

CALIFORNIA COASTAL COMMISSION

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Th10a

DATE: October 17, 2003

TO: Coastal Commissioners and Interested Persons

FROM: Chuck Damm, Interim Deputy Director
Robert Merrill, North Coast District Manager

SUBJECT: **Mendocino County LCP De-Minimus Amendment No. 1-03 to the Implementation Plan (Real Estate Disclosure)** to be reported at the November 6, 2003 Commission hearing at the Sheraton Los Angeles Harbor, 601 South Palos Verdes Street, San Pedro.

Background

The Town of Mendocino is designated as a special community in the certified Mendocino County LCP. The applicable policies and standards of the LCP emphasize the preservation of historic structures of significance and how new development in the Town of Mendocino must be compatible with the character of the Town. Mendocino County LUP Policy 3.5-2 requires that development in the Mendocino Town shall maintain and enhance community character, as defined in the Mendocino Town Plan. The Mendocino Town Plan comprises Chapter 4 of the Mendocino County LUP. LUP Policy 4.13-9 of that chapter states in applicable part that new buildings, rehabilitations, and renovations of existing structures shall be consistent with the character of the Town. Section 20.760.005 of the Mendocino Town Zoning Code establishes a Historical Preservation District. Sections 20.760.020 and 20.760.030 of the Mendocino Town Zoning Code establish the Mendocino Historical Review Board to review all development within the historic district for the purpose of preserving the architecture and character of the historic District. All such development requires a permit from the Historical Review Board. The Mendocino Historical Review Board (MHRB) reviews development against the standards

of Section 20.760.050 of the Mendocino Town Zoning Code. Chief among these standards is Section 20.760.050(A), which states in applicable part that the size, forms, materials, textures, and colors of new development shall be in general accord with the appearance of structures built in Mendocino prior to 1900. The standard also indicates that the size, forms, materials, textures, colors or design of new development need not be the same as those used in Mendocino prior to 1900, just that the construction be compatible with and not in disharmony with the architectural standards. Section 20.760.050(C) states that the MHRB shall evaluate a variety of elements of each proposed development including height, proportions of windows and doors, the relationship between masses and open spaces, roof shape, landscaping, scale, directional expression, and architectural details.

The permit required from the MHRB must be obtained by an applicant prior to obtaining County approval, or Commission approval on appeal, of any required coastal development permit for the proposed development. The MHRB permit is separate and distinct from the coastal development permit and is not an approval that can be appealed to the Commission. However, the County and the Commission on appeal can use the findings of the MHRB as non-binding guidance in the review of a coastal development permit application to evaluate whether the proposed development is consistent with the substantive standards of the certified LUP and Mendocino Town Zoning Code regarding the compatibility of the design of the development with the visual character of the Town.

Amendment Description

The proposed amendment request would amend the Mendocino Town Zoning Code. This code is a portion of County's certified Implementation Plan that applies to the Town of Mendocino only. The proposed amendment would not affect the County Coastal Zoning Code that applies to areas of the coastal zone outside of the Town of Mendocino. The proposed amendment would add a provision that requires that real estate agencies and property owners that list or sell real property in the Town of Mendocino to disclose to potential buyers the historical preservation requirements of the Mendocino Historical Review Board (MHRB) ordinance, an ordinance that was incorporated into the Mendocino Town Zoning Code. The proposed amendment would not directly alter coastal development permitting requirements. The specific language of the amendment would read as follows:

Section 20.760.082 Real Estate Disclosure.

Any person selling or acting as an agent for the seller of real property within the Mendocino Historical Preservation District shall disclose to the prospective purchaser that:

“The property described herein is located within the Mendocino Historical Preservation District. Because of this Historical classification, many types of activities, including but not limited to

painting or other changes to the exterior of a structure, new construction, signs, outdoor lighting, fences, driveways, walkways, and excavations, may be subject to a permit from the Mendocino Historical Review Board. You are urged to obtain a copy of Chapter 20.760 of Division III of Title 20 of the Mendocino County Code to ascertain the types of projects subject to review by the Mendocino Historical Review Board, the permit application process, standards, duty to maintain and penalties for violations.”

The disclosure statement set forth above shall be included in a document that a purchaser, lessee or transferee signs evidencing the sale, purchase, transfer or lease of real property within the Mendocino Historical Preservation District.

Determination

Pursuant to Section 30514(d) of the Coastal Act, the Executive Director has determined on October 17, 2003 that the proposed amendment is ‘de-minimus’ in nature. Section 30514(d)(1) of the Coastal Act allows the Executive Director to determine that a proposed amendment is “de-minimus” if there are no impacts on coastal resources either individually or cumulatively and is consistent with the policies of Chapter 3, in addition to meeting certain public notice and hearing criteria.

The proposed amendment will not change the kind, location, intensity, or density of use of any land within Town of Mendocino. Rather than change designated land uses, the amendment would help implement existing historical preservation requirements of the certified LCP that apply to existing land uses and development on property within the Town by providing another form of notice to prospective purchasers of the historical preservation requirements of the zoning code. Under the proposed amendment, real estate agents and property owners selling property within the Mendocino Historical Preservation District would be required to disclose to prospective purchasers in a signed document that (1) the property is located within the District, (2) many kinds of activities within the district may require a permit from the Mendocino Historical Review Board, and (3) the prospective purchaser should obtain a copy of Chapter 20.760 of Division III of Title 20 of the Mendocino County Code to ascertain the types of project subject to review, the Historical Preservation permit application process, the standards that apply, the property owners duty to maintain their property, and the penalties for violation of the code. By helping purchasers of property within the historical preservation district to be better informed of the historical preservation requirements, the proposed amendment will better insure that the historical preservation requirements of the certified LCP are followed and that violations of the code requirements do not occur. Therefore, as the proposed amendment only requires that additional notice be given to potential purchasers of property within the historic district of the Town of Mendocino of certain historical preservation requirements, the amendment of the historical preservation permitting requirements will have no impacts on coastal resources, either individually or cumulatively and is consistent with the policies of Chapter 3 of the Coastal Act. In

addition, the County's processing of the proposed amendment meets all of the public notice and hearing criteria listed in Section 30514(d) of the Coastal Act.

Therefore, the proposed amendment to require that real estate agents and property owners that list or sell real property in the Town of Mendocino disclose to potential buyers the historical preservation requirements of the Mendocino Historical Review Board (MHRB) ordinance is considered "de-minimus" as defined by Section 30514(d) of the Coastal Act.

Procedures

The Board of Supervisors of Mendocino County approved the proposed amendment on November 5th, 2002. No public comments were received at either of the public hearings on the proposed amendment held by the Planning Commission and the Board. The LCP amendment was received by the Commission on August 18, 2003. The Executive Director determined on October 17, 2003 that this amendment is "de-minimus." Section 30514 (3) (B) and (C) of the Coastal Act provides that if three members of the Commission object to the Executive Director's determination that the proposed amendment is determined to be "de-minimus," the proposed amendment shall be noticed in the agenda of the next regularly scheduled meeting of the Commission, in accordance with Section 11125 of the Government Code. If three or more members of the Commission do not object to the "de-minimus" determination, the "de-minimus" local coastal program amendment shall become part of the certified local coastal program ten days after the date of the Commission meeting.

RESOLUTION NO. 02-246

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE STATE OF CALIFORNIA, COUNTY OF MENDOCINO, AMENDING AMEND THE LOCAL COASTAL PROGRAM FOR MENDOCINO COUNTY (OA 1-2002)

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, 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 OA 1-2002 amending the Local Coastal Program as described in the attached ordinance

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 earned 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

The foregoing Resolution introduced by Supervisor Campbell, seconded by Supervisor Lucier, and carried and carried this 22nd day of October, 2002 by the following vote.

EXHIBIT NO. 1

APPLICATION NO.

MEN-DM-1-03

MENDOCINO COUNTY

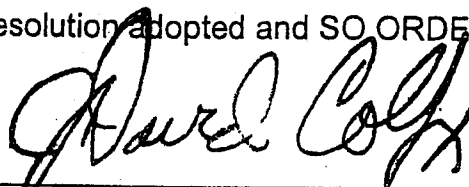
LCP AMENDMENT

RESOLUTION AND

ORDINANCE

AYES: Supervisors Delbar, Shoemaker, Lucier, Campbell and Colfax
NOES: None
ABSENT: None

WHEREUPON, the Chair declared said Resolution adopted and SO ORDERED.



J. DAVID COLFAX, Chairman

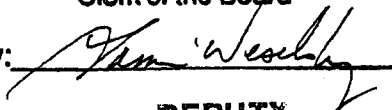
ATTEST: KRISTI FURMAN
Clerk of the Board



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

KRISTI FURMAN
Clerk of the Board

By:



DEPUTY

ORDINANCE NO. 4103

AN ORDINANCE ADDING SECTION 20.760.082 TO CHAPTER 20.760 – HISTORICAL PRESERVATION DISTRICT FOR TOWN OF MENDOCINO – OF DIVISION III OF TITLE 20 OF THE MENDOCINO COUNTY CODE

The Board of Supervisors of the County of Mendocino, State of California, ordains as follows:

Section 20.760.082 of Division III of Title 20 of the Mendocino County Code is added to read:

Section 20.760.082 Real Estate Disclosure.

Any person selling or acting as an agent for the seller of real property within the Mendocino Historical Preservation District shall disclose to the prospective purchaser that:

“The property described herein is located within the Mendocino Historical Preservation District. Because of this Historical classification, many types of activities, including but not limited to painting or other changes to the exterior of a structure, new construction, signs, outdoor lighting, fences, driveways, walkways, and excavations, may be subject to a permit from the Mendocino Historical Review Board. You are urged to obtain a copy of Chapter 20.760 of Division III of Title 20 of the Mendocino County Code to ascertain the types of projects subject to review by the Mendocino Historical Review Board, the permit application process, standards, duty to maintain and penalties for violations.”

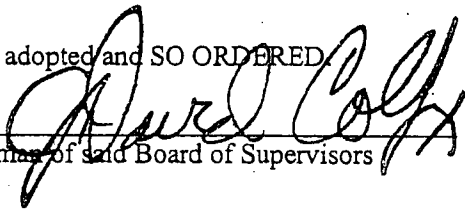
The disclosure statement set forth above shall be included in a document that a purchaser, lessee or transferee signs evidencing the sale, purchase, transfer or lease of real property within the Mendocino Historical Preservation District.

This ordinance shall become effective 30 days from the date of its adoption and certification by the California Coastal Commission.

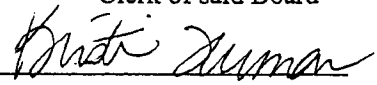
The above ordinance was introduced by Supervisor Campbell, seconded by Supervisor Shoemaker, and PASSED AND ADOPTED this 5th day of November, 2002, by the following vote of the Board of Supervisors of the County of Mendocino, State of California:

AYES: Supervisors Delbar, Shoemaker, Lucier, Campbell and Colfax
NOES: None
ABSENT: None

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

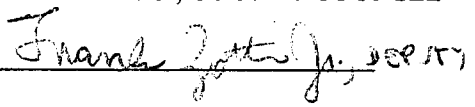

Chairman of said Board of Supervisors

ATTEST: KRISTI FURMAN
Clerk of said Board

By 

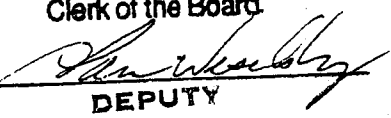
APPROVED AS TO FORM:

H. PETER KLEIN, COUNTY COUNSEL

By 

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

KRISTI FURMAN
Clerk of the Board

By: 
DEPUTY

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