

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE

MAILING ADDRESS:

710 E STREET • SUITE 200

P. O. BOX 4908

EUREKA, CA 95501-1865

EUREKA, CA 95502-4908

PHONE (707) 445-7833

FACSIMILE (707) 445-7877

RECORD PACKET COPY



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Filed: March 20, 1999
90th Day: June 18, 2000
Staff: Eric Oppenheimer
Staff Report: March 24, 2000
Hearing Date: April 14, 2000
Commission Action:

TO: Commissioners and Interested Parties

FROM: Peter M. Douglas, Executive Director
Steve Scholl, Deputy Director
Robert S. Merrill, North Coast District Manager
Eric Oppenheimer, Coastal Planner

SUBJECT: **Mendocino County LCP Amendment No. 1-99, Part A (Major), Modification to Appendix 11 of the LUP to incorporate recent amendments to the County's Agricultural Preserve Ordinance adopted pursuant to the Williamson Act. (Meeting of April 14, 2000, in Long Beach)**

SYNOPSIS

Amendment Description

On May 11, 1998 Mendocino County amended its countywide Agricultural Preserve ordinance to implement recent changes to the Land Conservation Act of 1965, also known as the Williamson Act. These amendments to the Agricultural Preserve ordinance currently apply only to lands in Mendocino County outside of the coastal zone. Consequently, the County seeks to amend the LUP to incorporate these amendments to the Agricultural Preserve ordinance into the LCP. The proposed amendment would add compatibility findings that delineate three principles for determining what uses may be allowed in Agricultural Preserves that are compatible with preserve status. Additionally, the proposed amendment would specifically allow mining and processing under the Agricultural Preserve Ordinance as a conditional use on lands located in Agricultural Preserves that are zoned as Agricultural (AG), Forestland (FL), or Rangeland (RL). The Coastal Zoning Ordinance already allows mining and processing is an allowable conditional use in the coastal zone for the Agricultural (AG), Forestland (FL), and Rangeland (RL) zoning districts.

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Summary of Staff Recommendation

The staff recommends that the Commission, upon completion of a public hearing, **certify the amendment request as submitted**. The proposed amendment will only affect lands within Agricultural Preserves (e.g. lands subject to Williamson Act contracts). The proposed amendment is intended to encourage the retention of Agricultural Preserve lands by allowing increased flexibility with respect to permitting conditional uses on lands within Agricultural Preserves. The proposed amendment would increase the economic viability of keeping lands in Agricultural Preserve by allowing new compatible uses to occur via use permits, by adding compatibility findings to approve use permits, and by more easily allowing for compatible uses on non-prime lands in Agricultural Preserves. Although the proposed amendment would liberalize the conditional uses potentially allowed in agricultural preserves and specifically allow mining and processing as conditional uses, such uses would only be allowable if they are allowable uses under the Coastal Zoning Ordinance. In addition, the amendment will not affect the existing agriculture and forest land LCP policies which provide a high degree of protection for coastal agricultural resources. Therefore, no new uses would be allowed within Agriculture, Range Land, Forest Lands, or any other lands within the coastal zone that are not otherwise already allowed by the certified LCP.

Analysis Criteria

To approve the amendment to the Land Use Plan (LUP), the Commission must find that the LUP, as amended, will remain consistent with the Chapter 3 policies of the Coastal Act. No amendments to the Implementation Plan (IP) are proposed under Part A of this amendment.

Additional Information:

For further information, please contact Eric Oppenheimer at the North Coast District Office (707) 445-7833. Correspondence should be sent to the District Office at the above address.

I. STAFF RECOMMENDATION, MOTIONS, AND FINDINGS FOR LCP
AMENDMENT NO. 1-99, (Part A) MAJOR

A. APPROVAL OF THE LAND USE PLAN PORTION OF AMENDMENT NO. 1-99
(Part A) AS SUBMITTED

MOTION 1: I move that the Commission certify Land Use Plan Amendment 1-99 (Part A) as submitted by the County of Mendocino.

STAFF RECOMMENDATION TO CERTIFY:

Staff recommends a **YES** vote. Passage of the motion will result in certification of the land use plan 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.

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RESOLUTION NO. 1:

The Commission hereby certifies Land Use Plan Amendment No. 1-99 (Part A) as submitted by the County of Mendocino 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.

II. LAND USE PLAN FINDINGS

A. Description of LCP amendment

Assembly Bill 2663 and Senate Bill 1543 became effective in 1995 and modified the Land Conservation Act of 1965, also known as the Williamson Act, in part by allowing compatible uses within Agricultural Preserves. Agricultural Preserves are established through voluntary contracts between the landowners and the County, whereby landowners agree to restricting the use of their property in a manner that maintains them in agricultural production in exchange for property tax reductions. In 1998, Mendocino County amended its Agricultural Preserve ordinance, which applies to lands under Williamson Act contracts, to incorporate the provisions of Assembly Bill 2663 and Senate Bill 1543. The Agricultural Preserve ordinance is incorporated into the County's certified LCP as Appendix 11 of the Coastal Element LUP. The amended Agricultural Preserve Ordinance currently applies to all lands under preserve status outside the coastal zone and the County is seeking to similarly amend Appendix 11 of the Coastal Element LUP to implement the provisions of Assembly Bill 2663 and Senate Bill 1543 within the coastal zone.

Assembly Bill 2663, Senate Bill 1543, and the proposed amendment are intended to minimize the removal of lands from Agricultural Preserve status by allowing more diversified compatible uses within agricultural preserves, thereby increasing the economic viability of keeping lands under Agricultural Preserve status. The proposed amendment to Mendocino County's Agricultural Preserve Ordinance (LUP Appendix 11) would add compatibility findings that delineate three principles for determining what uses may be allowed in agricultural preserves that are compatible with preserve status. The amendment would authorize the Board of Supervisors to impose conditions on land uses to encourage and permit compatible uses in conformity with the following three principles: 1) the use will not significantly compromise the long term productive agricultural capability of the subject contracted parcel(s) or on other contracted lands in agricultural preserve status; (2) the use will not significantly displace or impair the current or reasonably foreseeable agricultural operations on the subject parcel(s) or on other contracted lands in agricultural preserves; (Uses that significantly displace agricultural operations on the subject contracted parcel(s) or on other contracted lands in agricultural preserves may be deemed compatible if they relate directly to the production of commercial agricultural products on the subject contracted parcel(s) or neighboring lands, including activities such as harvesting

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processing or shipping) and (3) the use will not result in the significant removal of adjacent contracted land from agricultural or open-space. In addition to adding the compatibility findings above, the proposed amendment would more easily allow compatible uses on non-prime lands in agricultural preserves that do not strictly conform to the three compatibility findings listed above, if that use was already authorized by the zoning provisions of the certified LCP.

The proposed amendment would also add mining and processing as a compatible use for lands Zoned Agricultural (AG), Rangeland (RL), and Forestland (FL) within Agricultural Preserves. However, mining and processing is currently an allowable conditional use in these zoning districts throughout the County, including within the coastal zone.

While the proposed amendment would liberalize the potentially allowable compatible uses on lands in Agricultural Preserve status, the amendment would not change the principally permitted or conditional uses allowed on agricultural lands in the coastal zone under the certified LCP. The proposed amended Agricultural Preserve Ordinance states that no compatible uses authorized pursuant to the Agricultural Preserve Ordinance shall be permitted if not permitted by Title 20 of the Mendocino County zoning ordinance (the certified Coastal Zoning Ordinance). In effect, any uses and developments authorized by the Agricultural Zoning Ordinance would also have to be in conformance with the County's certified LCP, as Coastal Zoning Code Section 20.532.095(A)(1) states that proposed developments must conform with the certified LCP. The certified LCP limits the allowable conditional and principally permitted use types allowed in lands designated and zoned Agriculture, Range Land, and Forest Land. Additionally, the certified LCP contains numerous text policies that limit conversions of agricultural, range, and forest lands, and encourages that these lands be maintained in agricultural and forest production (see policy sections below). Therefore, all of the LCP polices that pertain to the protection of agricultural lands and forest lands would still be applicable under the proposed amendment, even on lands located within Agricultural Preserves.

The existing Agricultural Preserve Ordinance already allows numerous principally permitted and conditional uses in Agricultural Preserves that are not allowed pursuant to the County's LCP. For example, although the use type *Packing and processing: winery* is allowed in Forest Land (FL) zoning districts and the use type *Animal waste processing* is allowed in Agricultural (AG) zoning districts located within Agricultural Preserves, these use types are not allowed in corresponding zoning districts under the County's certified LCP. Any proposed change in use or other development proposed in an Agricultural Preserve in the coastal zone would require a coastal development permit. To be approved, the proposed development would have to conform to the more restrictive policies of the LCP. Therefore, the proposed amendment would not authorize any uses in agricultural preserves other than those already allowed by the County's certified LCP.

B. Agricultural Resources

Coastal Agriculture is considered a priority use under the Coastal Act and the Act contains several policies calling for the preservation of agriculture and agricultural lands.

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Section 30241 of the Coastal Act states in applicable part that:

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.*
- (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 prime agricultural lands.*

Additionally, Section 30242 states in applicable part that:

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.

The above policies establish a number of different criteria that must be met in order for development within or near agricultural areas to be approved. To approve the proposed LCP amendment, the kind and extent of development allowable under the modified Agricultural Preserve ordinance must be consistent with these policies and all other policies contained in Chapter 3 of the Coastal Act.

Section 30241 calls for both (1) maintaining the maximum amount of prime agricultural land in agricultural production to ensure protection of the area's agricultural economy, and (2) minimizing conflicts between agricultural and urban land uses through a variety of means listed

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in the policy. In this case the first mandate of Section 30241 is relevant because the proposed amendment could potentially apply to agricultural lands containing prime and non-prime soils that are under cultivation or being used for other agricultural purposes such as grazing. The second mandate of Section 30241, to minimize conflicts between agricultural and urban land uses is also relevant to the proposed amendment because the amendment could potentially apply to Agricultural Preserves bordering residential areas. Therefore, the Commission must evaluate whether the proposed amendment would maximize the amount of agricultural lands and minimize conflicts between agricultural and urban land uses through all of the specific means set forth in subsection (a) through (f) of Section 30241.

As mentioned above, the proposed amendment would establish principles of compatibility for conditional uses on prime and non-prime agricultural lands in Agricultural Preserve status. These principles of compatibility would allow more flexibility in allowing conditional uses to occur on agricultural lands under preserve status and specifically allow mining and processing as compatible use in preserves. However, the amendment would not allow any new or intensified uses in the coastal zone other than those uses currently permitted by the certified LCP for lands zoned AG, FL, or RL, as the amended Agricultural Preserve Ordinance only allows developments that are consistent with the Coastal Zoning Ordinance.

As noted above, any new uses facilitated by the proposed amendment could only be approved through the issuance of individual conditional use permits in accordance with the existing policies of the County's certified LCP. Therefore, the County would evaluate compatible uses allowed in Agricultural Preserves on case by case basis ensuring that proposed uses would maintain the maximum amount of prime agricultural land in agricultural production and minimize conflicts between agricultural and urban land uses. Furthermore, because the new uses facilitated by the amendment are not the principally permitted uses in an agricultural zone, any new use permits approved by the County would be appealable to the Commission, providing an additional opportunity for review of the proposed uses before a permit is granted.

Section 30242 of the Coastal act prohibits conversion of all lands suitable for agricultural use to non-agricultural uses except in certain circumstances. Mendocino County's certified LCP contains the following policies pertaining to the conversions of agricultural land to non-agricultural uses and permitting of compatible uses on agricultural lands:

Mendocino County LUP policy 3.2-2 states that:

An order requesting agricultural preserve status under a Williamson Act contract shall meet the requirements of the County Agricultural Preserve Ordinance. (See Appendix A 11)

Mendocino County LUP policy 3.2-4 states that:

Zoning regulations shall not discourage compatible activities that enhance the economic viability of an agricultural operation. These may include cottage industry, sale of farm products, timber harvesting, not subject to the Forest Practices Act and limited visitor accommodations at locations specified in the plan. Visitor accommodations shall be

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secondary to the agricultural activity. Proposed projects shall be subject to a conditional use permit. Granting of the permit shall require affirmation findings to be made on each of the following standard. The project shall:

- *maximize protection of environmentally, sensitive habitats;*
- *minimize construction of new roads and other facilities;*
- *maintain views from beaches, public trails, roads and views from public viewing areas, or other recreational areas;*
- *ensure adequacy of water, sewer and other services;*
- *ensure preservation of the rural character of the site; and*
- *maximize preservation of prime agricultural soils;*
- *ensure existing compatibility by maintaining productivity of on site and adjacent agricultural lands.*

No permit shall be issued to convert prime land and/or land under Williamson Act to non-agricultural uses, unless all of the following criteria are met:

1. *all agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable; and*
2. *agricultural use of the soils can not be successfully continued or renewed within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Section 30108 of the Coastal Act); and*
3. *clearly defined buffer areas are developed between agricultural and non-agricultural uses (see Policies 3.2-9, 3.2-12 and 3.2-13); and*
4. *the productivity of any adjacent agricultural lands is not diminished, including the ability of the land to sustain dry farming or animal grazing; and*
5. *public service and facility expansions and permitted uses do not impair agricultural viability, either through increased assessment costs or degraded air and water quality; and*
6. *in addition, for parcels adjacent to urban areas, the viability of agricultural uses is severely limited by conflicts with urban uses, and the conversion of land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.*

Mendocino County LUP policy 3.2-5 states that:

All other lands suitable for agricultural use shall not be converted to non-agricultural 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 land.

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LUP Policy 3.2-16 states that:

All agricultural lands designated AG or RL shall not be divided nor converted to non-agricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or (3) concentrate development consistent with Section 30250. Any such permitted division or conversion shall be compatible with continued agricultural use of surrounding parcels.

“Feasible,” as used in this policy, includes the necessity for consideration of an economic feasibility evaluation containing both the following elements:

- 1. An analysis of the gross revenue from the agricultural products grown in the area for the five years immediately preceding the date of the filing of proposed local coastal program or an amendment to any local coastal program.*
- 2. An analysis of the operational expenses beyond the control of the owner/operator associated with the production of the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program.*

For purposes of this policy, “area” means a geographic area of sufficient size to provide an accurate evaluation of the economic feasibility of agricultural uses for those lands included in the local coastal plan.

Zoning Code Sec. 20.508.010 **Purpose** states that:

The purpose of this Chapter is to insure that the maximum amount of agricultural land shall be maintained in agricultural production to assure the protection of the area’s agricultural economy.

All other lands suitable for agricultural use shall not be converted to non-agricultural 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. (Ord. No. 3785 (part), adopted 1991)

Zoning Code Sec. 20.508.015 states that:

An owner of property within an agricultural district, either AG or RL, may request agricultural preserve status under a Williamson Act contract pursuant to Chapter 22.08 of the Mendocino County Code. No permit shall be issued to convert prime lands and/or land under Williamson Act contracts to non-agricultural uses, without complying with Chapter 22.08 of the Mendocino County Code and making supplemental findings pursuant to Section 20.532.100(B)(2) and making the finding that continued, renewed, or potential agricultural

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use of the property is not feasible based upon an economic feasibility evaluation prepared pursuant to Section 20.524.015(C)(3). (Ord. No. 3785 (part), adopted 1991)

Zoning Code Sec. 20.508.020 states that:

Development adjacent to agriculturally designed parcels is subject to the following:

(A) Development Adjacent to Agriculturally Designated Parcels.

(1) No new dwellings in a residential area shall be located closer than two hundred (200) feet from an agriculturally designated parcel unless there is no other feasible building site on the parcel.

(2) New parcels shall not be created that would result in a dwelling within two hundred (200) feet of an agriculturally designated parcel.

(B) Development Adjacent to Type I Agricultural Preserves.

(1) New parcels created adjacent to Type I Agricultural Preserves shall be a minimum of five (5) acres, however, parcels designated Clustering Development Combining District (:CL) or Planned Unit Development Combining District (:PD) may be developed at a density specified by the base zone provided that no dwelling is closer than two hundred (200) feet from the property line of the Preserve or at the furthest feasible point from said property line.

(C) Development Adjacent to Type II Agricultural Preserve.

(1) New parcels created adjacent to Type II Agricultural Preserve shall be a minimum of ten (10) acres, however, parcels designated Clustering Development Combining District (:CL) or Planned Unit Development Combining District (:PD) may be developed at a density specified by the base zone provided that no dwelling is closer than two hundred (200) feet from the property line of the Preserve or at the furthest feasible point from said property line. (Ord. No. 3785 (part), adopted 1991)

Zoning Code Sec. 20.532.095 **Required Findings for all Coastal Development Permits**, states that:

(A) The granting or modification of any coastal development permit by the approving authority shall be supported by findings which establish that:

(1) The proposed development is in conformity with the certified local coastal program; and

(2) The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and

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- (3) The proposed development is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of this Division and preserves the integrity of the zoning district; and*
 - (4) The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.*
 - (5) The proposed development will not have any adverse impacts on any known archaeological or paleontological resource.*
 - (6) Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.*
- (B) If the proposed development is located between the first public road and the sea or the shoreline of any body of water, the following additional finding must be made:*
- (1) The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan. (Ord. No. 3785 (part), adopted 1991)*

Zoning Codes Sec. 20.532.100 (Supplemental Findings) states that:

In addition to required findings, the approving authority may approve or conditionally approve an application for a permit or variance within the Coastal Zone only if the following findings, as applicable, are made.

(A) Resource Protection Impact Findings.

- (1) Development in Environmentally Sensitive Habitat Areas. No development shall be allowed in an ESHA unless the following findings are made:***
 - (a) The resource as identified will not be significantly degraded by the proposed Development*
 - (b) There is no feasible less environmentally damaging alternative.*
 - (c) All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.*

(2) Impact Finding For Resource Lands Designated AG, RL and FL. No permit shall be granted in these zoning districts until the following finding is made:

- (a) The proposed use is compatible with the long-term protection of resource lands.*

(B) Agricultural Land Impact Findings.

(1) Development in Agricultural Zones. No development subject to a coastal development use permit shall be issued on agricultural land until the following findings are made.

- (a) The project maximizes protection of environmentally sensitive habitat areas;*
- (b) The project minimizes construction of new roads and other facilities;*
- (c) The project maintains views from beaches, public trails, roads and views from public viewing areas, or other recreational areas;*
- (d) The project ensures the adequacy of water, waste water disposal and other services.*
- (e) The project ensures the preservation of the rural character of the site;*
- (f) The project maximizes preservation of prime agricultural soils;*
- (g) The project ensures existing land use compatibility by maintaining productivity of on-site and adjacent agricultural lands.*

(2) Impact Findings for Conversion of Prime Agricultural or Williamson Act Contracted Lands. Conversion of prime land and/or land under Williamson Act Contract to non-agricultural uses is prohibited, unless all of the following findings are made. For the purposes of this section, conversion is defined as either development in an AG or RL designation not classified as a residential, agricultural, or natural resource use type or the amending and rezoning of the Coastal Element Land Use Designation AG or RL to a classification other than AG or RL including amendments to add visitor-serving facilities.

- (a) All agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable;*
- (b) Agricultural use of the soils cannot be successfully continued or renewed within a reasonable period of time, taking into account economic, environmental, social and technological factors;*

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- (c) *Clearly defined buffer areas are established between agricultural and non-agricultural uses;*
 - (d) *The productivity of any adjacent agricultural lands will not be diminished, including the ability of the land to sustain dry farming or animal grazing;*
 - (e) *Public service and facility expansions and permitted uses do not impair agricultural viability, either through increased assessment costs or degraded air and water quality; and*
 - (f) *For parcels adjacent to urban areas, the viability of agricultural uses is severely limited by contacts with urban uses, and the conversion of land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.*
- (3) *Impact Findings for Conversion of Non-prime Agricultural Lands.*** *Conversion of all other agricultural lands to non-agricultural uses will be prohibited unless it is found that such development will be compatible with continued agricultural use of surrounding lands and at least one of the following findings applies:*
- (a) *Continued or renewed agricultural use is not feasible as demonstrated by an economic feasibility evaluation prepared pursuant to Section 20.524.015(C)(3);*
 - (b) *Such development would result in protecting prime agricultural land and/or concentrate development.*

Under the proposed amendment the above listed policies would remain in effect for all agricultural lands, both within and outside of Agricultural Preserves. Consequently, the proposed amendment would not alter the underlying LCP policies regarding the protection of coastal agricultural resources. Collectively, these LCP policies contain strict criteria, which must be met to convert prime and non-prime agricultural lands to non-agricultural uses or to permit conditional uses on agricultural lands. Specifically, LUP Policy 3.2-4 states, in part, that conditional use permits shall not be issued to convert prime agricultural lands and/or land under Williamson Act to non-agricultural uses unless (1) all agricultural unsuitable lands on the parcel have already been developed; (2) clearly defined buffers are developed between agricultural and non-agricultural uses; (3) the productivity of adjacent agricultural lands are not diminished. LUP Policy 3.2-5 states that all other lands suitable for agriculture (e.g. non-prime lands that are not within preserves) shall not be converted to non-agricultural uses unless agricultural use is not feasible or such conversion would preserve prime agricultural land. Furthermore, LUP Policy 3.2-16 states that all agricultural lands designated as AG or RL shall not be divided nor converted to non-agricultural uses unless certain criteria are met, including the criterion that continued or renewed use of the property is not feasible. Additionally, Zoning Code Section 20.508.015 states that no permit shall be issued to convert prime lands and/or lands under Williamson Act contracts to non-agricultural uses without making the specific supplemental findings contained in Zoning Code Section 20.532.100(B)(2) and making the finding that

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continued, renewed or potential agricultural use of the property is not feasible based on an economic feasibility evaluation.

The amended Agricultural Preserve Ordinance itself would require any uses approved under the ordinance to also be in conformance with the coastal zoning code. Coastal Zoning Code Section 20.532.095 requires all coastal development permits or permit modifications to be supported by the finding that the proposed development is in conformance with the LCP. Furthermore, Coastal Zoning Code Section 20.532.100 establishes additional supplemental findings that must be made to allow development and/or uses within Agricultural zones.

The proposed amendment seeks to allow more flexibility in allowing compatible uses of lands that are in preserve status, thus increasing the economic viability of agricultural operations in Agricultural Preserves, with the goal of retaining the maximum amount of Agricultural Preserve lands. The proposed amendment will only apply to lands within Agricultural Preserves and the proposed amendment will not change the underlying LCP policies regarding the protection of agricultural resources.

Therefore the Commission finds that the proposed amendment is consistent with Sections 30241 and 30242 of the Coastal Act, as the amendment will (1) promote the long term retention of agricultural preserves; (2) not facilitate the conversion of prime and/or non-prime agricultural lands to uses other than agriculture; (3) not foster development that will impair the agricultural productivity of agricultural lands; (4) not increase the potential for conflicts between urban and rural land uses.

C. Timber Resources

Coastal Act Section 30243 states that the long-term productivity of soils and timberlands shall be protected, and conversions of coastal commercial timberlands in units of commercial size to other uses or their division into units of noncommercial size shall be limited to providing for necessary timber processing and related facilities.

The proposed amendment will not have any affect on the size or division of timber units. However, the proposed amendment could potentially affect coastal timber resources to the extent that the proposed amendment would facilitate the establishment of already allowable conditional uses and add mining and processing as a new conditional use for the subset of Forestlands (FL) that are located within Agricultural Preserves. Thus, the proposed amendment could increase the propensity to convert portions of existing timberlands to non-timber uses via coastal development and use permits. As a result, the Commission must evaluate whether the proposed amendment will protect coastal timber resources and be consistent with Section 30243.

As discussed above, the proposed amendment would only apply to forestlands that are located within Agricultural Preserves. The amendment would not change the current criteria contained in the County's LCP that are used to permit conditional uses on forest lands that are located outside of Agricultural Preserves, nor would the amendment add any conditional uses that are not otherwise allowed by the LCP outside of Agricultural Preserves.

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Mendocino County LUP policy 3.3-3 states that *a timberland unit of commercial size shall not be divided into parcels smaller than 160 acres, and shall not be converted to uses other than growing timber...* (emphasis added). As mentioned above, the proposed amended Agricultural Preserve ordinance states that no compatible use listed in the ordinance will be permitted under an Agricultural Preserve contract if not permitted by Title 20 of the Mendocino County Coastal Zoning Ordinance. Furthermore, Zoning Code Section 20.532.095 establishes findings that must be made to grant or modify any coastal development permit, including the finding that the proposed development is in conformity with the County's LCP. A coastal development permit or coastal development use permit would still be needed to authorize conditional uses on forestlands located within Agricultural Preserves. Therefore, within the coastal zone, the more restrictive standards of the Coastal Zoning Ordinance would supplement the standards of the Agricultural Preserve Ordinance, and any uses allowed by the amended Agricultural Preserve Ordinance would have to be in conformance with the County's Certified LCP, including the Coastal Zoning Ordinance.

Therefore, the Commission finds that the proposed amendment is consistent with Sections 30243 of the Coastal Act, as the LCP as amended will continue to ensure that coastal timber resources are protected.

D. Visual Resources

Coastal Act Section 30251 states that the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance, and that permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, and to be visually compatible with the character of surrounding areas. New development in highly scenic areas shall be subordinate to the character of its setting. Section 30250 requires that development be sited and designed to avoid individual and cumulative impacts on coastal resources.

The proposed amendment would liberalize the conditional uses potentially allowed within Agricultural Preserves. Consequently, the amendment could ultimately result in increased development on agriculturally zoned (AG, RL, FL) parcels within Agricultural Preserves, and new development within preserves resulting from the proposed amendment could potentially have adverse affects on visual resources. For example, the construction of a major impact utility such as a sewage treatment plant or the establishment of a new conditional use such as a mining operation in a highly scenic area could be detrimental to the visual character of a given area. However, the proposed amendment would not affect any LCP policies regarding Visual Resources. Any new structures or uses proposed as a result of the proposed amendment could only be authorized through the issuance of a coastal development permit or a coastal development use permit. Future proposed development and/or uses would be reviewed on a case-by-case site specific basis and would still be subject to the stringent visual protection standards and policies contained in the County's certified LCP.

Therefore, the Commission finds that the LUP as amended will continue to assure that the scenic and visual qualities of coastal areas will be protected.

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D. Environmentally Sensitive Habitat Area

Coastal Act Section 30240(a) states that 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. Section 30240(b) states that 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 such areas, and shall be compatible with the continuance of such habitat areas. Section 30231 states that the biological productivity and the quality of coastal streams shall be maintained, that natural vegetation buffer areas that protect riparian habitats should be maintained, and that alteration of natural streams shall be minimized.

The proposed amendment will not affect any LCP policies regarding environmentally sensitive habitat areas. Once again, proposed developments and uses will continue to require coastal development permits and/or coastal development use permits. Any development that is facilitated by the proposed amendment would have to be found consistent with the existing LCP policies pertaining to the protection of environmentally sensitive habitat areas.

Therefore, the Commission finds that the LUP as amended is consistent with Coastal Act Policies 30240 and 30231, as the LUP will continue to assure that environmentally sensitive habitat areas will be protected.

III. CEQA:

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 as submitted is consistent with the California Coastal Act and will not result in significant environmental effects within the meaning of the California Environmental Quality Act.

Exhibits:

1. County Resolution
2. Strike and delete version of proposed ordinance

RESOLUTION NO. 98-084

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY
OF MENDOCINO TO AMEND THE LOCAL
COASTAL PROGRAM FOR MENDOCINO COUNTY
(#GP 14-97 - Mendocino County)

WHEREAS, the County of Mendocino has adopted a Local Coastal Program, and

WHEREAS, the Local Coastal Program has been certified by the California Coastal Commission, and

WHEREAS, an application has been submitted to the County requesting amendment of the County's Local Coastal Program, and

WHEREAS, the County Planning Commission has held a public hearing on the requested amendment and submitted its recommendation to the Board of Supervisors, and

WHEREAS, the Board of Supervisors has held a public hearing on the requested amendment and has determined that the Local Coastal Program should be amended,

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Mendocino adopts #GP 14-97 amending the Local Coastal Program as follows:

The Coastal Element of the Mendocino County General Plan, Appendix 11 - Resource Preserves, is hereby amended by adding to Appendix 11 Ordinance 4006 as shown on attached Exhibit A.

BE IT FURTHER RESOLVED, that Planning and Building Services staff is directed to include the amendment proposed herein in the next submittal to be made to the California Coastal Commission for certification, and

BE IT FURTHER RESOLVED, that the amendment shall not become effective until after the California Coastal Commission approves the amendment without suggested modification. In the event that the California Coastal Commission suggests modifications, the amendment shall not become effective until after the Board of Supervisors of the County of Mendocino accepts any modification suggested by the California Coastal Commission and formally adopts the proposed amendment.

BE IT FURTHER RESOLVED, that the Local Coastal Program, as is proposed to be amended, is intended to be carried out in a manner fully in conformity with the California Coastal Act of 1976.

BE IT FURTHER RESOLVED, that in the event that the California Coastal Commission denies certification of the amendment proposed to be adopted in this resolution, this resolution shall become inoperative and will be immediately repealed without further action by the Board of Supervisors insofar as this resolution pertains to such amendment for which certification is denied. This resolution shall remain operative and binding for those amendments proposed herein that are certified by the California Coastal Commission.

EXHIBIT NO. 1
APPLICATION NO.
MENDOCINO COUNTY LCP AMENDMENT NO. 1-99-A
COUNTY RESOLUTIONS

The foregoing Resolution was introduced by Supervisor Campbell, seconded by Supervisor Delbar and carried this 11th day of May, 1998 by the following roll call vote:

AYES: Supervisors Delbar, Shoemaker, Campbell, Peterson, Pinches
NOES: None
ABSENT: None

Whereupon the Chairman declared said Resolution passed and adopted and SO ORDERED



Chairman, Board of Supervisors

ATTEST: JOYCE A. BEARD
Clerk of the Board

By: Kristina Lopez
DEPUTY

#GP 14-97 - Mendocino County

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

JOYCE A. BEARD
Clerk of the Board

By: Kristina Lopez
DEPUTY

ORDINANCE 4006

ORDINANCE AMENDING CHAPTER 22.08 OF THE
MENDOCINO COUNTY CODE – RESOURCE PRESERVES

The Board of Supervisors of the County of Mendocino do ordain as follows:

Section 22.08.021(E) is amended to read:

(E) "Compatible use" is any use determined by the County administering the preserve pursuant to Section 22.08.060 or by the California Land Conservation Act of 1965 also known as the Williamson Act to be compatible with the agricultural, recreational, or open space use of the land within the preserve and subject to contract. "Compatible use" includes agricultural use, recreational use or open space use unless the Board finds after notice and hearing that such use is not compatible with the agricultural, recreational or open space use to which the land is restricted by contract pursuant to this Chapter.

Section 22.08.060 of the Mendocino County Code is amended to read:

Sec. 22.08.060 Restricted Uses.

(A) All property subject to Mendocino County agricultural preserve contracts shall be restricted to the agricultural, open-space, recreational, and compatible uses herein below set forth for the particular zone within which such property has been classified; provided that no agricultural open-space, recreational, or compatible use listed below shall be permitted under the agricultural preserve contract if not permitted by Title 20 of the Mendocino County zoning ordinance.

(B) The Board of Supervisors may impose conditions on lands and land uses to be placed within preserves to permit and encourage compatible uses in conformity with the principles of compatibility in this section, particularly public outdoor recreational uses.

(C) Uses approved on contracted lands shall be consistent with all of the following principles of compatibility. In evaluating compatibility, the County shall consider the impacts on noncontracted lands in the agricultural preserve or preserves. For purposes of this section, "contracted land" means all land under a single contract for which an applicant seeks a compatible use permit.

(1) The use will not significantly compromise the long term productive agricultural capability of the subject contracted parcel(s) or on other contracted lands in agricultural preserves.

(2) The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel(s) or on other contracted lands in agricultural preserves. Uses that significantly displace agricultural operations on the subject contracted parcel(s) or on other contracted lands in agricultural preserves may be deemed compatible if they relate directly to the production of commercial agricultural products on the subject contracted parcel(s) or neighboring lands, including activities such as harvesting, processing or shipping.

(3) The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use.

(D) The County may approve a use on nonprime land which, because of on-site or off-site impacts, would not be in compliance with Subsections (C)(1) and (C)(2), based on the following findings. For the purposes of this section, "nonprime land" means land not defined as "prime agricultural land," or is "agricultural land" in Section 21060.1(a) of the Public Resources Code.

(1) Conditions have been required for, or incorporated into, the use to mitigate or avoid those on-site and off-site impacts so as to make the use consistent with the principles set forth in Subsections (C)(1) and (C)(2) to the greatest extent possible while maintaining the purpose of the use.

(2) The productive capability of the subject land has been considered as well as the extent to which the use may displace or impair agricultural operations.

(3) The use is consistent with the purposes of this chapter to preserve agricultural and open space land or supports the continuation of agricultural uses or the use or conservation of natural resources on the subject parcel or on other parcels in the agricultural preserve. The use of mineral resources shall comply with Subsection (E).

(4) The use does not include a residential subdivision.

(E) Mineral extraction shall not remove from the parcel or degrade the quality of Class I or Class II soils in the Natural Resource Conservation Service land use capability classification. Mineral extraction that is unable to meet the principles of Subsection (C) may nevertheless be approved as a compatible use if the County is able to document that the underlying contractual commitment to preserve prime agricultural land or nonprime land for open-space use will not be significantly impaired. Conditions imposed on mineral extraction as a compatible use of contracted land shall include compliance with the reclamation standards adopted by the Mining and Geology Board pursuant to Section 2773 of the Public Resources Code, including the applicable performance standards for prime agricultural land and other agricultural land, and no exception to these standards may be permitted.

(F) Notwithstanding any other determination of compatible use under this section, unless the County makes a finding to the contrary, the erection, construction, alteration, or maintenance of gas, electric, water, communication, or agricultural laborer housing facilities are compatible uses within any agricultural preserve and shall not be excluded by reason of that use.

(G) The approval of any public improvement within an agricultural preserve shall comply with Government Code section 51290 et seq.

(H) The requirements of subsections 22.08.060(C), (D) and (E) shall not apply to:

(1) Compatible uses for which an application was submitted to the County prior to June 7, 1994, provided that the use constituted a "compatible use" as defined by this chapter at the time the application was submitted or the Williamson Act contract was signed with respect to the subject contract lands, whichever is later.

(2) Land uses of contracted lands in place prior to June 7, 1994, that constituted a "compatible use" as defined by this chapter at the time the use was initiated or the Williamson Act contract was signed with respect to the subject contract lands, whichever is later.

(3) Uses expressly specified within the contract prior to June 7, 1994, and that constituted a "compatible use" as defined by this chapter at the time the Williamson Act contract was signed with respect to the subject contract lands, or the time that the contract was amended to include the uses, whichever is later. This section shall apply to contracts for which contract nonrenewal was initiated and was withdrawn after January 1, 1995.

Sec. 22.08.071 is amended to read:

Sec. 22.08.071 Land Within an Agricultural District Zoned A-G.

With respect to property under a Mendocino County agricultural preserve contract which is zoned agricultural (A-G), the permissible agricultural and compatible uses shall be as follows:

(A) The permitted agricultural uses are as follows:

(1) Animal use types

Animal raising

Packing and processing: winery

(2) Commercial use types

Animal sales and services: stockyards

(3) Residential use types

Family residential: single family

(B) Uses subject to a minor use permit. The following use types are permitted in the A-G district upon issuance of a minor use permit:

(1) Residential use types

Farm employee housing

- Farm labor camps
- (2) Commercial use types
- Cottage industry: resource lands
- (C) Uses subject to a major use permit. The following use types are permitted in the A-G district upon the issuance of a major use permit:
 - (1) Residential use types
 - Family residential: dwelling group
 - Family residential: cluster development
 - (2) Civil use types
 - Major impact facilities
 - Major impact service and utilities
 - (3) Commercial use types
 - Animal sales and services: permanent auction yard
 - Animal sales and services: horse stables
 - Animal sales and services: veterinary (large animals)
 - Commercial recreation: outdoor sports and recreation—limited
 - Energy development: Production of energy other than that used on the property.
 - (4) Agricultural use types
 - Animal waste processing
 - Packing and processing: general (Ord. No. 3428, adopted 1983; Ord. No. 3678 (part), adopted 1988.)
 - (5) Extractive Use Types
 - Mining and processing

Sec. 22.08.080 is amended to read:

Sec. 22.08.080 Land Within the Rangeland District (R-L).

With respect to property under an agricultural preserve contract zoned rangeland (R-L), the permissible agricultural and compatible uses shall be as follows:

- (A) The permitted agricultural uses are as follows:
 - (1) Commercial use types
 - Animal sales and services: horse stables
 - Animal sales and services: kennels
 - Animal sales and services: stockyards
 - (2) Agricultural use types
 - Animal raising
 - Animal waste processing
 - Packing and processing: winery
 - (3) Residential use types
 - Family residential: single family (Ord. No. 3428, adopted 1983)
- (B) Uses subject to a minor use permit. The following use types are permitted in the R-L district upon issuance of a minor use permit:
 - (1) Residential use types
 - Farm employee housing
 - Farm labor camp
 - (2) Commercial use types
 - Cottage industries: resource lands (Ord. NO. 3428, adopted 1983)
- (C) Uses subject to a major use permit. The following use types are permitted in the R-L district upon issuance of a major use permit:
 - (1) Agricultural use types
 - Packing and processing: general

(2) Commercial use types

Animal sales and services: permanent auction yard

Animal sales and services: veterinary (large animals)

Commercial recreation: outdoor sports and recreation

Commercial recreation: outdoor entertainment

Transient habitation: campground

Transient habitation: resort

Energy development: production of energy other than that used on the property. (Ord. No. 3428, adopted 1983)

(3) Extractive use types

Mining and processing

Sec. 22.08.081 is amended to read:

Sec. 22.08.081 Lands Within the Forestland District (F-L)

With respect to property under an agricultural preserve contract zoned forestland (F-L), the following permissible agricultural compatible uses shall be as follows:

(A) The permitted agricultural and compatible uses are as follows:

(1) Commercial use types

Animal sales and services: horse stables

Animal sales and services: kennels

Animal sales and services: stockyard

(2) Agricultural use types

Animal raising

Animal waste processing

Packing and processing: winery

(3) Residential use types

Family residential: single family (Ord. No. 3428, adopted 1983)

(B) Uses subject to a minor use permit. The following types are permitted in the F-L district upon issuance of a minor use permit:

(1) Residential use types

Farm employee housing

Farm labor camps

(2) Commercial use types

Cottage industries: resource lands (Ord. No. 3428, adopted 1983)

(C) Uses subject to a major use permit. The following use types are permitted in the F-L district upon issuance of a major use permit:

(1) Commercial use types

Animal sales and services: permanent auction yard

Community recreation: outdoor sports and recreation

Community recreation: outdoor entertainment

Transient habitation: campground

Transient habitation: resort

Energy development: production of energy other than that used on the property.

(2) Agricultural use types

Forest production and processing: general (Ord. No. 3428, adopted 1983)

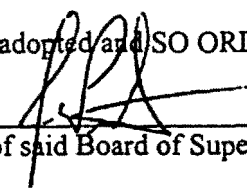
(3) Extractive use types

Mining and processing

Passed and adopted by the Board of Supervisors of the County of Mendocino, State of California, on this 11th day of May, 1998, by the following vote:

AYES Supervisors Delbar, Shoemaker, Campbell, Peterson, Pinches
NOES: None
ABSENT: None

WHEREUPON, the Chairman declared said Ordinance passed and adopted and SO ORDERED.



Chairman of said Board of Supervisors

ATTEST: JOYCE BEARD
Clerk of said Board

By  _____
DEPUTY

CASE#: #OA 2-97

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

JOYCE A. BEARD
Clerk of the Board

By:  _____
DEPUTY

EXHIBIT NO.	2
APPLICATION NO.	
MENDOCINO COUNTY ORDINANCE AMENDMENT NO.	99-A
STRIKE AND DELETE VERSION OF ORD.	

EXHIBIT A

ORDINANCE _____

ORDINANCE AMENDING CHAPTER 22.08 OF THE
MENDOCINO COUNTY CODE – RESOURCE PRESERVES

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Section 22.08.021(E) is amended to read:

(E) "Compatible use" is any use determined by the County administering the preserve pursuant to Section 22.08.060 or by the California Land Conservation Act of 1965 also known as the Williamson Act to be compatible with the agricultural, recreational, or open space use of the land within the preserve and subject to contract. "Compatible use" includes agricultural use, recreational use or open space use unless the Board finds after notice and hearing that such use is not compatible with the agricultural, recreational or open space use to which the land is restricted by contract pursuant to this Chapter.

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(A) All property subject to Mendocino County agricultural preserve contracts shall be restricted to the agricultural, open-space, recreational, and compatible uses herein below set forth for the particular zone within which such property has been classified; provided that no agricultural open-space, recreational, or compatible use listed below shall be permitted under the agricultural preserve contract if not permitted by Title 20 of the Mendocino County zoning ordinance.

(B) The Board of Supervisors may impose conditions on lands and land uses to be placed within preserves to permit and encourage compatible uses in conformity with the principles of compatibility in this section, particularly public outdoor recreational uses.

(C) Uses approved on contracted lands shall be consistent with all of the following principles of compatibility. In evaluating compatibility, the County shall consider the impacts on noncontracted lands in the agricultural preserve or preserves. For purposes of this section, "contracted land" means all land under a single contract for which an applicant seeks a compatible use permit.

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(1) Conditions have been required for, or incorporated into, the use to mitigate or avoid those on-site and off-site impacts so as to make the use consistent with the principles set forth in Subsections (C)(1) and (C)(2) to the greatest extent possible while maintaining the purpose of the use.

(2) The productive capability of the subject land has been considered as well as the extent to which the use may displace or impair agricultural operations.

(3) The use is consistent with the purposes of this chapter to preserve agricultural and open space land or supports the continuation of agricultural uses or the use or conservation of natural resources on the subject parcel or on other parcels in the agricultural preserve. The use of mineral resources shall comply with Subsection (E).

(4) The use does not include a residential subdivision.

(E) Mineral extraction shall not remove from the parcel or degrade the quality of Class I or Class II soils in the Natural Resource Conservation Service land use capability classification. Mineral extraction that is unable to meet the principles of Subsection (C) may nevertheless be approved as a compatible use if the County is able to document that the underlying contractual commitment to preserve prime agricultural land or nonprime land for open-space use will not be significantly impaired. Conditions imposed on mineral extraction as a compatible use of contracted land shall include compliance with the reclamation standards adopted by the Mining and Geology Board pursuant to Section 2773 of the Public Resources Code, including the applicable performance standards for prime agricultural land and other agricultural land, and no exception to these standards may be permitted.

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(1) Compatible uses for which an application was submitted to the County prior to June 7, 1994, provided that the use constituted a "compatible use" as defined by this chapter at the time the application was submitted or the Williamson Act contract was signed with respect to the subject contract lands, whichever is later.

(2) Land uses of contracted lands in place prior to June 7, 1994, that constituted a "compatible use" as defined by this chapter at the time the use was initiated or the Williamson Act contract was signed with respect to the subject contract lands, whichever is later.

(3) Uses expressly specified within the contract prior to June 7, 1994, and that constituted a "compatible use" as defined by this chapter at the time the Williamson Act contract was signed with respect to the subject contract lands, or the time that the contract was amended to include the uses, whichever is later. This section shall apply to contracts for which contract nonrenewal was initiated and was withdrawn after January 1, 1995.

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Animal sales and services: stockyards

(3) Residential use types

Family residential: single family

(B) Uses subject to a minor use permit. The following use types are permitted in the A-G district upon issuance of a minor use permit:

(1) Residential use types

- Farm employee housing
- Farm labor camps
- (2) Commercial use types
- Cottage industry: resource lands
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 - Animal sales and services: veterinary (large animals)
 - Commercial recreation: outdoor sports and recreation—limited
 - Energy development: Production of energy other than that used on the property.
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 - (1) Agricultural use types
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(2) Commercial use types

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Transient habitation: campground

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Mining and processing

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Animal raising

Animal waste processing

Packing and processing: winery

(3) Residential use types

Family residential: single family (Ord. No. 3428, adopted 1983)

(B) Uses subject to a minor use permit. The following types are permitted in the F-L district upon issuance of a minor use permit:

(1) Residential use types

Farm employee housing

Farm labor camps

(2) Commercial use types

Cottage industries: resource lands (Ord. No. 3428, adopted 1983)

(C) Uses subject to a major use permit. The following use types are permitted in the F-L district upon issuance of a major use permit:

(1) Commercial use types

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Community recreation: outdoor sports and recreation

Community recreation: outdoor entertainment

Transient habitation: campground

Transient habitation: resort

Energy development: production of energy other than that used on the property.

(2) Agricultural use types

Forest production and processing: general (Ord. No. 3428, adopted 1983)

(3) Extractive use types

Mining and processing

Passed and adopted by the Board of Supervisors of the County of Mendocino, State of California, on this _____ day of _____, 1998, by the following vote: