed land use designation of one-dwelling-per-acre density, the two-acre Hogberg parcel could potentially be subdivided to create one additional one-acre parcel, to accommodate an ultimate development of a total of three houses on three one-acre lots.

The lands proposed for amendment of their land use plan designation are located 330 feet away from an approximately 40-acre private woodlot parcel to the east across narrow, unpaved Tsunami Lane. This woodlot parcel is covered by second-growth coast redwood forest whose timber stand is in a mid-seral growth stage, having been harvested approximately 30 years ago. The long axis of the forested parcel is oriented in a north to south direction, extending easterly in a roughly 660-foot-wide lateral band between the Tsunami Lane roadway and Resource Conservation Area (RCA) designated lands further to the east, corresponding to the riparian corridor bracketing the North Fork of Elk Creek. The intervening area between the woodlot parcel and the Goodrich and Hogberg lots contains a one-acre parcel and three-acre parcel, each developed with a single-family residence (see Exhibit Nos. 3 and 4). No further potential for intensification of development (i.e., lot splits, secondary dwelling units) would be permissible under the existing certified land use plan and zoning standards for the area.

Given the composition and age-class of the wooded parcel, and the functional habitat linkages between the forested property and the riparian and wetland areas further to the east, the adjoining woodlot property comprises future productive timberland, serves as a buffer between riparian wetlands and rural residential development, and affords early- to mid-successional habitat to a variety of North Coast Coniferous Forest flora and fauna.

Unless adequately-wide spatial buffers are provided, conflicts can result from side-by-side relatively high-density rural residential and natural resource land uses. Such conflicts include potentially significant adverse effects both to and from each of the land use areas, including: (1) increased erosion and water quality impacts from stormwater runoff onto timberlands from development of impervious surfaces in adjoining residential areas; (2) decreased utilization of forest lands as wildlife habitat due to increased human activity in the surrounding residential area; and (3) increased nuisance claims from area residents due to noise, smoke, the use of herbicides, and road damages and traffic hazards related to the movement and operation of mechanized heavy equipment associated with timber harvesting and silvicultural practices on the adjoining woodlot property.

Timber harvesting is primarily regulated by the California Department of Forestry and Fire Protection (CDF). With respect to the imposition of timber harvesting setbacks as set forth in the Z'berg-Nejedly Forest Practices Act and related administrative regulations (14 CCR 895 *et seq.*), CDF has enumerated buffer standards for certain situations, including areas delineated as Special Treatment Areas pursuant to Coastal Act Section 30714(b). Specifically, buffer widths of between 200 and 350 feet are required between the harvesting area and designated Coastal

Scenic View Corridors, publicly owned preserves and recreation areas, and designated state highways. In other areas, logging roads, tractor roads, and skid trails and landings are required to be screened from direct view to the extent feasible by leaving trees and vegetation between the disturbed area and public areas where the disturbance would be visible to a substantial numbers of viewers (14 CCR § 921.8(b)). CDF bases these buffer requirements on a case-by-case basis analysis of factual information (e.g., the size of the harvest, harvesting methodology to be used, the proximity and density of residential development, etc.), as contained within the timber harvest plan for a particular timber cutting proposal. In addition, for timber harvesting operations not involving CDP approval of a Timber Harvest Plan (THP), such as a three-acre THP exemption or timberland conversion, the County may impose setbacks between the harvest operations site and adjacent roads and properties as part of its coastal grading/development permit approval process. Case law has upheld these local governments efforts to regulate the location of timber harvesting operations relative to adjoining residential areas through setbacks, the most notable being San Mateo County's 1,000-foot setback (see *Big Creek Lumber Co. v. County of San Mateo* (1995) 31 Cal.App.4<sup>th</sup> 418, 428). Several other coastal counties have also established similar setback provisions, such as Mendocino County's 200-foot-wide buffer requirement between residential building sites and lands designed for forestry uses (see County of Mendocino Coastal Element Policy 3.3-8).

The nearby commercial timberlands would be buffered from the potential increase in land use intensity that could result from future subdivision of the Hogberg parcel, in terms of additional impervious surface development, related increases in stormwater runoff, human activity, and residential occupancy of areas in the immediate proximity. As discussed previously, a 330-foot-wide area of lower density two-acre zoning would be retained between the project site and the forested resource lands to the east.

Therefore, based upon the location of the properties proposed for redesignation from RR1/2 to RR1/1 1/16-mile from the timberlands to the east of the project site, and the retention of a 330-foot-wide band of lower density two-acre residential area immediately adjacent to the resource lands, the proposed LUP amendment contains adequate protections against any significant disruption of the forested area's productivity and habitat values as required by Coastal Act Section 30243. Therefore, the Commission finds that the LUP amendment as submitted would be consistent with Section 30243 of the Coastal Act.

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## **PART FOUR: AMENDMENTS TO IMPLEMENTATION PLAN**

### **I. ANALYSIS CRITERIA**

Section 30513 of the Coastal Act establishes the criteria for Commission action on proposed amendments to certified Implementation Programs (IP). Section 50513 states, in applicable part:

*...The commission may only reject zoning ordinances, zoning district maps, or other implementing actions on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the*

*commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection specifying the provisions of land use plan with which the rejected zoning ordinances do not conform or which it finds will not be adequately carried out together with its reasons for the action taken.*

To approve the amendment, the Commission must find that the amended Implementation Plan will conform with and adequately carry out the provisions of the certified LUP as amended. For the reasons discussed in the findings below, the proposed amendment to the Implementation Program is consistent with or adequate to carry out the certified Land Use Plan as amended.

## **II. FINDINGS FOR CERTIFICATION OF IP AMENDMENT NO. DNC-MAJ-2-06 AS SUBMITTED**

The Commission finds and declares as following for IP Amendment No. DNC-MAJ-2-06:

### **A. Planning and Locating New Development**

#### **1. Relevant Land Use Plan Policies.**

The LUP Land Use Categories chapter defines the purpose of the Rural Residential (R/R) category as follows:

*This category is intended to maintain the character of rural areas and minimize the services required by smaller lot development. The primary use of these lands is single family residential (one unit per specified minimum parcel). Uses permitted within residential areas include single-family residences, the keeping of horses for use by the owner, light agricultural activities, and accessory buildings appropriate to the residential use.*

Local Coastal Program Zoning Enabling Ordinance (LCPZEO) Chapter 21.17 establishes the prescriptive standards for the Rural Residential Agriculture (RRA-1) zoning district. LCPZEO Section 21.16.010 states, in applicable part:

*This district classification is designed for the orderly development of rural homesites in the one to five acre category, to encourage a suitable environment for family life for those who desire rural residential land...*

*Since there is a limited area within the county which is suitable for rural residential land, this district is intended to protect rural residential uses against encroachment by other uses which may be in conflict therewith... It is the intention of this section to prevent the further subdividing of rural residential land into lot sizes which might threaten the rural quality of areas zoned RRA, and changes of zone from RRA to another classification are to be made only where such uses are in accord with the General Plan or an adopted specific plan.*

[Emphases added.]

Section D of the LUP's New Development chapter, titled "Rural Land Division Criteria," reads, in applicable part:

*In rural areas new development shall be required to prove the subject area's ability to accommodate such development prior to approval...*

2. LUP Conformity and Implementation Efficacy Analysis.

The subject property land use designation is proposed to be amended to Rural Residential One Dwelling per One Acre (RR 1/1). This land use designation is concurrently proposed to be implemented by amending the properties' zoning designation to High Density Rural Residential-Agriculture – One Unit per Acre Density with Manufactured Housing Combining Zone (RRA-1-MFH). LCPZEO Chapter 21.17 establishes the prescriptive standards for development within Rural Residential Agriculture (RRA-1) zoning districts.

One-family residences are a principally permitted use in the RRA-1 zoning district. In addition, animal husbandry, where no more than one horse, mule, cow or steer, nor more than five goats, sheep or similar livestock are kept for each twenty thousand square feet of lot area, is allowed by-right, subject to special fencing and setback standards. The keeping of one hog or pig per parcel is similarly allowed. In addition, agricultural uses and some limited onsite sales of agricultural products is allowed, provided such sales do not distract from the primarily residential character of the district.

Section D of the LUP's *New Development* chapter directs that such uses and improvements only be approved after the subject area's ability to accommodate such development has been demonstrated.

Parcel sizes within RRA-1 zoning districts may not be smaller than one acre pursuant to LCPZEO Section 21.17.060. A 100-foot minimum lot width requirement is established for parcels created within RRA-1 districts by LCPZEO Section 21.17.060. Minimum yard areas requirements for any subsequent development on the parcels affected by the IP amendment would be subject to a minimum yard requirement of 25 feet along the front property line, 20 feet along the rear of the lot, and ten feet for side yards, with provisions for the placement of accessory structures within five feet of the rear property line, pursuant to LCPZEO Sections 21.17.070. CZC Sec. 21.17.040 limits main building heights to 25 feet above natural grade; accessory structures are limited to a 16-foot height, per LCPZEO Section 21.04.140. CZC Section 21.17.060 sets a maximum of 20% structural coverage on RRA-1 lots, regardless of their overall size.

As depicted on the County Assessor's parcel map for the project area, one of the two parcels slated for rezoning (APN 112-171-03 - Goodrich) is currently platted at a one acre size with lot widths of between 132.40 feet and a depth of 330.26 feet (see Exhibit No. 3). The two-acre Hogberg parcel (APN 112-171-06) is a two-acre parcel. Thus, with respect to minimum lot dimension compliance, all of the subject properties would either currently, or potentially upon future subdivision, conform to the prescriptive standards of the RRA-1 zoning designation

without any substandard sized parcel resulting in conflict with the intent of the amended RR-1 land use designation.

As regards demonstration of the adequacy of the area to support any new development as required by Section D of the LUP's *New Development* chapter, especially as relates to the creation of new parcels by subdivision of APN 112-171-06, the property owner provided to the County several studies addressing domestic water, wastewater disposal, and road infrastructure conditions in the project area (see Exhibit Nos. 11, 12, 13). These studies establish that upon further development on the subject property, including subdivision to the full density permitted under the amended land use and zoning designations, the resulting one additional parcel could be developed with adequate water and onsite sewage disposal facilities. In addition, the increases in traffic that would result from a full build-out of the project area under the LCP amendment would not significantly impact overall roadway capacity or degrade intersection level-of-service to adverse conditions. Further, based upon interviews with various first responders, including the County Sheriff, Crescent City Fire Department, California Department of Forestry and Fire Protection, and local ambulance services, the increased density that would result from the IP amendment would not adversely affect emergency service to the area.

Therefore, based on the conclusions drawn in the above-referenced studies, the Commission finds that the amendment to the project site zoning would conform with and adequately carry out the policies of the LUP as amended with respect to the demonstrated adequacy of services to support new development.

B. Protection of Forestry Lands

1. Relevant Land Use Plan Policies.

Forestry Lands Policy 9 of the *Land Resources* Chapter of the Land Use Plan states:

*Commercial timberlands uses and adjacent uses shall be placed so that, in general, lower intensity uses are adjacent to their commercial timberlands with higher intensity uses placed in a logical transition away from these timberlands. Lower intensity uses shall include other resource activities as set forth in the *Land Resources - Agriculture section and Marine and Water Resources chapter of this document.* [Emphasis added.]*

2. LUP Conformity and Implementation Efficacy Analysis.

As discussed in depth in Consistency with Coastal Act Policies for the Protection of Timberlands and Environmentally Sensitive Habitat Areas Findings Section II.B of Part Three, the change in land use and zoning designations would increase the potentially allowable residential density of the area in such a manner as to allow for the creation of one additional one-acre lot. Del Norte County does not have specific prescriptive standards for setbacks between timber harvesting and silvicultural operations and adjacent development. Similar to CALFIRE, in its actions on a particular timber harvesting proposal, the County may apply setback conditions to the permit based on site-specific considerations. Programmatically, however, the County strives to

minimize conflicts between incompatible resource extraction and residential uses through a transitional density provisions within its LCP. Forestry Lands Policy 9 of the *Land Resources* Chapter of the Land Use Plan states that, “[c]ommercial timberlands uses and adjacent uses shall be placed so that, in general, lower intensity uses are adjacent to their commercial timberlands with higher intensity uses placed in a logical transition away from these timberlands...” [Emphasis added.] In implementing this policy, the County has established the rural residential zoning districts bordering commercial timberlands in the Elk Valley planning sub-region to transition from lower to higher allowable residential density at increasing distance from the resource lands. For the Dundas Road project area, this pattern takes the form of an RRA-2 zoning district applied to the properties adjoining the CT-zoned areas within the inner Elk Creek drainage, transitioning to RRA-1 zoning district to the west and north toward the more urbanized Parkway Drive commercial strip (see Exhibit No. 6). The proposed LUP amendment would alter this pattern somewhat, by establishing a high density rural residential area that would extend to within 330 feet of the viable coastal timberlands. However, the remaining half-block 330-foot-width of parcels between the subject property and the timberlands to the east would remain. Thus, the amendment would retain a buffer between the proposed higher density residential and timber production uses on the area’s timberlands. With such a band of lower density residential development retained, the potentially higher density residential uses along Dundas Road as would be facilitated by this LCP amendment would be located at a sufficient distance from the timberlands to avoid impacts to future timber production operations.

Accordingly, the proposed IP amendment would conform with and adequately carry out Forestry Lands Policy 9 of the LUP.

### 3. Conclusion

The zoning code amendments as submitted would conform with and be adequate to carry out the provisions of the County’s Land Use Plan, as similarly amended, particularly as relate to the protection of commercial timberlands as articulated in the Land Resources Chapter. Therefore, the Commission finds the County’s Implementation Program as submitted would conform with and be adequate to carry out the requirements of the certified Land Use Plan as amended, relative to the protection of forestry lands consistent with Section 30513 of the Coastal Act.

### C. Rural Land Divisions

#### 1. Relevant Land Use Plan Policies.

Section D of the LUP’s *New Development* chapter, titled “Rural Land Division Criteria,” reads as follows:

*In rural areas new development shall be required to prove the subject area's ability to accommodate such development prior to approval. Land divisions, both major and minor subdivisions (not including boundary adjustments and inside the urban/rural boundary) shall be permitted when 50% of the useable parcels in the area have been developed and the created parcels would not be*

*smaller than the average size of the surrounding parcels. To determine if this criteria is met, the following shall apply:*

*a. Useable parcels do not include: (1) parcels committed to agricultural and designated as such in the Land Use Plan; (2) parcels committed to timberland and designated as such on the Land Use Plan; (3) parcels or portions of parcels committed to open space for purposes of compliance with zoning district minimum yard regulations, traffic safety visibility standards, setbacks from geologically unstable areas, buffers around environmentally sensitive habitat areas, floodway management, or other such siting restrictions required by the certified LCP.*

*b. To determine if the 50% rule has been met, a survey of the existing parcels in each planning area (delineated on the Land Use Maps) will need to be conducted. If 50% or more of the existing lots are developed, then the land division may be processed.<sup>3</sup>*

## 2. LUP Conformity and Implementation Efficacy Analysis.

The subject properties are located outside of the Urban-Rural Boundary (U-RB) line that delineates areas where domestic water and/or wastewater treatment is provided by municipalities or community service special districts. In such rural areas beyond the U-RB, domestic water supplies and sewage disposal are either developed individually on-site or provided by small private or community systems subject to oversight by local and state government public health and water resources agencies. The LUP's New Development chapter together with implementing provisions within the County's subdivision and coastal zoning ordinances require that any land division proposal in rural areas beyond the U-RB demonstrate that the following two conditions exist before the proposed subdivision may be authorized:

- Development Timing Threshold: Fifty percent (50%) of the *usable parcels in the area* have been developed; and
- Development Pattern Compatibility: None of the parcels being created by the land division would be smaller than the *average* size of the parcels *surrounding* the subdivision site.

In defining which parcels are "usable," the extent of lands considered are "in the area" or "surrounding" the subdivision site, and how to derive the "average" parcel size, the LUP and coastal zoning provisions direct that:

- To determine if the 50% rule has been met, a survey of the existing parcels in each planning area (delineated on the Land Use Maps) will need to be conducted. If 50% or more of the existing, usable lots are developed, then the land division may be processed.

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<sup>3</sup> These criteria are reiterated in Sections 16.04.037.B.1 & 2 of the Subdivision Ordinance of the Local Coastal Program Zoning Enabling Ordinance.

- “Useable” parcels do not include: (1) parcels committed to agricultural and designated as such in the Land Use Plan; (2) parcels committed to timberland and designated as such on the Land Use Plan; (3) parcels or portions of parcels committed to open space for purposes of compliance with zoning district minimum yard regulations, traffic safety visibility standards, setbacks from geologically unstable areas, buffers around environmentally sensitive habitat areas, floodway management, or other such siting restrictions required by the certified LCP.
- The study area for determining "the average size of surrounding parcels" shall include all parcels within one-quarter (1/4) mile of the exterior bounds of the property being subdivided.
- The “surrounding parcels” study area may be reduced to exclude parcels with land use or zoning designations, or other characteristics markedly dissimilar to the subject property, or those lying outside of a readily identifiable neighborhood area as delineated by a perimeter of major street or other cultural or natural features. Parcels or portions of parcels committed to the resource conservation area for purposes of compliance with zoning district minimum yard regulations, traffic safety visibility standards, setbacks from geologically unstable areas, buffers around environmentally sensitive habitat areas, floodway management, or other such siting restrictions required by the certified LCP may be excluded from the "average size" calculation.
- The "average size" usually means the arithmetic mean, although the mode or the median size may be used when the majority of parcels are of a common size and a very few parcels skew the mean to create an average atypical of the size of surrounding lots.

#### Fifty Percent Pre-developed Area Threshold Requirement

For purposes of determining if the 50% pre-developed threshold could be met for any subdivision pursued after the rezoning, Commission staff has examined the latest property tax assessment rolls compiled by the Del Norte County Assessor's Office. Using the criteria stated above, Commission staff examined property records for the 139 parcels within Planning Area No. 4 – Crescent City. Planning Area No.4 comprises the exurban areas outlying the municipal boundaries of the City of Crescent City, including neighborhoods along Northcrest, Pebble Beach, and Parkway Drives, and Elk Valley Road.

Planning Area No. 4 encompasses approximately 1½ square miles and is comprised of approximately 424 parcels considered to be “usable” for purposes of the 50% pre-developed criterion, insofar as they are designated for residential rather than agricultural or timberland uses.

Based upon the most recent County assessment rolls, 273 parcels of the 424 usable parcels within Planning Area No. 4, or approximately 64.4%, were shown to have structural improvements on the lots for purposes of *ad valorem* property taxation. Accordingly, at least 50% of the usable parcels in the area of the proposed subdivision, as defined by the LCP have been already developed. Thus, any proposed subdivision pursued within the project area under the amended zoning would conform with the development timing requirement of the LUP’s rural land division standards.

### Surrounding Parcel Size Compatibility

For purposes of determining if the size of any parcels created by subdivision under the amended zoning would be compatible with the development pattern of the project site surroundings, as directed by the above-listed LUP criteria, the property owner provided to the County a delineation of a roughly 5,000-foot by 5,000-foot right-triangular area comprising similar rural residential neighborhoods situated in the series of non-through and looped local roads radiating off of Parkway Drive. A total of 264 individual parcels, comprising approximately 362.15 acres, lie within this surrounding area in proximity to the subject property.

Of these 264 residential parcels in the lot size study area, only 13 are less than one acre in gross size, with the largest being 8.04 acres. The arithmetic mean of these parcels is 1.37 acres, the median parcel size (the value falling in the middle of the range) is 1.60 acres, and the mode (the value which occurs most frequently) is one acre ( $n = 129$ ).

As noted above, the decision making authority is not limited to solely utilizing the arithmetic mean in determining the “average” parcel size for purposes of determining consistency with the LUP’s rural land division standards. In fact, LCPZEO Section 21.36.030.B provides that the mode or median size may be used where the majority of parcels are of common size and very few parcels skew the mean to create an average size atypical of the size of surrounding parcels.

The Commission finds that with respect to use of the mode, or most common parcel size, 129 of the 264 lots considered in the study, or roughly 49% of the total sample, comprise the one-acre modal size. As this number is representative of a significant quotient of the total number of surrounding lots, the Commission likewise concludes that use of the one-acre modal lot size would be appropriately representative of the most typical parcel size in the proposed subdivision's surroundings. Thus, the one-acre minimum lot sizes proposed in the area to be rezoned would match the one-acre “modal” size of parcels in the area surrounding the project site, as determined from the lot size survey. Therefore, the proposed IP amendment would conform with and adequately carry out the lot size development pattern compatibility requirement of the LUP's rural land division standards.

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## **PART FIVE: CALIFORNIA ENVIRONMENTAL QUALITY ACT**

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 Section 21080.5 of the Public Resources Code. Section 21080.5(d)(2)(A) of the Public Resources Code 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.*

As discussed in the findings above, the amendment request is consistent with the California Coastal Act and will not result in significant environmental effects within the meaning of the California Environmental Quality Act.

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**EXHIBITS:**

Click on the links below  
to go to the exhibits.

1. Location Map
2. Vicinity Map
3. County of Del Norte Assessor's Parcel Map 112-17
4. Site Aerial
5. Existing Coastal Zoning Map C-9
6. Excerpt, *Land Use* Map, Crescent City Sub-region
7. Excerpt, *Land Use Constraints* Map, Crescent City Sub-region
8. County Resolution of Transmittal No. 2009-033 for Land Use Plan Map Amendment
9. County Resolution of Transmittal No. 2009-022 for Zoning Amendment
10. County Zoning Amending Ordinance No. 2009-007
11. General Plan Amendment and Zoning Reclassification Impact Assessment
12. Onsite Sewage Disposal Suitability Evaluations for APN 112-171-06
13. Cumulative Impact Analysis
14. Rural Land Division Study
15. Traffic Impact Study
16. Biological Assessment
17. "Before" and "After" Proposed Land Use and Zoning Designations LCP Amendment Maps