

## CALIFORNIA COASTAL COMMISSION

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# Th12a

Filed: Aug.20, 2003  
90<sup>th</sup> Day: Nov. 18, 2003  
Staff: Robert Merrill  
Staff Report: Oct. 17, 2003  
Hearing Date: Nov. 6, 2003  
Commission Action:

TO: Commissioners and Interested Parties

FROM: Peter M. Douglas, Executive Director  
Chuck Damm, Interim Deputy Director  
Robert S. Merrill, North Coast District Manager

SUBJECT: **City of Eureka LCP Amendment No. EUR-MAJ-1-03  
(Kovacovich/Clear Channel Television).  
(Meeting of November 6, 2003, in San Pedro)**

## SYNOPSIS:

### Amendment Description:

The proposed amendment would amend the City of Eureka LCP, certified in 1984, to redesignate and rezone three parcels totaling approximately two acres in size from a Light Industrial (LI) LUP designation and general industrial (MG) zoning district to a General Service Commercial (GSC) LUP designation and Service Commercial (CS) zoning district.

### Summary of Staff Recommendation:

Staff recommends that the Commission, upon completion of the public hearing, approve the amendment request as submitted.

The approximately two-acre property affected by the proposed LCP amendment has previously been developed with commercial uses and is within the urbanized area of the City of Eureka, more than a quarter mile away from the shoreline of Humboldt Bay. The proposed redesignation and rezoning of the site from industrial to commercial use would not affect land needed for Coastal Act identified priority uses. The current Light Industrial land use designation applied to the site is not the designation that has been applied in the certified LUP to waterfront areas needed to be reserved for coastal-dependent or coastal-related industry. The site is not suited for such priority use, as it is distant from the shoreline and separated from designated coastal-dependent or coastal-related industrial lands by a large area of land designated and developed for commercial and non-coastal-dependent or coastal-related uses. The developed nature of the site, its distance from the shoreline, and the surrounding pattern of development do not make it well suited for other coastal priority uses such as recreation, habitat protection, or agriculture. The subject property is also located within the urban services boundary where there is adequate capacity to accommodate future commercial development that would be accommodated by the proposed LCP amendment. Therefore, staff recommends that the Commission find that LUP Amendment No. EUR-MAJ-1-03 as submitted is consistent with the Chapter 3 policies of the Coastal Act.

The proposed Service Commercial (CS) zoning district is the district of the certified Coastal Zoning Ordinance that matches the proposed General Service Commercial LUP designation. The purpose of both the district and the designation as stated in the certified Coastal Zoning Code and Land Use Plan, respectively, is "to provide appropriately located areas for retail stores, offices, service establishments, amusement establishments, and wholesale businesses offering commodities and services required by residents of the city and its surrounding market area." In addition, the range of principal and conditional uses allowed within the CS zoning district are consistent with the principal and condition uses allowed within the GSC LUP designation. Therefore, staff recommends that the Commission find that the IP amendment as submitted conforms with and is adequate to carry out the Land Use Plan, as amended by LCP Amendment No. EUR-MAJ-1-03.

The motions and resolutions for approval of the LCP amendment are found on pages 3 and 4.

#### Analysis Criteria

To approve the amendment to the Land Use Plan (LUP), the Commission must find that the Land Use Plan, as amended, would be in conformity with the policies of Chapter 3 of the Coastal Act. 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 policies of the Land Use Plan (LUP) portion of the City's certified LCP.

#### Deadline for Commission Action:

On August 20, 2003, the Commission received the proposed amendment from the City of Eureka. The Executive Director determined that the City's August 20, 2003 LCP amendment submittal was in proper order and legally adequate to comply with the requirements of Section 30510 of the California Coastal Act and Sections 13551-13552 of the Commission's regulations. Pursuant to Section 30512 of the California Coastal Act, LCP Amendment No. EUR-MAJ-1-03 must be scheduled for public hearing and the Commission must take action within 90 days after receipt of a complete transmittal. The 90<sup>th</sup> day after receipt of the complete transmittal will be November 18, 2003, therefore necessitating Commission review at or before the Commission's November 4-7, 2003 hearings. As noted above, staff is recommending that the Commission certify the LCP Amendment as submitted at the November 6, 2003 Commission meeting. However, should the Commission determine that it is not ready to act on the LCP amendment at that meeting and that continuing the hearing to a later date is necessary, the Commission must extend the deadline for action. Coastal Act Section 30517 states that the Commission may extend for good cause the 90-day time limit for Commission action for a period not to exceed one year.

Additional Information:

For further information, please contact Robert Merrill at the North Coast District Office (707) 445-7833. Please mail correspondence to the Commission at the above address.

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**PART ONE: STAFF RECOMMENDATION, MOTIONS, AND RESOLUTIONS**

**I. APPROVAL OF THE LUP AMENDMENT PORTION OF AMENDMENT NO. EUR-MAJ-1-03(KOVACOVICH/CLEAR CHANNEL TELEVISION) AS SUBMITTED**

**MOTION 1:** I move that the Commission certify Land Use Plan Amendment No. EUR-MAJ-1-03 as submitted by the City of Eureka.

**STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:**

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

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

The Commission hereby certifies the Land Use Plan Amendment No EUR-MAJ-1-03 as submitted by the City of Eureka 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. APPROVAL OF THE IP AMENDMENT PORTION OF AMENDMENT NO. EUR-MAJ-1-03(KOVACOVICH/CLEAR CHANNEL TELEVISION) AS SUBMITTED**

**MOTION 2:** I move that the Commission reject Implementation Program Amendment No. EUR-MAJ-1-03 for the City of Eureka as submitted.

**STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:**

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

**RESOLUTION :**

The Commission hereby certifies the Implementation Program Amendment No. EUR-MAJ-1-03 for the City of Eureka as submitted and adopts the findings set forth below on grounds that the Implementation Program as amended, conforms with and is adequate to carry out the provisions of the Land Use Plan, as amended and certified, and certification of the Implementation Program Amendment will meet the requirements of the California Environmental Quality Act, because either: 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment; or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program Amendment.

The Commission finds and declares as following for LCP Amendment No. EUR-MAJ-1-03:

**I. PROPOSED LCP AMENDMENT**

The City of Eureka proposes to amend both its certified Land Use Plan and Implementation Plan to redesignate and rezone three parcels totaling approximately two acres in size from its current Light Industrial (LI) LUP designation and general industrial (MG) zoning district to a General Service Commercial (GSC) LUP designation and Service Commercial (SC) zoning district. The property is located south and west of the downtown core of the City in the blocks bounded by Del Norte, Koster, Wabash, and Short Streets. The site is currently developed with commercial uses rather than with industrial uses even though the site is designated and zoned for industrial uses under the currently certified LCP. According to City staff, the property owners petitioned the City for the LCP amendment to enable the existing retail tire sales facility to become a principally permitted use of the site to facilitate future expansion or reuse of the site with uses that are primarily retail in character to reflect the ongoing, long-term use of the site. The current industrial designation and zoning do not list such retail uses as principally permitted uses of the site.

**II. SITE DESCRIPTION**

The project site is an entire City block located one block off of Highway 101 in the developed Westside area of Eureka, south and west of the downtown core, in the block bounded by Del Norte, Short, Koster, and Wabash Streets (see Exhibits 1-3). The affected parcels include APN 003-174-002, 003-174-003, and 003-174-005. The site is currently developed with service commercial uses including a retail commercial tire dealership, parking lot, and two warehouse buildings. The existing buildings are generally two stories in height.

The surrounding uses include mostly commercial business with some office and industrial uses. To the north across Wabash Avenue are an environmental and engineering consulting firm and an auto repair shop. These uses occupy lands designated a combination of Light Industrial (LI) and General Industrial (GI) and zoned Service Commercial (SC) and General Industrial (MG). To the east across Koster Street are a television studio and commercial business. These uses occupy lands designated General Service Commercial (GSC) and zoned Service Commercial (SC). To the south across Del Norte Street are a motel and mini-storage facility also occupying lands designated General Service Commercial (GSC) and zoned Service Commercial (SC). To the west across Short Street is a cable television facility occupying lands designated as General Industrial (GI) and zoned as General Industrial (MG). Kitty-corner to the northwest is a

large Costco warehouse store on lands designated as General Industrial (GI) and zoned as General Industrial (MG).

The project site has previously been developed and disturbed and is almost entirely covered by impermeable surfaces. The site contains no known habitat for endangered, rare or threatened species and contains no other environmentally sensitive habitat.

The project site is located approximately 1,700 feet from the shoreline of Humboldt Bay and is not between the first public road and the sea. Coastal access is available in the nearby vicinity at the end of Del Norte Street where an existing City park, trail and fishing pier are available for public access use.

The project site is part of a much larger area west of Broadway (Highway 101) that originally consisted of tidelands that were filled and developed in the early and mid 20<sup>th</sup> century and were committed to urban uses. Pursuant to Section 30613 of the Coastal Act, local government has coastal development permit jurisdiction over lands subject to the public trust that the Commission determines are (1) filled and developed and are (2) located within an area which is committed to urban uses. After certification of the LCP in 1984, the Commission made such a determination at the request of the City. Therefore, the City has coastal development permit jurisdiction over the project site. As the lands continue to remain subject to the public trust, however, the Commission has coastal development permit appeal jurisdiction over the site pursuant to Section 30603(2) of the Coastal Act.

### **III. BACKGROUND ON CITY OF EUREKA LCP**

The City of Eureka LCP was certified by the Commission in July of 1984, and the City assumed coastal development permit issuing authority in January of 1985. The Commission has certified a total of 13 LCP amendments since the certification of the original LCP. A major update of the Land Use Plan was certified by the Commission in September of 1998, and effectively certified on April 16, 1999. The Commission approved a categorical exclusion order in 1988 that excludes coastal development permits for principal permitted uses under certain circumstances in certain areas of the City.

The coastal zone covers only portions of the City. With a number of exceptions, the coastal zone generally covers the portions of the City west of South Broadway (a portion of Highway 101) and north of Third Street and Myrtle Avenue.

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## **PART THREE: AMENDMENT TO LAND USE PLAN**

### **I. ANALYSIS CRITERIA**

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

As submitted, the proposed LUP amendment is not fully consistent with the policies of the Coastal Act, but if modified as suggested, will be consistent.

**II. FINDINGS FOR APPROVAL OF THE LUP PORTION OF AMENDMENT NO. EUR-MAJ-1-03 (KOVACOVICH/CLEAR CHANNEL TELEVISION) AS SUBMITTED:**

The Commission finds and declares as following for Land Use Plan Amendment No. EUR-MAJ-1-03:

**A. Amendment Description**

The proposed amendment would amend the certified LUP to redesignate the approximately two-acre property from a Light Industrial (LI) to General Service Commercial (GSC). The amendment is limited to this LUP map change. No changes to the text of the LUP are proposed.

**1. Current LI Designation.**

The certified LUP describes the purpose of the LI designation as follows:

“To provide sites for industries that can operate in close proximity to commercial uses with minimum adverse impact.”

The listed principal uses allowed under the LI designation in the coastal zone without a conditional use permit are light manufacturing, processing plants, machine shops, storage yards, trucking terminals, automobile servicing and repair, warehousing, wholesaling, and existing offices.

The listed conditional uses allowed under the LI designation in the coastal zone that require a conditional use permit are professional and business offices, retail sales, and oil and gas pipelines.

**2. Proposed GSC Designation.**

The certified LUP describes the purpose of the LI designation as follows:

“To provide appropriately located areas for retail and wholesale commercial establishments that offer commodities and services required by residents of the city and its surrounding market area.”

The listed principal uses allowed under the CSC designation in the coastal zone without a conditional use permit are retail stores, service establishments, amusement establishments, wholesale businesses, restaurants and soda fountains (not including drive-in establishments) and offices.

The listed conditional uses allowed under the CSC designation in the coastal zone that require a conditional use permit are drive-in theaters, drive-in restaurants, mobile home and trailer parks.

**B. Planning New Development**

Section 30250(a) of the Coastal Act states that new development shall be located within or near existing developed areas able to accommodate it or in other areas within or near adequate public services and where it will not have significant adverse effects, whether individually or cumulatively, on coastal resources. The intent of this policy is to channel development toward more urbanized areas where services are provided and potential impacts to resources are minimized.

The area affected by the proposed amendment is within an existing developed urban area. The proposed redesignation of the site from a light industrial designation to a commercial designation will allow for continued and expanded use of the site for commercial purposes in an urbanized area where impacts to coastal resources would be minimized. The site is contiguous to existing commercially designated lands and consolidates and continues a logical commercial service area parallel with and adjacent to the main Broadway retail corridor of the City. Therefore the proposed amendment will not result in isolated or sprawling commercial activities. The redesignation will also not cause future industrial uses to locate outside of the urban area. According to the City's findings for approval of the LCP amendment, a study performed by Mintier and Associates in 1993 known as the Westside Industrial Study indicates that there are a total of 287.9 acres of industrial property within the city. Of this amount, 38.8 acres are vacant and 57 acres are underutilized. The proposed amendment would affect only approximately 2 acres of the 287.9 acres of existing industrial property. Furthermore, the project site represents only 3.7% of the underutilized industrial acreage within the City. Thus, the redesignation of the site to commercial use will not significantly reduce the inventory of available industrial land within the City that could accommodate future industrial growth. Therefore, as the site is within an existing urbanized area and the proposed redesignation of the site from industrial to commercial uses will not force future industrial development out of the City, the proposed amendment would concentrate development within an urbanized area where the impacts of such development on coastal resources can be minimized.

The area affected by the proposed amendment is within the City's designated urban services boundary and has adequate services. The property is served by community



water and sewer service connected to existing City systems. The Initial Study prepared for the amendment by the City indicates that the City's waste water system capacity is 32 million gallons per day (MGD) at an overall system peak wet weather flow. The current operating level is approximately 14.5 MGD. The Initial Study also indicates that the City of Eureka water supply system capacity is 8 MGD, and the current operating level is approximately 4.4 MGD. The City receives its water from the Humboldt Bay Municipal Water District (HBMWD) which obtains the water from subsurface wells on the Mad River. The capacity of the HBMWD system is approximately 75 MGD (combined domestic and untreated industrial water) and the current operating level is approximately 40 MGD. According to the City Community Services Department, adequate wastewater and water capacity exists to serve the development that would be accommodated by the proposed LCP amendment as well as all priority uses that could be developed elsewhere in the City. Therefore, the proposed amendment is consistent with Section 30250 to the extent that the uses and development that would be allowed by the proposed LUP designation would be located in an urbanized area with adequate services.

The proposed land use designation change would not adversely affect coastal resources. As noted, the GSC designation would allow for expanded commercial use of the affected area. Such an intensification of use of an area can lead to significant adverse impacts on coastal resources. However, the proposed amendment would not lead to significant adverse impacts on coastal resources as: (1) the site is already developed and is almost completely covered with impermeable surfaces; (b) the site is within the the urban area of Eureka; (3) the site currently contains no environmentally sensitive habitat areas; (4) the site is not located between the first public road and the sea where future development would adversely affect public access to the shoreline access; (5) none of the currently allowable or proposed uses would displace any previously designated coastal-dependent use; and (6) new development that results from the proposed change in land use designation could be designed in a manner that would be compatible with the visual character of the area.

Therefore, the proposed amendment is consistent with Section 30250(a) of the Coastal Act because: (a) the area affected by the amendment is located in a developed area with adequate public services able to accommodate the proposed uses; and (b) the amendment will not result in any adverse effects, either individually or cumulatively, on coastal resources.

### C. Priority Uses

Coastal Act Section 30101 states:

*"Coastal-dependent development or use" means any development or use which requires a site on, or adjacent to, the sea to be able to function at all.*

Coastal Act Section 30101.3 states:

*"Coastal-related development" means any use that is dependent on a coastal-dependent development or use.*

Coastal Act Section 30221 states:

*Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

Coastal Act Section 30222 states:

*The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

Coastal Act Section 30222.5 states:

*Ocean front land that is suitable for coastal dependent aquaculture shall be protected for that use, and proposals for aquaculture facilities located on those sites shall be given priority, except over other coastal dependent developments or uses.*

Coastal Act Section 30234 states:

*Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.*

Coastal Act Section 30255 states:

*Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.*

The Coastal Act establishes certain priority uses which must be protected in favor of allowing other competing uses without priority. Generally, these priority land uses include uses that by their nature must be located on the coast to function, such as ports, and commercial fishing facilities, uses that encourage the public's use of the coast such as various kinds of visitor serving facilities, and uses that protect existing coastal resources such as wetlands and other sensitive habitat, and coastal agriculture. The Coastal Act requires that adequate land be reserved for such uses in the local coastal programs adopted for each coastal city and county.

The site is not located within an area that has previously been identified as being needed for any priority coastal use. The LI industrial designation currently applied to the site in the LUP is not a designation intended to accommodate coastal-dependent or coastal-related industrial uses. Two other industrial designations contained in the LUP, Core-Coastal Dependent Industrial (C-CDI) and Coastal Dependent Industrial (CDI), were expressly established "to protect and reserve parcels on, or adjacent to the Bay for coastal-dependent and coastal related use." The listed principal uses for the C-CDI and CDI designations include "uses that require a site on, or adjacent to, the Bay in order to be able to function at all, including, but not limited to docks, waterborne carrier import and export facilities, ship building and boat repair, commercial fishing facilities, food fish processing plants, marine services, marine oil terminals, OCS service bases, and pipelines serving offshore facilities." The listed conditional uses for the C-CDI and CDI designations include "oil and/or gas processing and treatment facilities serving offshore production, onshore petroleum production facilities, electrical generating or other facilities which require ocean intake-outfalls and pipelines, fish waste processing plants, ice and cold storage facilities, fishing piers, boat launching and berthing facilities, access support facilities and warehouses." Vast areas of the waterfront within the City are currently designated in the certified LUP as C-CDI and CDI to accommodate existing and future coastal dependent and coastal related industrial use. In addition, many of these C-CDI and CDI designated lands are currently vacant or underutilized. Furthermore, many other waterfront areas around Humboldt Bay outside the city limits of Eureka are designated in the certified Humboldt County LCP for coastal dependent and coastal related industrial use. Many of these unincorporated lands designated for coastal dependent and coastal related industrial use are similarly underutilized or currently vacant.

The area affected by the proposed LUP amendment is not particularly suited for coastal-dependent or coastal-related use. As noted previously, the site is not adjacent to Humboldt Bay, and in fact is located approximately 1,700 feet from the shoreline of the Bay. In addition, although the first approximately 400-foot-wide area immediately adjacent to the Bay is currently designated as CDI to accommodate existing and future coastal dependent and coastal related industrial uses, the area affected by the proposed LUP amendment is separated from this CDI designated area by intervening lands designated as General Industrial (GI). The GI designation is intended under the LUP "to provide sites suitable for the development of general and heavy industrial uses," rather

than coastal-dependent or coastal-related industrial uses. A variety of non-coastal-dependent and non-coastal-related uses have been developed in this intervening area. Therefore, designating the site of the proposed amendment with a CDI designation instead of a GSC designation as proposed would not provide for a logical extension of the CDI designated area that would facilitate the future development of coastal dependent and coastal-related industrial uses.

The separation of the site from the waterfront and the fact that it is located within an area already developed with a variety of commercial, office, and industrial uses causes the site to not be well suited for other priority coastal uses. The site has little or no recreational value for coastal recreation and does not contain environmentally sensitive habitat that needs to be protected. The site is also not well suited for coastal visitor serving facilities. The LUP designates large areas of the waterfront adjacent to the core area of the city with Waterfront Commercial, Core Waterfront Commercial, and Core Retail Commercial designations. These three designations are all intended to "protect and provide for near-shore development of recreational, visitor-serving, and commercial fishing industry uses that relate to the presence of coastal resources." Principal uses under these designations include hotels, motels, and visitor-serving developments, such as antique shops, art galleries, restaurants, taverns, commercial recreation facilities, and commercial fishing industry facilities. There are sizable acreages within the City designated as Waterfront Commercial, Core Waterfront Commercial, and Core Retail Commercial that are currently vacant or underutilized. Furthermore, the area affected by the proposed amendment is separated from these visitor-serving designated areas by large area designated and developed for industrial, office, and non-visitor serving commercial uses that would not be particularly compatible with visitor serving facilities.

Therefore, the Commission finds that the area affected by the proposed LUP amendment is not needed for any priority coastal use and is consistent with the various policies contained in Chapter 3 of the Coastal Act regarding priority coastal development.

### **III. CONSISTENCY WITH EXISTING LUP POLICIES REGARDING PROTECTION OF INDUSTRIAL LANDS**

During the public hearings conducted by the Planning Commission and City Council, the City received several comments from the public concerning the consistency of the proposed LCP amendment with several policies of the certified LUP regarding the protection of industrial lands. These policies address industrial lands in general, and not specifically coastal dependent or coastal related industrial lands that are given certain priority pursuant to the Coastal Act. As discussed in Finding C of Part Three above, the proposed LUP amendment is consistent with the priority use policies of the Coastal Act that give priority to coastal-dependent and coastal-related industrial uses within the coastal zone. The Coastal Act does not give priority to other kinds of industrial lands. Pursuant to Section 30005 of the Coastal Act, local governments are allowed to adopt local coastal programs that are more restrictive than the Chapter 3 policies of the Coastal

Act. The City of Eureka has adopted a number of LCP policies and standards that exceed the requirements of the Chapter 3 policies of the Coastal Act. Included among these policies are the following LUP policies addressing the protection of industrial lands.

LUP Policy 1.M.1 states:

*The City shall protect industrially-designated land from pre-emption by residential, commercial, and other unrelated and incompatible uses.*

LUP Policy 1.M.2 states:

*The City shall promote development and upgrading of the Westside Industrial Area to accommodate industrial growth and the relocation of industry from unsuitable sites and areas.*

The City received testimony from several members of the public during its public hearings stating opinions that the conversion of land designated and zoned for industrial use to commercial use represents a threat to the City's economic prospects for the future and that the industrially designated and zoned land should be retained consistent with LUP Policies 1.M.1 and 1.M.2.

The City indicates the LCP amendment is not inconsistent with the above-referenced policies as it will not threaten the industrial base of the City and a commercial designation is a more appropriate designation for the site. The City made a number of specific findings regarding the issue of conversion of the industrially designated and zoned lands and consistency of the proposed LCP amendment with LUP Policies 1.M.1 and 1.M.2.

First, with regard to the availability of land for industrial uses, the City notes that a study performed by Mintier and Associates in 1993 known as the Westside Industrial Study indicates that there are a total of 287.9 acres of industrial property within the city. Of this amount, 38.8 acres are vacant and 57 acres are underutilized. The proposed amendment would affect only approximately 2 acres of the 287.9 acres of existing industrial property. Furthermore, the project site represents only 3.7% of the underutilized industrial acreage within the City.

Second, the City notes that the site is already developed with non-industrial uses. The City found that since the site has never supported industrial uses, is located in close proximity to the main retail corridor of Broadway, and is surrounded by other commercial uses, some of which are susceptible to noise impacts that could be generated by an industrial facility, commercial use is a more appropriate land use designation for the site than an industrial designation.

As noted above, the concern raised by members of the public about the consistency of the proposed LCP amendment with the existing industrial policies of the certified LUP does not affect the consistency of the proposed LUP amendment with the Coastal Act.

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## **PART FOUR: AMENDMENT TO IMPLEMENTATION PROGRAM**

### **I. ANALYSIS CRITERIA**

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

*...The commission may only reject zoning ordinances, zoning district maps, or other implementing actions on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection specifying the provisions of land use plan with which the rejected zoning ordinances do not conform or which it finds will not be adequately carried out together with its reasons for the action taken.*

### **II. FINDINGS FOR APPROVAL OF THE IP PORTION OF AMENDMENT NO. EUR-MAJ-1-03 (KOVACOVICH/CLEAR CHANNEL TELEVISION) AS SUBMITTED:**

The Commission finds and declares as following for Implementation Plan Amendment No. EUR-MAJ-1-03:

#### **A. Description of Proposed Implementation Program Amendment**

The proposed amendment would rezone three parcels within the affected area from the general industrial (MG) zoning district to the Service Commercial (CS) zoning district.

The current MG district is designed to accommodate general industrial uses. The certified Coastal Zoning Code lists a total of 53 industrial uses that are considered principal permitted uses and a total of 43 industrial uses that are conditional.

The proposed CS district is designed to “provide appropriately located areas for retail stores, offices, service establishments, amusement establishments, and wholesale businesses offering commodities and services required by residents of the city and its surrounding market area.” The certified Coastal Zoning Code lists a total of 197 commercial uses that are considered principal permitted uses and a total of 20 commercial uses that are conditional.

**B. Adequacy of Implementation Program Changes**

The Service Commercial (CS) zone is the zoning district of the certified Coastal Zoning Ordinance that most closely matches the General Service Commercial (GSC) designation of the LUP. The stated purpose of the CS zoning district to “provide appropriately located areas for retail stores, offices, service establishments, amusement establishments, and wholesale businesses offering commodities and services required by residents of the city and its surrounding market area,” is exactly the same purpose stated in the certified LUP for the GSC designation. In addition, the range of principal uses allowed within the CS zoning district are consistent with the principal uses allowed within the GSC LUP designation including retail stores, service establishments, amusement establishments, wholesale businesses, restaurants and soda fountains (not including drive-in establishments) and offices. Furthermore, the range of conditional uses allowed within the CS zoning district are consistent with the conditions uses allowed within the GSC LUP designation including drive-in theaters, drive-in restaurants, mobile home and trailer parks. Moreover, the proposed land use designation and zoning district boundaries would be coterminous under the proposed LCP amendment. Therefore, the Commission finds that proposed Amendment No. EUR-MAJ-1-03 to the Implementation Plan conforms with and is adequate to carry out the Land Use Plan, as amended by LCP Amendment No. EUR-MAJ-1-03.

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**PART FIVE: CALIFORNIA ENVIRONMENTAL QUALITY ACT**

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

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

As discussed in the findings above, hereby incorporated by reference, the amendment request is consistent with the California Coastal Act. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the proposed LCP amendment that were received prior to preparation of the staff report. Further, future development within the approximately two-acre area affected by the amendment request would require coastal development permits further assessing the specific impacts of individual development projects. There are no other feasible alternatives or mitigation measures available which would substantially lessen any significant adverse effects which the activity may have on the environment. The Commission finds that approval of the LCP Amendment with the incorporation of the suggested modifications will not result in significant environmental effects within the meaning of the California Environmental Quality Act.

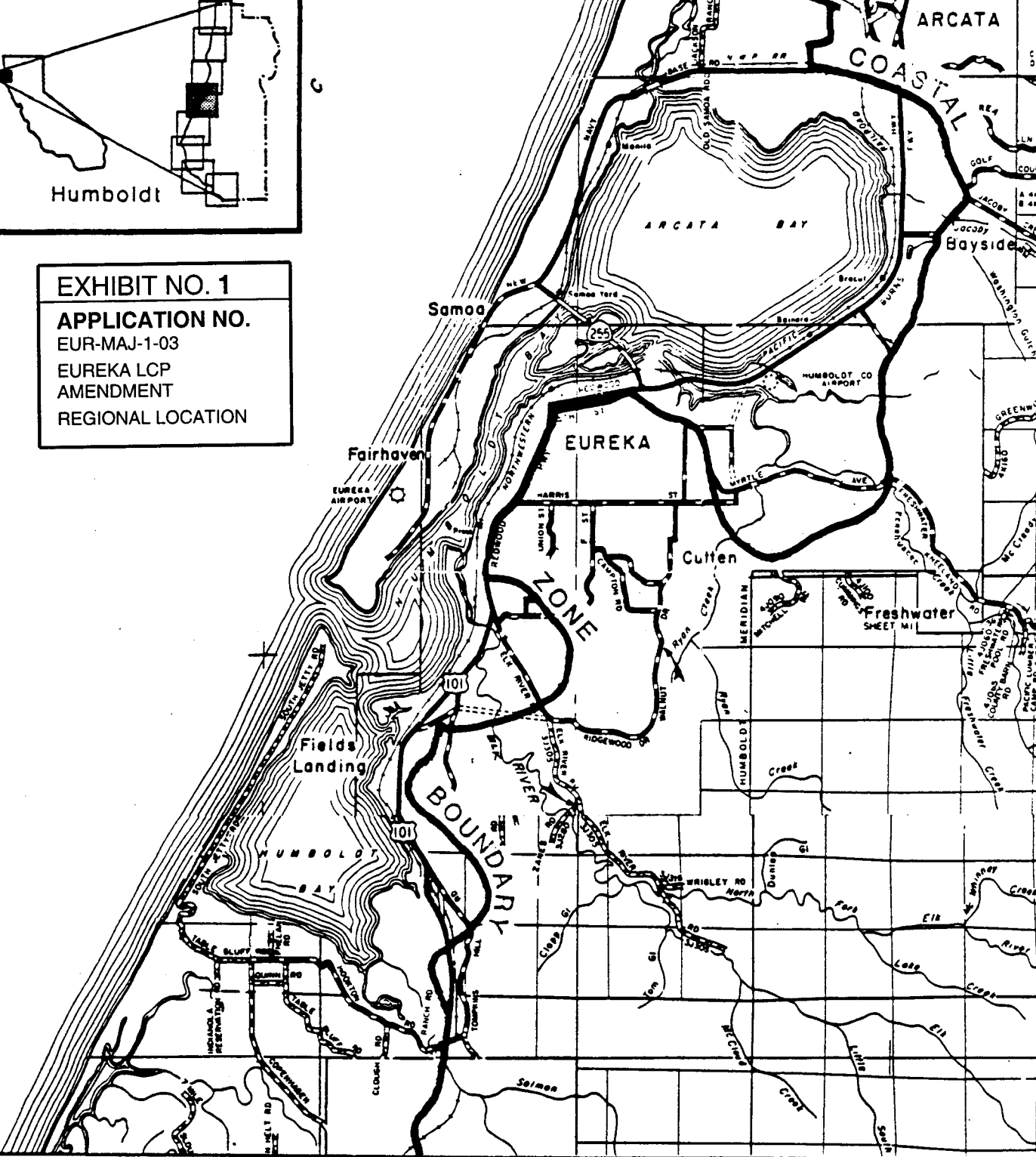
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**EXHIBITS:**

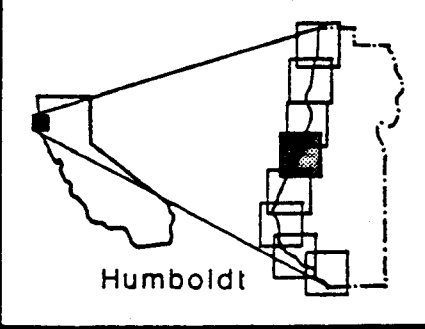
1. Regional Location Map
2. Vicinity Map
3. Parcel Map
4. Land Use Plan Map
5. Zoning Map
6. Resolution



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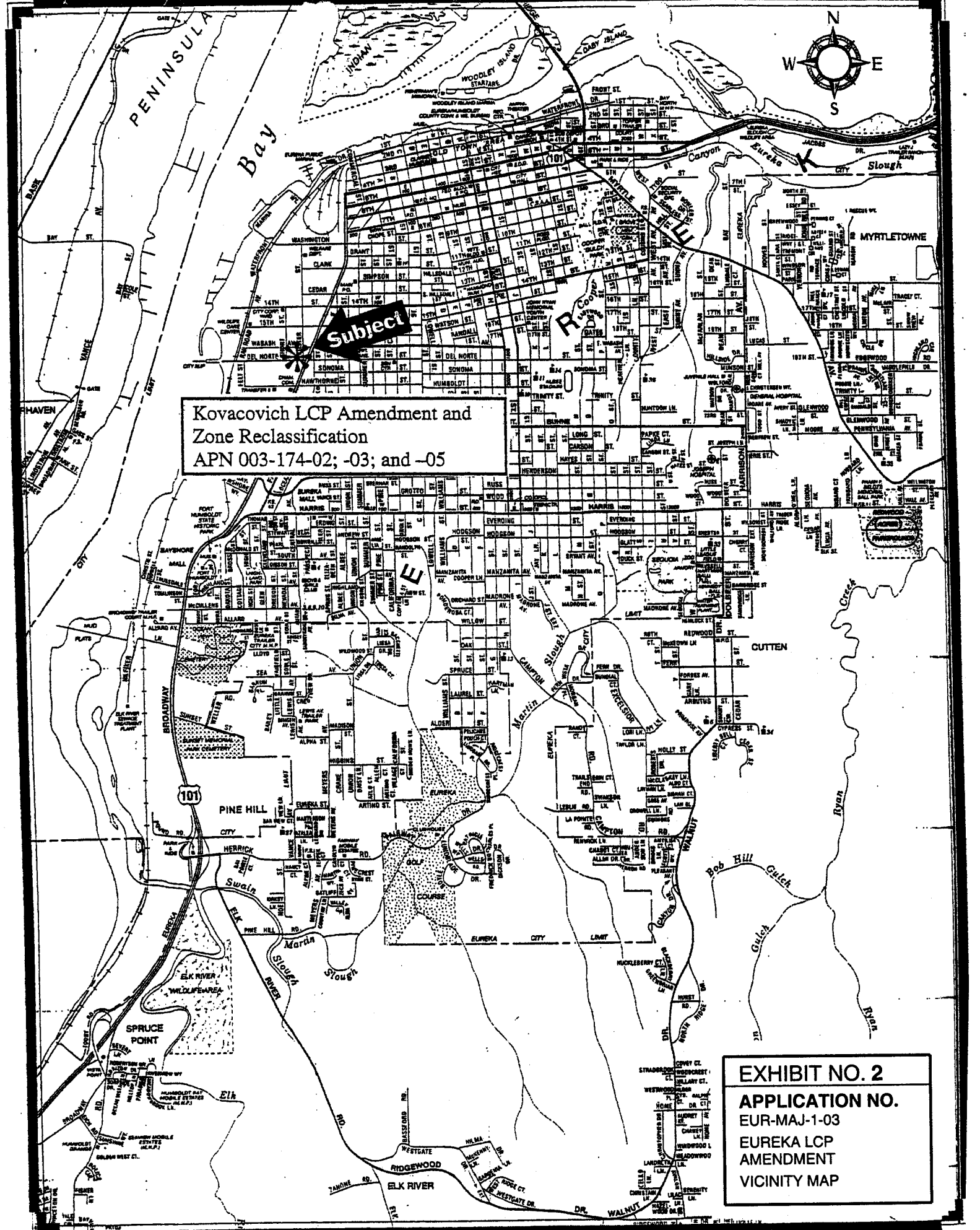
**EXHIBIT NO. 1**  
**APPLICATION NO.**  
 EUR-MAJ-1-03  
 EUREKA LCP  
 AMENDMENT  
 REGIONAL LOCATION



California Coastal Commission

# LOCATION MAP





Kovacovich LCP Amendment and  
 Zone Reclassification  
 APN 003-174-02; -03; and -05

**Subject**

**EXHIBIT NO. 2**  
**APPLICATION NO.**  
 EUR-MAJ-1-03  
 EUREKA LCP  
 AMENDMENT  
 VICINITY MAP



Kovacovich LCP Amendment and  
Zone Reclassification  
APN 003-174-02; -03; and -05  
General Plan designation LI to GSC

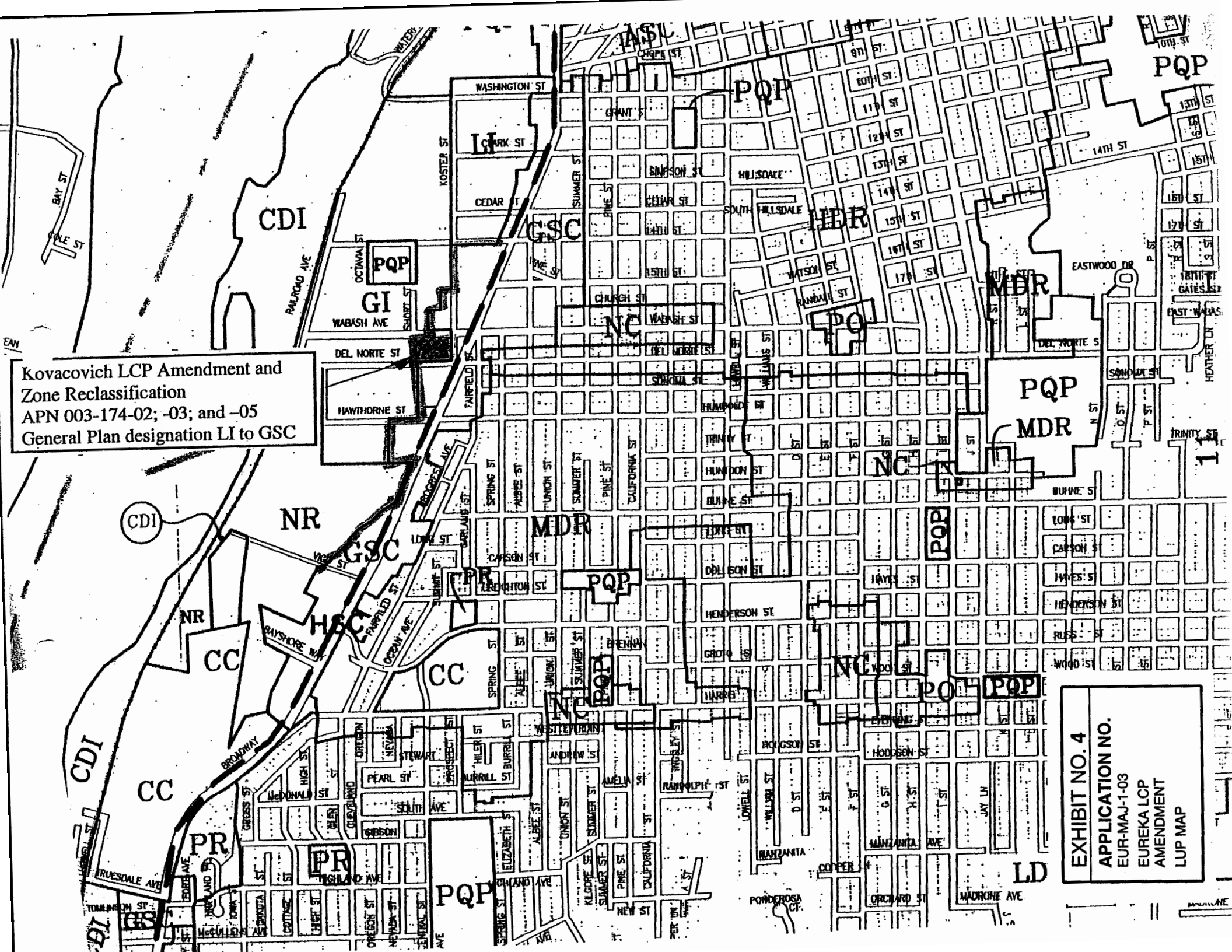
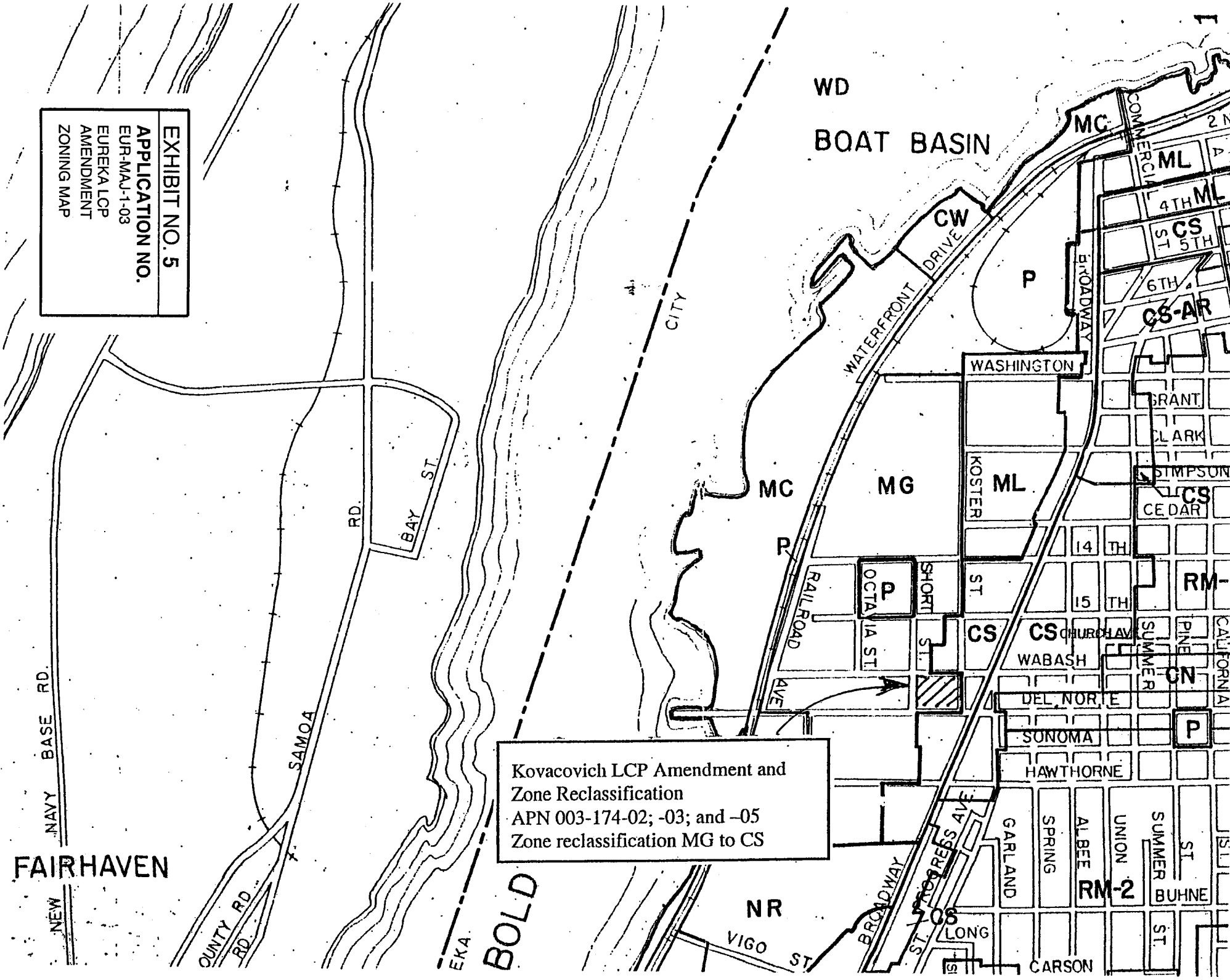


EXHIBIT NO. 4  
APPLICATION NO.  
EUR-MAJ-1-03  
EUREKA LCP  
AMENDMENT  
LUP MAP

**EXHIBIT NO. 5**  
**APPLICATION NO.**  
 EUR-MAJ-1-03  
 EUREKA LCP  
 AMENDMENT  
 ZONING MAP

FAIRHAVEN

Kovacovich LCP Amendment and  
 Zone Reclassification  
 APN 003-174-02; -03; and -05  
 Zone reclassification MG to CS



**RESOLUTION NO. 2003-31**

**Resolution of Submittal**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EUREKA  
APPROVING THE KOVACOVICH LOCAL COASTAL PROGRAM AMENDMENT  
(LCP-03-003)**

On August 5, 2003 the City Council of the City of Eureka considered the matter referenced above and resolved as follows:

**WHEREAS**, John Kovacovich and Clear Channel Communications, owners of property within the City of Eureka comprising an entire City block bounded by Del Norte, Koster, Wabash and Short Streets have applied for a Local Coastal Program General Plan Amendment and Zone Reclassification for a Local Coastal Program (LCP) General Plan Amendment and zone reclassification to redesignate three parcel numbers with a combined square footage of approximately 87,000 square feet, from a Light Industrial (LI) general plan designation and a General Industrial (MG) zoning district to a General Service Commercial (GSC) general plan designation and Service Commercial (CS) zoning district. The project includes an entire city block and is currently developed with service commercial uses including a retail commercial tire dealership and a parking lot.

**WHEREAS**, the Local Coastal Program Amendment may be approved if it can be found that (1) the Amendment is consistent with the objectives outlined in Sections 155.002 and 155.354 of the Eureka Municipal Code; (2) the Amendment is in conformance with the City's Local Coastal Program; and (3) the Amendment is consistent with the policies of Chapter 3 of the Coastal Act; and

**WHEREAS**, the Community Development Department has prepared and published a notice in a newspaper of general circulation and mailed notices to the required list of interested parties of the pending application and of the availability of the Draft Local Coastal Program Amendment; and

**WHEREAS**, the Community Development Department has prepared and filed with the City Council reports containing evidence, findings and conclusions showing that evidence does exist in support of making the required findings for granting the Local Coastal Amendment; and

**WHEREAS**, the Secretary for the State Department of Resources has determined that the State Coastal Commission is responsible for the environmental documentation required by the California Environmental Quality Act; and

**WHEREAS**, the City Council has reviewed and considered said reports and other written evidence and testimony presented; and

**WHEREAS**, the City Council held a public hearing to consider the requested Local Coastal Program Amendment and to receive other evidence and public testimony;

<b>EXHIBIT NO. 6</b>
<b>APPLICATION NO.</b> EUR-MAJ-1-03 EUREKA LCP AMENDMENT RESOLUTION (1 of 3)

**NOW, THEREFORE BE IT RESOLVED BY THE EUREKA CITY COUNCIL** that the following findings are hereby made:

1. The proposed Local Coastal Program Amendment is consistent with the objectives stated in Sections 155.002 and 155.354 of the Eureka Municipal Code for reasons explained in the staff report.
2. The proposed amendment is consistent with the City's Local Coastal Program.
3. The proposed Amendment to the City's Local Coastal Program is consistent with State Law including but not limited to policies of the Eureka LCP and of Chapter 3 of the Coastal Act for reasons explained in the staff report.

**BE IT FURTHER RESOLVED** that the City Council approves the Local Coastal Program Amendment.

**BE IT FURTHER RESOLVED** by the City Council the following actions will be taken:


1. City staff will forward the Resolution to the California Coastal Commission as a Resolution of Submittal for certification of the revisions to Eureka's Local Coastal Program; and
2. The City will carry out the proposed Amendment in a manner consistent with the Coastal Act and the implementing Local Coastal Program; and

**AND FURTHER BE IT RESOLVED** the City Council:

1. Does not support recommended or suggested modifications to the Local Coastal Program Amendment by the California Coastal Commission without first obtaining the consent of the City Council in the form of a supplemental resolution; and
2. Directs that the Local Coastal Program Amendment shall take effect after action by the California Coastal Commission to approve the Amendment as submitted by the City and action by the City to adopt the Zoning measures implementing the Amendment.

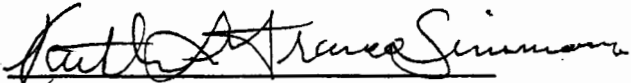
**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Eureka, County of Humboldt, State of California, on the Fifth day of August, 2003 by the following vote:

<b>AYES:</b>	COUNCILMEMBERS	Bass-Jackson, Leonard, Jones
<b>NOES:</b>	COUNCILMEMBERS	Wolford, Kerrigan
<b>ABSENT:</b>	COUNCILMEMBERS	None
<b>ABSTAIN:</b>	COUNCILMEMBERS	None

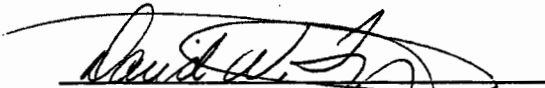
  
\_\_\_\_\_  
Peter La Vallee, Mayor  
City of Eureka

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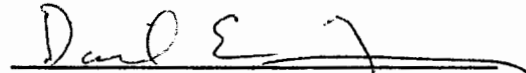
ATTEST:

  
Kathleen Franco Simmons, City Clerk

APPROVED AS TO ADMINISTRATION:

  
David W. Tyson, City Manager

APPROVED AS TO FORM:

  
David E. Tranberg, City Attorney