

CALIFORNIA COASTAL COMMISSION

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| Filed: | June 30, 2000 |
| 60 th Day: | March 29, 2000 |
| Staff: | Jim Baskin |
| Staff Report: | August 25, 2000 |
| Hearing Date: | September 13, 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
Jim Baskin, Coastal Planner

SUBJECT: **Del Norte County LCP Amendment No. 1-00-Major, (Neighborhood Commercial (C-1) Zoning District).** (Meeting of September 13, 2000, in Eureka)

SYNOPSIS:**Amendment Description:**

On March 28, 2000, the County of Del Norte amended its coastal zoning regulations to identify a permitted use for the Neighborhood Commercial (C-1) zoning district. Currently there is only one parcel zoned as C-1 within the coastal zone of Del Norte County. This parcel is located near the unincorporated town of Smith River.

This amendment was initiated by Dan and Carla Maples to help resolve the nonconforming use status of a single-family residence on a property they own. The subject property is planned for low-density, rural residential development, however the parcel is located in the Smith River C-1 zoning district. Currently, C-1 zoning district standards do not allow single-family residential development as either a principally permitted or conditional use. In addition, the County's nonconforming use provisions stipulate that the rights to continue a nonconforming use of a building (e.g., a residence in a commercial zone) are lost if the continual use of the building ceases for a twelve-month period. The Maples believe that these provisions adversely affect the value of the property and sought assistance from the County to remedy the situation.

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The County concluded that the appropriate course of action would be to amend its zoning regulations to recognize single-family residences as the permitted use in C-1 zones. This decision was based on the perception that the C-1 standards were overly restrictive and that greater flexibility for transitional residential-commercial development should be provided. To allow this use provision to be applicable Countywide, the County similarly amended its inland C-1 zoning ordinance.

The County has applied to the Commission for certification of this amendment to its Implementation Plan (IP). The proposed amendment would establish "placement of a single family residence, manufactured home or mobile home" as the permitted use within C-1 zoning districts, and strike a declarative sentence stating that "(t)here is no principal permitted use in the C-1 district without an approved use permit."

Summary of Staff Recommendation:

The staff recommends that the Commission, upon completion of a public hearing, **certify the amendment request as submitted**. Although the establishment of a single family residence as the permitted use in a commercial zone is somewhat peculiar, Commission staff believes the amendment will nonetheless conform with and adequately carry out the provisions of the County's Land Use Plan it implements. Staff believes certification of the amendment conforms with and carries out the LUP for the following reasons:

The proposed amendment is intended to allow residential uses on properties within Neighborhood Commercial zoning districts, either as an intermittent nonconforming use or as a interim use following the closing of a commercial business. To accomplish this, the County proposes to designate "single family residences, manufactured homes and mobile homes" as the permitted use within the Neighborhood Commercial (C-1) Zoning District. Currently, no principally permitted use is designated for C-1 districts.

The LUP designates the one site in the coastal zone that is zoned C-1 as Rural Residential. The primary use of such lands is stated as single family residential. Other provisions of the LUP provide for neighborhood commercial uses as an "implied use" in areas where it would be compatible with designated uses. Under the current C-1 district provisions, no allowance for development of single family residences is given, either as a principal or conditional use. Accordingly, by designating "the placement of single family residences, manufactured homes, or mobile homes" as the permitted use for the C-1 zone, the zoning would more effectively carry out the policies of the RR land use designation.

In addition, the LUP's Neighborhood Commercial implied uses provisions will continue to be adequately implemented. Compatible commercial uses will still be recognized under the zoning district's conditional use provisions. Furthermore, as conditional uses, any concerns regarding the size, intensity, quietude, nuisance risk, or other potential incompatibilities of a proposed commercial use within a residential setting would continue to be addressed during the use permit process. Accordingly, staff concludes that the proposed designation of a residential use type as

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the permitted use in the C-1 zoning district standards will carry out both the Rural Residential and Neighborhood Commercial use provisions of the certified LUP.

Deadline for Commission Action:

The application for LCP amendment was found to be legally complete and filed on June 30, 2000. On August 11, 2000, the Commission granted a one-year time extension of the deadline for Commission action. This extension allows the hearing to be conducted at the September Commission meeting in Eureka, a location closer to Del Norte County. No testimony relative to the requested LCP amendment was given at the August time-extension hearing.

Analysis Criteria

To approve the amendment to the Implementation Plan (IP), the Commission must find that the Implementation Plan, as amended, conforms with and is adequate to carry out the Land Use Plan (LUP) of the County's certified LCP.

Additional Information:

For further information, please contact Jim Baskin 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. 1-00 MAJOR**

MOTION: I move that the Commission reject Implementation Program Amendment No. 1-00 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 Implementation Program Amendment No. 1-00 for the County of Del Norte as submitted and adopts the findings set forth below on grounds that, as modified, the Implementation Program conforms with and is adequate to carry out the provisions of the Land Use Plan as certified, and certification of the Implementation Program Amendment will meet the requirements of the California Environmental Quality Act, because either 1) feasible

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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.

II. FINDINGS TO APPROVE THE IMPLEMENTATION PLAN AMENDMENT AS SUBMITTED

A. DESCRIPTION OF PROPOSED AMENDMENT

The County of Del Norte is seeking to modify the County's Coastal Zoning Ordinance to designate the "placement of single family residences, manufactured homes, and mobile homes" as the permitted use within Neighborhood Commercial (C-1) zoning districts. The proposed amendment involves a text change to Zoning Code Section 21.25.020. This code section is contained within Zoning Code Chapter 21.25, "C-1 Neighborhood Commercial District," which sets forth the uses allowed within the C-1 zoned lands that do not require a conditional use permit. The proposed amendment would specifically modify County Zoning Code Section 21.25.020 as follows:

21.25.020 ~~The principal p~~Permitted use. ~~There is no principal permitted use in a C-1 district without an approved use permit. (Ord. 83-03 (part))~~ Placement of a single family residence, manufactured home, or mobile home.

21.25.030 Uses permitted with a use permit. Uses permitted with a use permit in a C-1 district shall be as follows:

- A. Neighborhood commercial uses which meet the intent as set forth in Section 21.25.010 such as small retail shops, small professional offices, personal service shops or grocery stores. (Ord. 83-03(part))

Note: Amended text being deleted is shown in ~~strikethrough~~, text being added is underlined and italicized.

Under the County's current coastal zoning ordinance provisions, there are no principally permitted uses specified for the C-1 zone. Furthermore, the only uses allowed by use permit consist of neighborhood commercial enterprises that meet the intent of the C-1 zoning district, namely low-intensity commercial activities found to be compatible in a residential setting. Specified examples include small retail shops, small professional offices, and personal service shops or grocery stores.

The proposed amendment would allow single family residences, whether in the form of conventional wood-framed houses, manufactured housing, or mobile homes, as the permitted use on parcels within Neighborhood Commercial (C-1) zoning districts. The amendment was

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initiated by the owners of a C-1 zoned parcel in the Smith River community area who are seeking extended protection of the use of the residence. Under the County's nonconforming use provisions, the rights to continue a residential use in a commercial zone are lost if continued use of the property for that purpose ceases for more than a twelve-month period. All subsequent uses of the building would then have to conform to the commercial zoning standards.

The subject property is designated as Rural Residential, 1 Dwelling Unit per 1 Acre (RR 1/1) under the County's LUP, certified by the Commission on October 12, 1983. The parcel is located west of Highway 101 in an area that has been developed with a variety of rural residential, commercial-recreational, and visitor-serving uses, including the nearby "Ship Ashore" resort complex. The subject property is in an appealable area, due to its location between the first public road and the sea.

The County chose to address the owners' concerns by amending the text of the C-1 zoning district provisions Countywide, rather than simply rezoning the parcel to a residential use zone. The County's stated rationale for pursuing the zoning text change rather than rezoning the parcel is that:

...(a)llowing a residence as a primary permitted use will prevent the need for multiple rezoning of the property when businesses close, and residential use is either continued on the property, or is proposed until a new commercial use is applied for as part of a new conditional use permit.

B. LCP AMENDMENT ANALYSIS

Section 30513 of the Coastal Act establishes the criteria for Commission action on proposed amendments to certified Implementation Plans (IP). Section 50313 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.

The subject property is designated as Rural Residential - 1 Dwelling per 1 Acre (RR 1/1) under the LUP. The purpose of the RR designation is described in the LUP as follows:

Rural Residential: 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

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residences, the keeping of horses for use by the owner, light agricultural activities, and accessory buildings appropriate to the residential use.

It is noted that this policy language does not specifically identify low-intensity neighborhood commercial uses as a permitted use type. However, the RR land use designation does not expressly exclude neighborhood commercial activities. Accordingly, such uses may have been intended to be "included" but were not explicitly enumerated among the examples of permissible uses. In such cases, a comprehensive review of other policies within the LUP may resolve any ambiguity regarding conformance with the land use designation provisions.

The LUP addresses commercial development in the Land Use Chapter as follows:

Land use categories not specifically identified on the land use maps but may be permitted to exist are:

Neighborhood Commercial - This classification recognizes those types of light commercial uses which are compatible with residential land uses and where those commercial uses are found to be small, non-intensive, quiet, non-nuisance uses. This classification will not be reflected on the land use maps but will be incorporated in the zoning ordinance. (emphasis added)

This goal is reiterated in the purpose statement of the Neighborhood Commercial C-1 zoning district, in applicable part, as follows:

21.25.010 Intent. It is the intent of the county to use this C-1 zone district to recognize those types of commercial use which have been found to be compatible with residential land uses. These uses by their nature are small, non-intensive, quiet and designed to be located within a residential neighborhood. The C-1 zone district is therefore consistent with the residential designations of the county General Plan or adopted specific plan land use element...(emphasis added)

As stated, the prevailing purpose of the RR LUP designation is to identify lands intended for single family residential development. Under the current C-1 zoning district provisions, no allowance for development of single family residences is given, either as a principal or conditional use. Accordingly, by designating "the placement of single family residences, manufactured homes, or mobile homes" as the permitted use for the C-1 zone, the policies of the RR designation would be more effectively carried out than currently under existing provisions.

In addition, the LUP's Neighborhood Commercial use provisions will continue to be adequately implemented. Compatible commercial uses will still be recognized under the zoning district's conditional use provisions. Furthermore, as conditional uses, any concerns regarding the size, intensity, quietude, nuisance risk, or other potential incompatibilities of a proposed commercial use within a residential setting would continue to be addressed during the use permit process. Accordingly, the Commission finds that the proposed designation of a residential use type as the permitted use in the C-1 zoning district standards is in conformance with the LCP's Rural Residential and Neighborhood Commercial use provisions of the certified LUP.

Therefore, the Commission finds the County's Implementation Plan, as amended, conforms with and is adequate to carry out the requirements of the certified Land Use Plan.

III. CALIFORNIA ENVIRONMENTAL QUALITY ACT

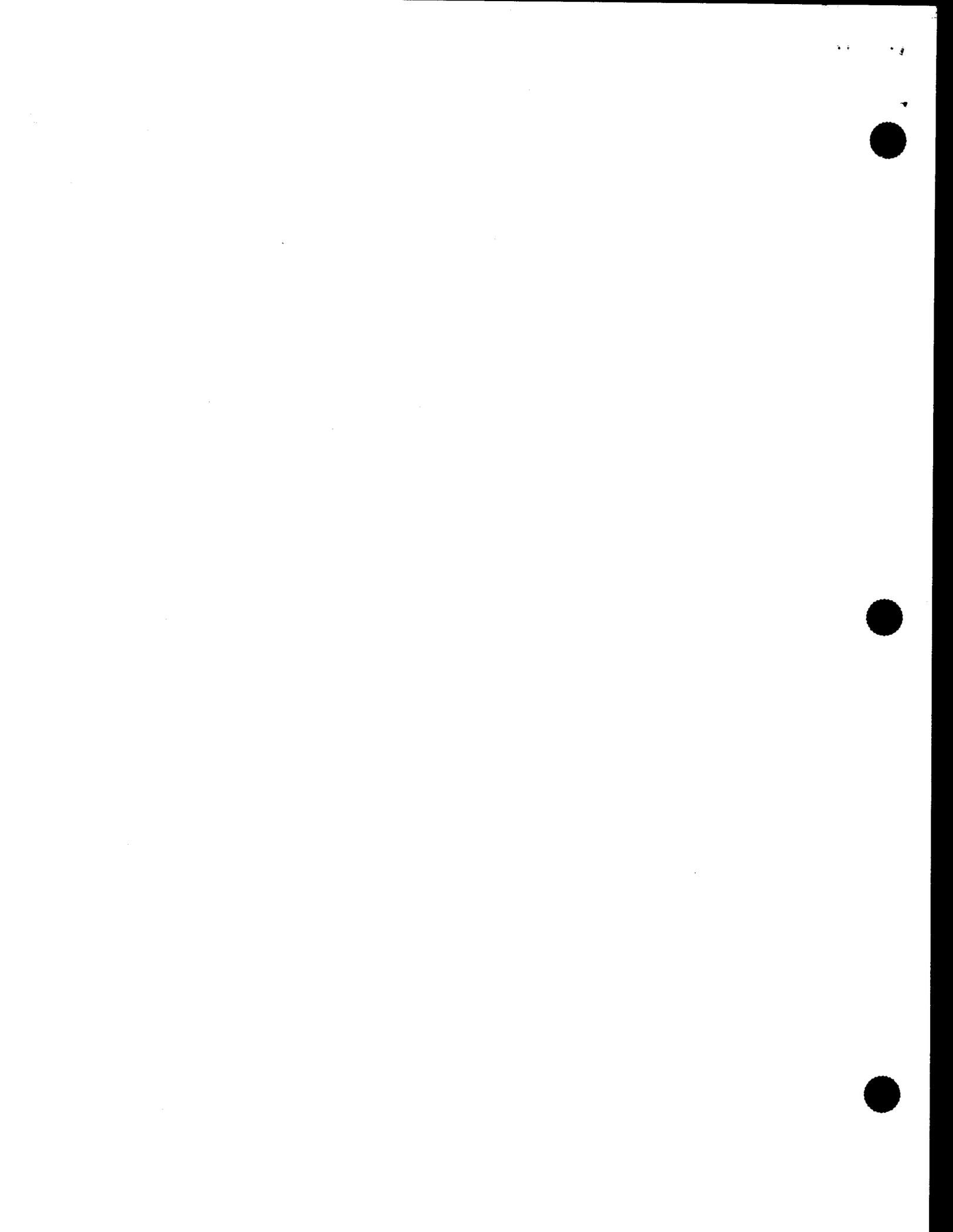
In addition to making a finding that the amendment is in full compliance with the Coastal Act, the Commission must make a finding consistent with Section 21080.5 of the Public Resources Code. Section 21080.5(d)(2)(A) of the Public Resources Code requires that the Commission not approve or adopt an LCP:

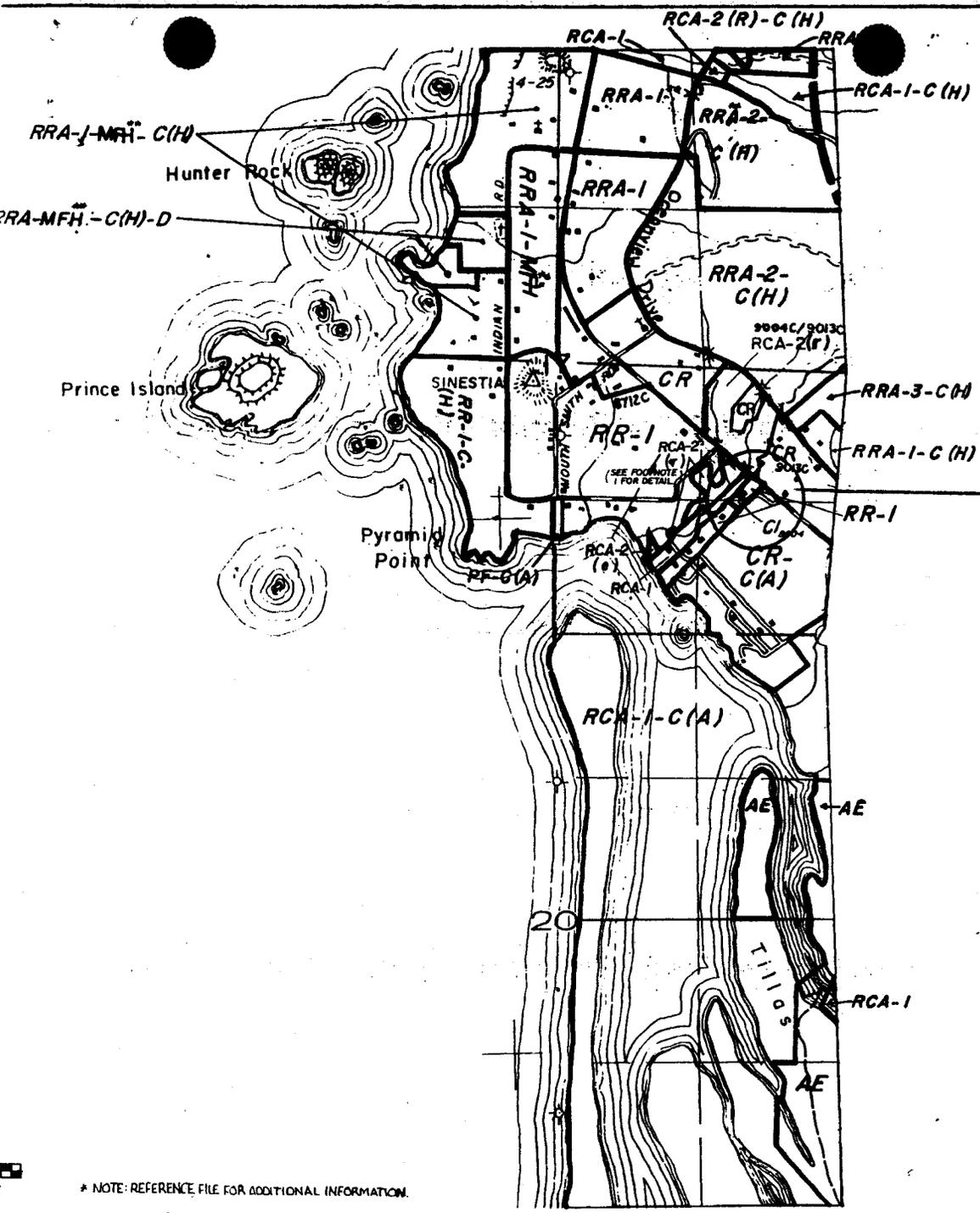
...if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effects which the activity may have on the environment.

As discussed in the findings above, the amendment request 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. Location Map
2. Zoning Map
3. County Resolution





1. See R8502C & R8504C for detailed boundary delineation
 * See Rezone File
 ** R9502C

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| EXHIBIT NO. | 2 |
| APPLICATION NO. | DNC-MAJ-1-00 |
| ZONING MAP | |

PROJECT AREA

Section 21.06.050 Ordinance 83-03
 DEL NORTE CO. ZONING MAP
 AREA B-3
 SECTIONS 17 & 20
 TWP 18 N RGE 1W HB & M
 SMITH RIVER AREA

APPROVED BY PLANNING COMMISSION *July E. [Signature]*
 APPROVED BY BOARD OF SUPERVISORS *[Signature]*
 COUNTY OF DEL NORTE, CALIFORNIA

83-03: Sept 6, 83
 85-02: Feb 19, 85
 86-04: Oct 21, 85
 87-12: July 86

REVISED: 3/23/95

* NOTE: REFERENCE FILE FOR ADDITIONAL INFORMATION.

RESOLUTION NO. 2000-030

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CALIFORNIA
COASTAL COMMISSION

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF DEL NORTE AMENDING SECTION 21.25.010
OF CHAPTER 21.25 OF THE DEL NORTE COUNTY
ORDINANCE CODE**

WHEREAS, Dan and Carla Maples have petitioned for an amendment to Title 21, Coastal Zoning, of the Local Coastal Plan; and

WHEREAS, this amendment has been reviewed and processed pursuant to the provisions of the Local General Plan Coastal Element and Title 21 (Coastal Zoning); and

WHEREAS, a Class 5 Exemption has been adopted pursuant to the California Environmental Quality Act; and

WHEREAS, this amendment is intended to be carried out in a manner in conformity with the Coastal Act and the implementing Local Coastal Plan; and

WHEREAS, this amendment shall take effect and be enforced thirty (30) days after the date of the passage of the companion ordinance, and after approval of the amendment by the Coastal Commission, whichever is later; and

Now, Therefore, Be it resolved, that the Board of Supervisors of the County of Del Norte, State of California do hereby approve the Ordinance Text Amendment to title 21.25.010, primary permitted uses; and

Be It Further Resolved, that the submission of such changes to the Coastal Commission for certifications, the Board of Supervisors is requesting the subject amendment be identified as requiring rapid and expeditious action.

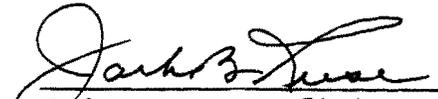
PASSED AND ADOPTED this 14th day of March 2000, by the following polled vote:

AYES: Supervisors Eller, Finigan, Blakcburn, McClure and Reese

NOES: None

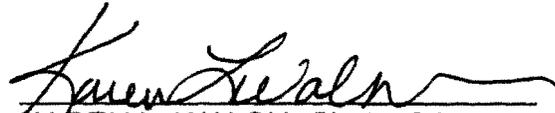
ABSENT: None

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| EXHIBIT NO. 3 |
| APPLICATION NO. DNC-MAJ-1-00 |
| (pg. 1 of 4) |
| COUNTY RESOLUTION |



Jack B. Reese, Chairman
Board of Supervisors

ATTEST:



KAREN L. WALSH, Clerk of the
Board of Supervisors, County of Del Norte,
State of California

**BOARD OF SUPERVISORS
COUNTY OF DEL NORTE, STATE OF CALIFORNIA**

ORDINANCE NO. 2000- 003

**ORDINANCE OF DEL NORTE COUNTY RELATING TO PERMITTED USES IN
C-1 NEIGHBORHOOD COMMERCIAL DISTRICTS**

The following ordinance, consisting of four sections, was duly and regularly passed and adopted by the Board of Supervisors of the County of Del Norte, State of California, at a regular meeting of the Board of Supervisors held on the 28th day of March, 2000, by the following vote:

AYES:

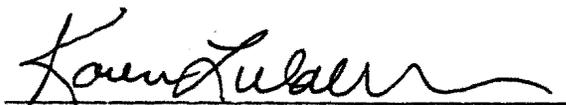
NOES:

ABSENT:



Jack B. Reese, Chairman
Del Norte County Board of Supervisors
State of California

ATTEST:



Karen L. Walsh, Clerk
Del Norte County Board of Supervisors

APPROVED AS TO FORM:



Robert N. Black
Del Norte County Counsel

THE BOARD OF SUPERVISORS OF THE COUNTY OF DEL NORTE, STATE OF CALIFORNIA, DOES ORDAIN AS FOLLOWS:

Section One. This ordinance shall take effect thirty (30) days after its passage. Before the expiration of fifteen (15) days after its passage, a summary of it shall be published once, in a local newspaper of general circulation in the County of Del Norte, State of California.

Section Two. Section 20.24.020 of Chapter 20.24 of the Del Norte County Ordinance Code is hereby amended to read in its entirety as follows:

Permitted Use. Placement of a single-family residence, manufactured home, or mobile home.

Section Three. Section 21.25.020 of Chapter 21.25 of the Del Norte County Ordinance Code is hereby amended to read in its entirety as follows:

Permitted Use. Placement of a single-family residence, manufactured home, or mobile home.

Section Four. If any section, subsection, sentence, clause or phrase of these ordinances is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of these ordinances. The Board of Supervisors hereby declares that it would have passed these ordinances and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, clauses or phrases be declared unconstitutional.