

## CALIFORNIA COASTAL COMMISSION

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## RECORD PACKET COPY



# W16.5a

Filed: January 23, 2003  
60<sup>th</sup> Day: Extended to  
March 28, 2004  
Staff: Jim Baskin  
Staff Report: March 4, 2004  
Hearing Date: March 17, 2004  
Commission Action:

TO: Commissioners and Interested Parties

FROM: Peter M. Douglas, Executive Director  
Chuck Damm, Deputy Director  
Robert S. Merrill, North Coast District Manager  
Jim Baskin, Coastal Planner

SUBJECT: **Del Norte County LCP Amendment No. DNC-MAJ-1-03, (Density Combining (-D) Zoning District).**

## SYNOPSIS:

### Amendment Description:

The County has applied to the Commission for certification of this amendment to the zoning maps portion of its Implementation Plan (IP). The proposed amendment would revise the zoning designation of the subject parcel from Rural Residential (RR-1) to Rural Residential with Density Combining Zone (RR-1-D).

On January 14, 2003, the County of Del Norte amended the zoning classification for a 9.4-acre parcel located near the unincorporated town of Smith River to apply a "Density" or "-D" combining zone designation to the property's Rural Residential (RR-1) base zoning designation. The western half of the property consists of ponded wetlands and forested riparian vegetation. The Density combining zoning district allows cluster-type developments, and/or varied lot sizes so that land divisions may be more flexibly configured to take into account unique site characteristics yet remain consistent with density and use requirements of the County Local Coastal Program (LCP). The County approved the zoning amendment based on the conclusion that a land division of the subject property into four lots and a remainder parcel under strict compliance with the RR-1 minimum lot size standard would likely result in impacts to

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environmentally sensitive resource areas and open areas on the property that could be avoided if the arrangement of lots and related building sites were clustered onto the upland areas along the parcel's eastern and southern sides.

However, land designated with a -D combining zone cannot be divided into more lots than the land use plan designation would otherwise allow. The LUP provisions for rural land subdivisions apply restrictions as to when the subdivision of lands outside of urban service area boundaries would be permissible. Generally, such a subdivision would be permitted only when: (1) 50% of the useable parcels in the area have been developed; and (2) the created parcels would not be smaller than the average size of the surrounding parcels. The County's LUP provisions also include criteria for determining whether the 50% area development threshold has been reached and further directs that "the minimum lot size designated for the land use classification that (*sic*) the land division is proposed establishes the average size."<sup>1</sup> As the Rural Residential – One Dwelling Unit per One Acre (RR 1/1) land use designation for the subject property effectively establishes a one-acre minimum parcel size and since the provisions of the requested -D Combining Zone designation would allow for the creation of lots smaller than one-acre in size, the amendment would neither conform with or carry out the one-acre minimum lot size standard applied by the LUP's rural land division provisions or the provisions of the LUP's rural land use criteria regarding lots being no "smaller that the average size of the surrounding parcels."

Summary of Staff Recommendation:

The staff recommends that the Commission, upon completion of a public hearing, **deny the amendment request as submitted.**

Staff believes the Implementation Plan as amended would not conform with and adequately carry out the provisions of the County's Land Use Plan (LUP). Although the requested amendment may arguably be consistent with and adequately carry out the provisions of the LUP with respect to standards for siting new development in areas where there are adequate accommodating services available and the protection of environmentally sensitive habitat, staff believes the proposed amendment would not conform with and carry out the LUP standards for the subdivision of rural lands.

The motions and resolutions for denial of certification of the LCP amendment as submitted are found on pages 3-4.

Section 30513 of the Coastal Act provides that with regard to amendments to zoning ordinances, zoning district maps, and other implementing actions of the certified LCP:

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<sup>1</sup> The County of Del Norte's land use plan maps do not designate *minimum parcel sizes* as the LUP's rural land division standards indicate. The LUP maps designate *maximum development density*, stated in terms of the maximum potentially allowable number of residential dwelling units that can be developed, consistent with all other applicable LCP provisions, in a given unit of land area, usually expressed as acreage (e.g., "1 dwelling unit per 5 acres"). Minimum parcel sizes are established under the County's Implementation Plan in the prescriptive standards for each zoning district. Although minimum parcel size can sometimes be inferred from density (i.e., 1 du/ac. ≈ 1 ac. min. parcel size), these planning terms are sometimes, but not always, synonymous with one another.

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*The commission may suggest modifications in the rejected zoning ordinances, zoning district maps, or other implementing actions, which, if adopted by the local government and transmitted to the commission, shall be deemed approved upon confirmation by the executive director. [emphasis added]*

Application of the -D Combining Zone to the subject property in order to vary from the base zone's minimum parcel size would conflict with the minimum lot size "average parcel" standard established under the LUP's rural land division criteria. As the subject LCP amendment is solely for changes to the Implementation Program (i.e., the zoning map for the project site) which are inconsistent with the provisions of the certified LUP and no amendment to the certified LUP is currently before the Commission, staff believes the Commission may only deny the subject amendment as submitted. Alternately, the County may withdraw the requested IP amendment and re-submit an amendment that included changes to both the LUP and the IP.

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.

STAFF NOTE:

This LCP Amendment that comes before the Commission is associated with Coastal Development Permit Appeal No. A-1-DNC-02-152 (Redland Company). On January 8, 2003, the Commission found that a Substantial Issue had been raised by the appeal filed on the coastal development permit issued by the County of Del Norte, authorizing with conditions the subdivision of an approximately 9.4-acre parcel into four lots ranging in size from .58 acre to one acre with a 6.5-acre remainder parcel. The approval of the subdivision was accompanied by a request to apply a Density Combining Zone designation. However, at the time of the County's approval of the subdivision, the certification of an amendment to the County LCP's zoning maps to apply the -D designation had not been effected. In the time since the hearing on Substantial Issue, the County and applicant have submitted the subject LCP amendment request. Staff observes that, for the reasons discussed herein, even if the Commission were to certify the requested zoning map amendment to apply the -D Combining Zone designation, this action would not cure the issues of the coastal development permit's conformance with the certified LCP, as the subdivision, regardless of the application of a -D designation, would be inconsistent with the policies of the LUP regarding rural land divisions.

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**I. STAFF RECOMMENDATION, MOTION, AND RESOLUTION FOR LCP AMENDMENT NO. DNC-MAJ-1-03**

**MOTION FOR DENIAL AS SUBMITTED:**

I move that the Commission reject Implementation Program Amendment No. DNC-MAJ-1-03 for the County of Del Norte as submitted.

**STAFF RECOMMENDATION TO DENY:**

Staff recommends a YES vote. Passage of this motion will result in rejection of the Implementation Program Amendment 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 TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AS SUBMITTED:**

The Commission hereby denies certification of Implementation Program Amendment No. DNC-MAJ-1-03 submitted for the County of Del Norte and adopts the findings set forth below on grounds that the Implementation Program as submitted does not conform with and is inadequate to carry out the provisions of the certified Land Use Plan. Certification of the Implementation Program Amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse effects on the environment that would result from certification of the Implementation Program Amendment as submitted.

**II. FINDINGS TO DENY THE IMPLEMENTATION PROGRAM (IP) AMENDMENT AS SUBMITTED**

**A. DESCRIPTION OF PROPOSED IP AMENDMENT AND RELATED APPEAL**

**1. Background.**

On October 2, 2002, the County of Del Norte Planning Commission: (1) approved with conditions Coastal Development Permit Application Nos. MS211C and R0203C for the subdivision of a 9.4-acre parcel into four parcels ranging in size from 0.58 acre to one acre with a 6.5 acre remainder parcel; and (2) approved an LCP amendment applying a "Density" (-D) combining zone overlay onto the subject property's Rural Residential (RR-1) base zone designation. A condition of the subdivision approval is that the final map cannot be recorded until the applicant presents evidence that the Commission has certified the zoning amendment. The zoning reclassification was requested to allow the developer to cluster building sites onto parcels of less than the one-acre minimum lot size required by RR-1 zoning district standards as proposed in the subdivision application.

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The decision of the Planning Commission regarding the conditional approval of the subdivision was not appealed at the local level to the County Board of Supervisors. The County then issued a Notice of Final Action which was received by Commission staff on October 17, 2002. An appeal of the County's approval of the subdivision was submitted to the Commission on October 31, 2002, within 10 working days after receipt by the Commission of the Notice of Final Local Action.

The appeal filed on the subdivision raised contentions highlighting the approved development's nonconformance with LCP policies for the protection of environmentally sensitive habitat areas on the project site, namely wetlands and riparian vegetation. Another contention of the appeal centered on the fact that the County acted to conditionally approve the land division contingent upon the subsequent certification of the Density combining zone designation rather than act on the coastal development permit for the land division after the LCP amendment had been certified by the Commission. The appellants contended that the project as approved would result in the creation of three substandard sized parcels inconsistent with the currently certified standards of the Rural Residential (RR-1) zoning district in which the subject property is situated.

The appellants noted that pursuant to Section 30604(b) of the Coastal Act, after certification of a local coastal program, a coastal development permit can only be issued if the local government or Coastal Commission finds that the proposed development is in conformity with the certified local coastal program. The appellants emphasize that the project as approved, with three lots less than one-acre in size, is inconsistent with the policies and standards of the LCP as currently certified and contrary to the adopted findings.

On January 8, 2003, the Commission found that the appeal raised substantial issues of the approved project's conformance with the LCP and directed that the project be considered at a *de novo* hearing. The Commission continued the *de novo* portion of the appeal hearing to a subsequent meeting to enable the applicant to provide additional wetland delineation information and an analysis of needed ESHA buffer widths to assist the Commission's determination as to whether the project can be found consistent with the wetland and ESHA protection policies of the certified LCP.

After the Planning Commission's initial action on the appeal, the County Board of Supervisors transmitted the subject LCP amendment to the Commission for certification. The proposed amendment would amend IP but not LUP provisions, with which the proposed subdivision project is in conflict (see Exhibit No. 6). On January 23, 2003, the County submitted the IP amendment application.

On January 27, 2003, after initially reviewing the submitted IP application, Commission staff determined the application to be complete for filing and scheduled the amendment for a hearing before the Commission. Upon further analysis of the proposed amendment's interactions with the rural land division standards of the LUP relating to allowable minimum parcel size, Commission staff requested that a one-year extension be granted to the time for Commission action on the amendment in order to more fully examine issues regarding the proposed IP amendment's nonconformance with certified provisions of the LUP. The Commission granted

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the requested one-year time extension on March 5, 2003, extending the time for Commission action to March 28, 2004.

### 2. IP Amendment Description.

The County of Del Norte is seeking to amend the zoning designation from Rural Residential (RR-1) to Rural Residential with Density Combining Zone (R-1-D) on a 9.4-acre parcel within the unincorporated Smith River community area. The proposed amendment involves a change to Local Coastal Program Zoning Enabling Ordinance (LCPZEO) Section 21.06.050. This code section consists of the officially adopted zoning maps for portions of the County within the coastal zone. Specifically, the proposed amendment would modify the zoning map for Area B-3 to add a Density combining zone designation to that portion of the RR-1 zoning district located between Highway 101, Mouth of Smith River Road, and the Ship Ashore commercial recreational complex, comprising APN 102-080-47, the subject Redland Company property (see Exhibit Nos. 4 and 6).

The RR-1 base zone standards require that any lot created by land division or lot line adjustment be a minimum of one acre in size. The amendment was initiated by the owners of a RR-1 zoned parcel in the Smith River community area who are seeking to subdivide the property in a manner that would not be permitted under the base zone regulations (see Exhibit No. 7). In general, application of the -D designation to property could, if consistent with all other applicable LCP provisions, allow the creation of lots of less than the minimum lot size standard of the base zoning district while ensuring that the total number of parcels that can be created is no more than the number of parcels that can be created under the underlying land use plan density standard (see Exhibit No. 8).

### 3. Site Description.

The subject site consists of a vacant irregularly shaped 9.4-acre parcel on Redland Lane, a private road that runs south-southwest from Highway 101, approximately ½ mile north of the mouth of the Smith River, approximately three miles west-northwest of the unincorporated town of Smith River (see Exhibit Nos. 1-3). The property consists of a generally flat, grass-covered lot situated on an uplifted marine terrace that contains wetlands and riparian vegetation within a gulch along its western-central portion. These resource areas consist of two seep-fed ponds and a connecting watercourse with a well-established tree- and brush-covered riparian corridor along their margins. Plant cover on the elevated portions of the parcel is comprised of upland grasses, forbs, and landscaping shrubs and trees. The portion of the property within the gulch side slopes is covered by thickets of Red alder (Alnus rubra) interspersed with Sitka Spruce (Picea sitchensis), with a variably dense understory comprised of Himalaya blackberry (Rubus discolor), California blackberry (Rubus ursinus), salmonberry (Rubus spectabilis), cascara sagrada (Rhamnus purshiana), and tansy ragwort (Senecio jacobaea). Areas within the ponds were covered by a combination of obligate hydrophytes, including pondweed (Potamogeton sp.), water lentil (Lemna sp.), and wappato (Sagittaria sp.), and surrounded by sedges (Carex sp.). Given the presence of surface hydrology and the composition of plants within the ponds, connecting stream, and the adjacent gulch slopes, the area comprises a mixture of wetland and

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riparian vegetation environmentally sensitive habitat areas as defined by the certified LCP. Other than yard and landscaping improvements associated with the single-family use by one of the applicant company's principals on an adjoining parcel, the project parcel is presently vacant.

The subject site lies within the LCP's "Smith River" sub-region and is subject to the specific area policies and rural land division requirements for "Planning Area No. 1, Ocean View Drive." The subject property is designated in the Land Use Plan as Rural Residential – One Dwelling Unit per One Acre (RR 1/1) and on the Coastal Zoning Map as Rural Residential (RR-1), certified by the Commission on October 12, 1983. The subject property is not within any viewpoint, view corridor, or highly scenic area as designated in the Visual Resources Inventory of the LCP's Land Use Plan. Due to the property's location on a private road and the surrounding private land development pattern, public views to and along the ocean across the property are limited. Additionally, given the presence of tall trees and other mature vegetation between the highway and project parcel, views of the site from Highway 101 and other public recreational areas are limited to a relatively brief gap in the roadside vegetation along southbound Highway 101 as it passes the parcel's 30-foot-wide highway frontage.

The subject property is in an appealable area, due to its location between the first public road and the sea and the presence of sensitive coastal resource areas, namely wetlands, on the site.

**B. LCP AMENDMENT ANALYSIS**

**1. Coastal Act and LCP Provisions Regarding Implementation Plan Amendments.**

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

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

To approve the amendment, the Commission must find that the amended Implementation Plan will conform with and adequately carry out the provisions of the LUP as certified. Section 21.50B.020.30 of the LCPZEO also addresses general provisions for consistency between the LUP and the zoning regulations.

LCPZEO Section 21.50B.020 states, with regard to consistency of the IP and/or changes thereto with the LUP:



*Chapters 21.02 through 21.60 and any amendment thereto shall be consistent with the County's General Plan. Within the California coastal zone consistency of zoning with the General Plan Coastal Element shall be as set forth in Table A<sup>2</sup>, following this chapter.*

For the reasons discussed in the findings below, the proposed amendment to the Implementation Program is inconsistent with and inadequate to carry out the certified Land Use Plan.

2. The Role of the D Combining Zone in Implementing LUP Policies and Standards.

LCPZEO Chapter 21.36 of the County of Del Norte's certified LCP contains the regulations for the "Density" or "D" Combining Zoning District (-D). LCPZEO Section 21.36.030 states:

- A. *The D combining district may be utilized on subdivision projects when, because of terrain, site characteristics or overall project design, varying lot sizes or cluster development with mitigating open areas are more desirable than standard uniform lot sizes.*
- B. *The overall project density shall not exceed the General Plan density requirement for the project site.*
- C. *The building site area required for each lot shall be shown on the final subdivision map. No further land divisions shall be permitted unless a rezone is granted and the land division is consistent with the General Plan or adopted specific plan density requirement for the total original project site.*
- D. *A resolution of intention to rezone to the D combining district may be adopted at the time of approval of the tentative map, however, the rezone shall not be in effect until the final subdivision or parcels map has been recorded with the county clerk. [emphasis added]*

As presented in its intention statement, the purpose for the D designation is to "...allow cluster-type developments, and/or varied lot sizes which would best utilize unique site situations..." Subject to LUP limitations that are discussed further below, in certain instances, the -D overlay can function as an exemption to the enumerated minimum lot size standards contained within the base zoning district by allowing for deviations from such standards at the discretion of the approving authority acting on a land division project.

Preliminarily, to qualify for potential application of the -D overlay the proposed project site must be: (1) located within an Agriculture General (A), Rural Residential (RR-1), Residence (R-1, R-2, R-3) or Commercial Timberland (CT) zoning district; and (2) involve a subdivision where,

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<sup>2</sup> The list of consistent zoning designations listed in the cited "Table A" for implementing a RR 1/1 land use designation includes: RR-1, RRA-1, PC, C-1, -B, -C, -D, FP1, FP2, FP3, -MH1, and -MH2 (see Exhibit No. 9).



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because of terrain, site characteristics or the overall project design, varying lot sizes or cluster development with mitigating open areas would be more desirable than standard uniform lot sizes.

The application of the -D designation to a property's zoning effects future development at the site in the following ways:

- The prescriptive minimum lot size standards of the associated base zoning district designation may be relaxed in certain situations, facilitating the clustering of building sites onto smaller parcels;
- Although smaller parcels than would normally be allowed under base zone and rural subdivision standards can be platted, the overall project density cannot exceed the General Plan density requirement for the overall project site;
- Requisite building site areas for each lot must be shown on the final subdivision map; and
- No further land divisions of the site may be permitted unless a rezone is granted and the subsequent land division is found consistent with the General Plan or adopted specific plan density requirement for the total original project site

The Commission finds that the subject parcel is located within an RR-1 district and involves a subdivision proposal where clustering parcels and building site's to maintain the upland open areas adjacent to the site's wetlands and riparian vegetation as buffer areas could be desirable. Such clustering could avoid potentially significant impacts associated with utilizing a more traditional lot pattern that could cause more of the divided parcels to enter into habitat areas and result in more future development on the parcels being placed in close proximity to such environmentally sensitive areas. However, as discussed further below, even if such potential exists, the proposed IP amendment to apply the -D Combining Zone to the subject site would not otherwise conform with the rural land division criteria of the certified LUP.

3. Adequacy of Implementation Plan Changes to Carry Out the LUP.

As stated above, Section 30513 of the Coastal Act indicates that to approve the amendment, the Commission must find that the amended Implementation Program conforms with and is adequate to carry out, the provisions of the certified land use plan.

a. Rural Land Division Criteria.

1) Relevant LUP Provisions:

Citing Section 30250(a) of the Coastal Act as its impetus, Section II.D.2 of the Del Norte County LUP's New Development Chapter restricts divisions of rural lands within the County to cases where it can be found that:

- *Fifty percent of the usable parcels in the area have been developed; and*
- *The created parcels would not be smaller than the average size of the surrounding parcels.*

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Section II.D.2 goes on to include the following criteria for assessing a proposed rural subdivision project's conformance with the above-stated development prerequisites:

- a. *Useable parcels does (sic) not include parcels committed to agricultural (sic) and designated as such in the Land Use Plan, parcels committed to timberland and designated as such on the Land Use Plan, nor shall parcels committed to open space or portions of parcels committed to open space be considered as useable parcels.*
- b. *To determine if the 50% rule has been met, a survey of the existing parcels in each planning area (delineated on the Land Use Maps) will need to be conducted. If 50% or more of the existing lots are developed, then the land division may be processed.*
- c. *The Land Use Plan designates the minimum lot size for parcels in each planning area. As these minimum lot sizes are reflective of the average size of lots in each area, the minimum lot size designated for the land use classification that (sic) the land division is proposed establishes the average size.<sup>3</sup> [emphasis added]*

2) Conformance and Adequacy Analysis

Unlike a planned development designation, the -D designation grants only the ability to vary from the lot size standard of the base zone. The -D overlay does not provide for any increase in the overall density as set by land use designation, nor allow for other types of uses or variances from lot design regulations set by the base zoning district as a change to a planned unit development or other type of zoning designation might.

Regardless of the limited nature of the -D zone provisions, as described in Background Finding Section II.A.1 above, this LCP request is being driven by a particular subdivision project currently on appeal before the Commission. Accordingly, some consideration must be included within this analysis as to what interaction and effects "the average size of surrounding parcels" may have on future development at the project site if the proposed change in zoning were to be certified

The proposed LCP amendment would apply an overlay zoning designation in order to allow for subdivision of the subject property into some parcels smaller than the one acre size limitation otherwise required by the property's RR-1 base zone regulations. However, so that the average size of the resulting parcel would not exceed the one-dwelling-unit-per-acre maximum density

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<sup>3</sup> The County of Del Norte's land use plan maps do not designate *minimum parcel sizes* as the LUP's rural land division standards indicate. The LUP maps designate *maximum development density*, stated in terms of the maximum potentially allowable number of residential dwelling units that can be developed, consistent with all other applicable LCP provisions, in a given unit of land area, usually expressed as acreage (e.g., "1 dwelling unit per 5 acres"). Minimum parcel sizes are established under the County's Implementation Plan in the prescriptive standards for each zoning district. Although minimum parcel size can sometimes be inferred from density (i.e., 1 du/ac.  $\approx$  1 ac. min. parcel size), these planning terms are sometimes, but not always, synonymous with one another.

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required by the RR 1/1 land use designation, some of the parcels would have to be bigger than one acre. As described in Background Finding Section II.A.1 above, the applicants are proposing that a 9.4-acre parcel be subdivided to create four lots ranging in size from .58-acre to one acre with a 6.5-acre remainder parcel. This particular subdivision proposal would have an average parcel size (as expressed as the arithmetic mean) of 1.8 acres  $[(0.58+0.63+0.67+1.00+6.5) \div 5 = 1.8]$ , well above the minimum one-acre maximum density specified under the RR designation.

Notwithstanding any future project's conformance with the land use designation's density standard and with the addition of the -D zoning designation to allow parcels smaller than the one-acre minimum size specified by the property's RR-1 zoning, approval of any subdivision proposal of rural lands must also be found consistent with the other requirements within the LUP, particularly the rural land division standards of New Development Chapter Section II.D.2. These standards limit the division of lands outside of urban services boundaries to situations where: (a) 50% of the useable parcels in the area have been developed; and (b) the resulting created parcels would not be smaller than the average size of the surrounding parcels. Assuming for purposes of this analysis that the first criterion is met, a rural lands subdivision can be authorized only when the resulting parcels would not be smaller than the average size of the surrounding parcels. In this case, the LUP specifies that the average size of surrounding parcels is one acre. In comparison, the smallest parcel size being envisioned for the future development project associated with this LCP amendment would be .58-acre.

"Average Parcel Size" Set By Minimum Parcel Size of Land Use Plan Designation

As stated in the rural land division criteria cited in Findings Section II.B.3.a.1) above, for purposes of determining compliance of a proposed subdivision with the rural subdivision standards, Criteria c directs that "...the minimum lot size designated for the land use classification in which the land division is proposed establishes the average size." Accordingly, pursuant to the County's certified LCP, regardless of what the actual calculated mean, median, or modal parcel size for an appropriately defined surrounding area may specify, this LUP provision indicates that the minimum parcel size as set under the applicable land use designation for a site is the average parcel size from which no subdivided parcel may be smaller.

The LUP's Land Use Map for the Smith River Area designates the subject site as Rural Residential – One Dwelling Unit per One Acre (RR 1/1). Though this development standard is in actually an expression of potentially allowable maximum density rather than minimum parcel size, because development of a fractional (less than one) dwelling on a parcel of less than one-acre in size would be nonsensical, the *de facto* minimum parcel size for this land use designation would be one acre. Therefore, for purposes of administering the LUP's rural land division criteria, parcel sizes at the project site, regardless of whether a -D combining zone designation were applied or not, would be restricted to being no smaller than one acre.

However, the requested LCP amendment would instead propose to apply the provisions of the -D combining zone to the subject site to specifically allow for parcels of less than the one-acre minimum size set by the underlying RR-1 base zone. Thus, application of the -D combining zone designation at the subject site would not provide any design flexibility with respect to

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allowing variable parcel sizes but would instead establish a minimum parcel size standard in overt conflict with the rural land division criteria. Consequently, the proposed LCP amendment would neither conform with or adequately carry out the provisions of the LUP. Therefore, the proposed amendment must be denied.

The Commission notes that, notwithstanding the inconsistency between the LUP rural land division criteria and the application of the Density Combining Zoning District to the subject site, application of the -D overlay can be applied consistent with the LUP in other circumstances. For example, application of the -D designation to allow subdivision to parcel sizes smaller than that stated in the base zoning standards would be possible within the Urban Service Boundary where such subdivisions would not be subject to the LUP's rural land division criteria.

### III. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Pursuant to SB 1873, which amended the California Environmental Quality Act (CEQA), the Coastal Commission is the "lead agency" in terms of meeting CEQA requirements for local coastal programs. In addition to making a finding that the amendment is in full compliance with the Coastal Act, to certify the proposed LCP amendment, 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.*

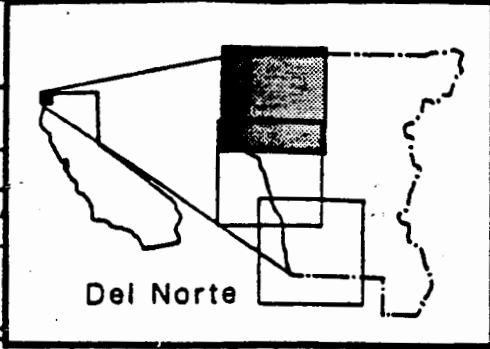
As discussed in the findings above, the amendment request as submitted is inconsistent with the California Coastal Act and could result in significant environmental effects within the meaning of the California Environmental Quality Act.

### IV. EXHIBITS:

1. Location Map
2. Vicinity Map
3. County of Del Norte Assessor's Parcel Map 102-08
4. Site Plan Map
5. Zoning Map Area B-3
6. County Resolution
7. LCP Zoning Enabling Ordinance Chapter 21.06 – "Zoning Districts"
8. LCP Zoning Enabling Ordinance Chapter 21.16 – "Rural Residential Zoning District"
9. LCP Zoning Enabling Ordinance Chapter 21.36 – "Density Combining District"
10. LCP Zoning Enabling Ordinance Table A – "Coastal Element Land Use Plan and Zoning Consistency Matrix"
11. Excerpt, Billings v. California Coastal Commission
12. Lot Size Study

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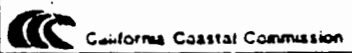
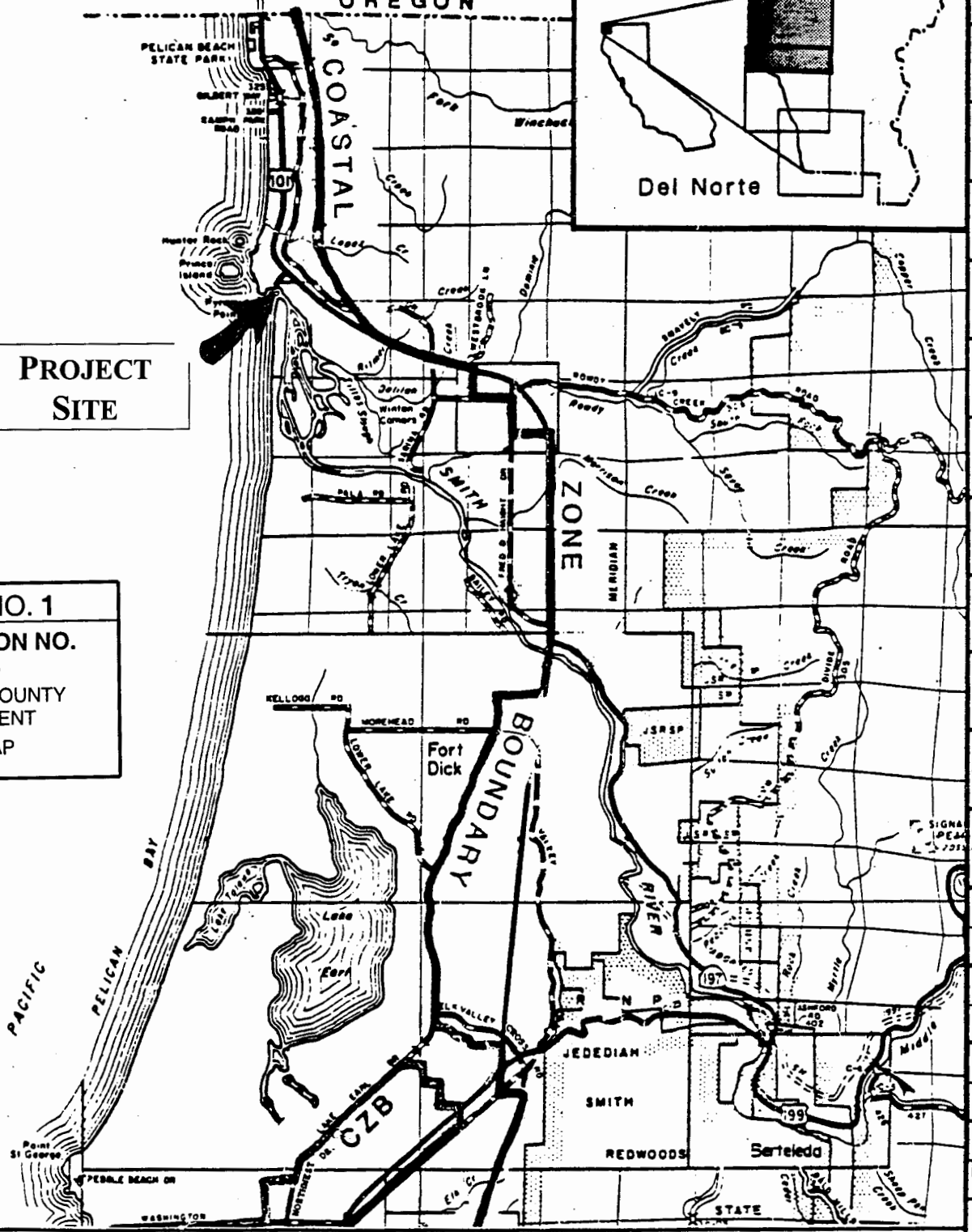


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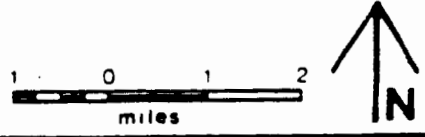
S. COASTAL

PROJECT SITE

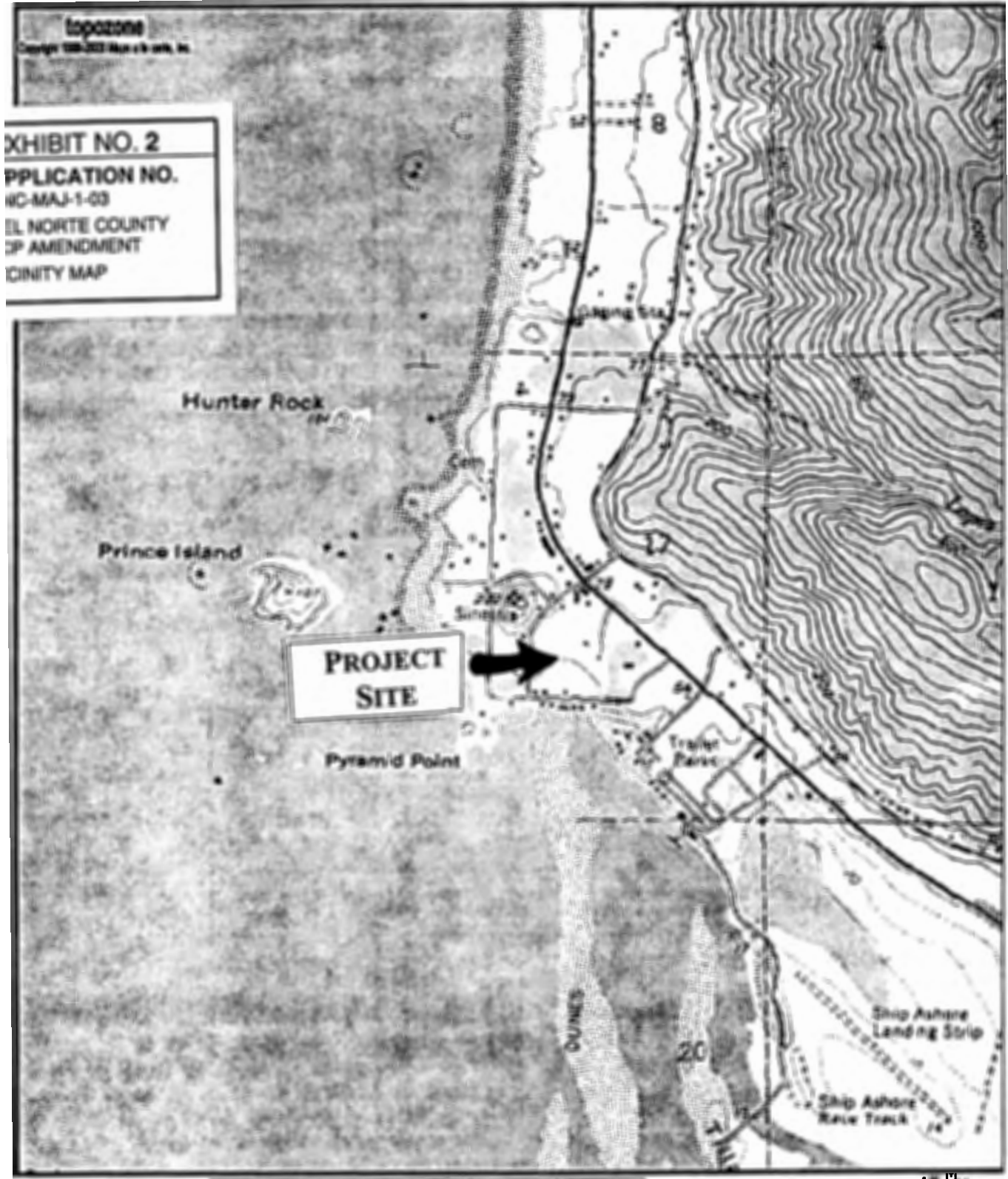
EXHIBIT NO. 1  
 APPLICATION NO.  
 DNC-MAJ-1-03  
 DEL NORTE COUNTY  
 LCP AMENDMENT  
 LOCATION MAP



LOCATION MAP



E  
A  
D  
D  
L  
C  
V



topozone  
Copyright 1999-2003 Map & Data, Inc.

**EXHIBIT NO. 2**  
**APPLICATION NO.**  
 NC-MAJ-1-03  
 EL NORTE COUNTY  
 ZP AMENDMENT  
 IDINITY MAP

0 0.3 0.6 0.9 1.2 1.5 km  
 0 0.2 0.4 0.6 0.8 1 mi

Map center is UTM 10 400075E 4645067N (WGS84/NAD83)  
**SMITH RIVER** quadrangle  
 Projection is UTM Zone 10 NAD83 Datum

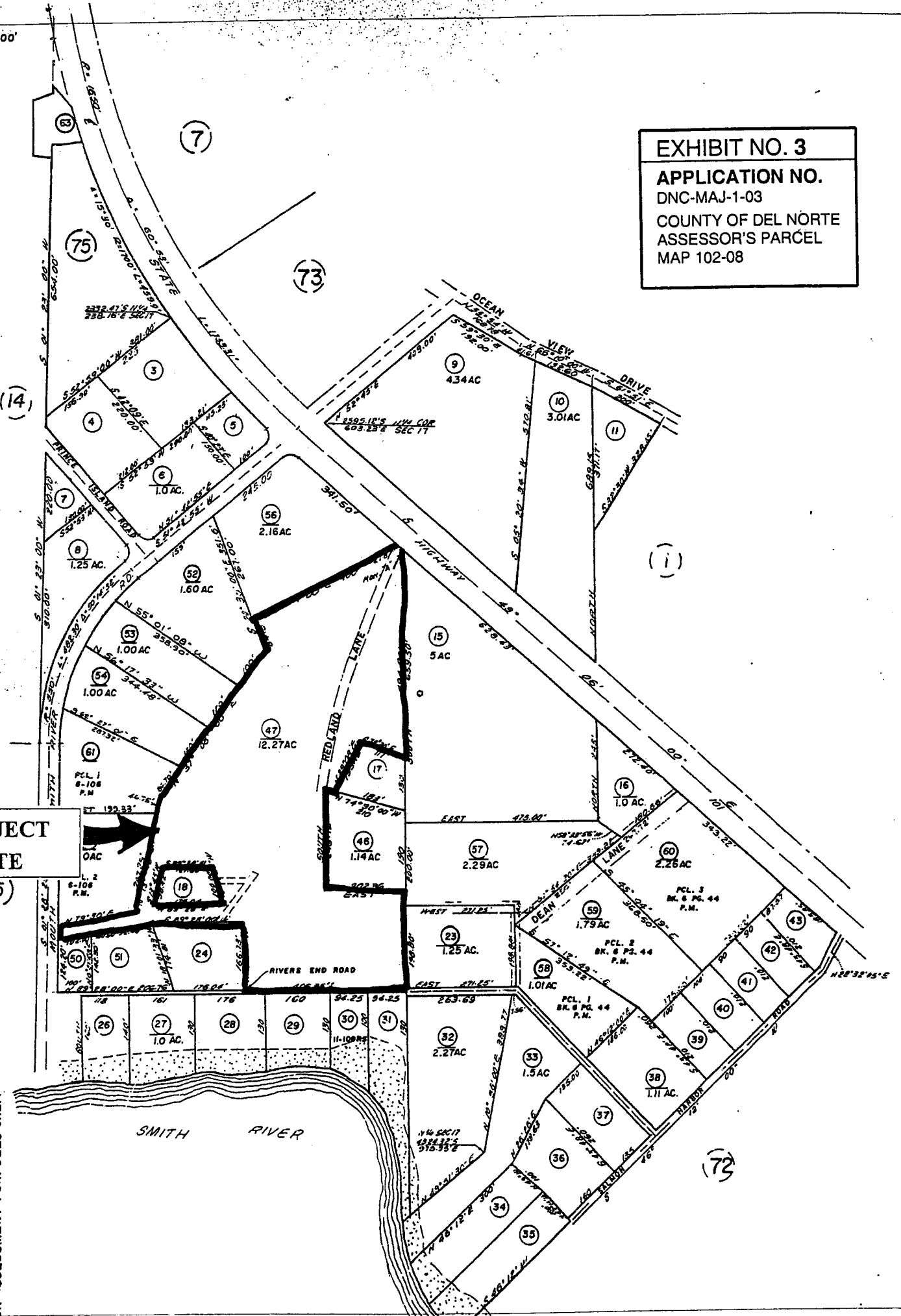
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**EXHIBIT NO. 3**  
**APPLICATION NO.**  
 DNC-MAJ-1-03  
 COUNTY OF DEL NORTE  
 ASSESSOR'S PARCEL  
 MAP 102-08

OR SEC 17 T18N, R1W, H.M.

**PROJECT  
 SITE**

THIS IS NOT AN OFFICIAL MAP  
 FOR ASSESSMENT PURPOSES ONLY

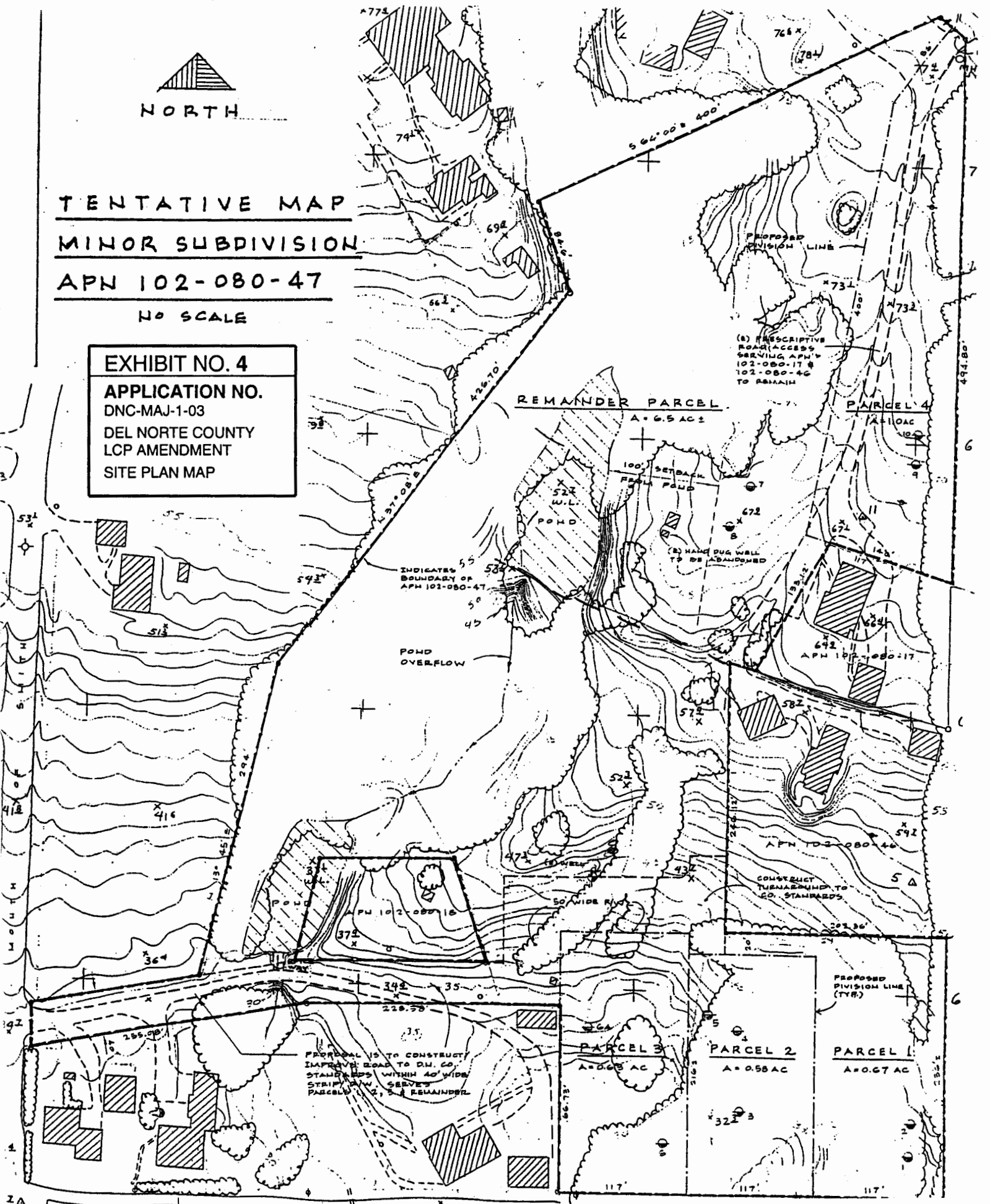




**TENTATIVE MAP**  
**MINOR SUBDIVISION**  
**APN 102-080-47**

NO SCALE

**EXHIBIT NO. 4**  
**APPLICATION NO.**  
 DNC-MAJ-1-03  
 DEL NORTE COUNTY  
 LCP AMENDMENT  
 SITE PLAN MAP

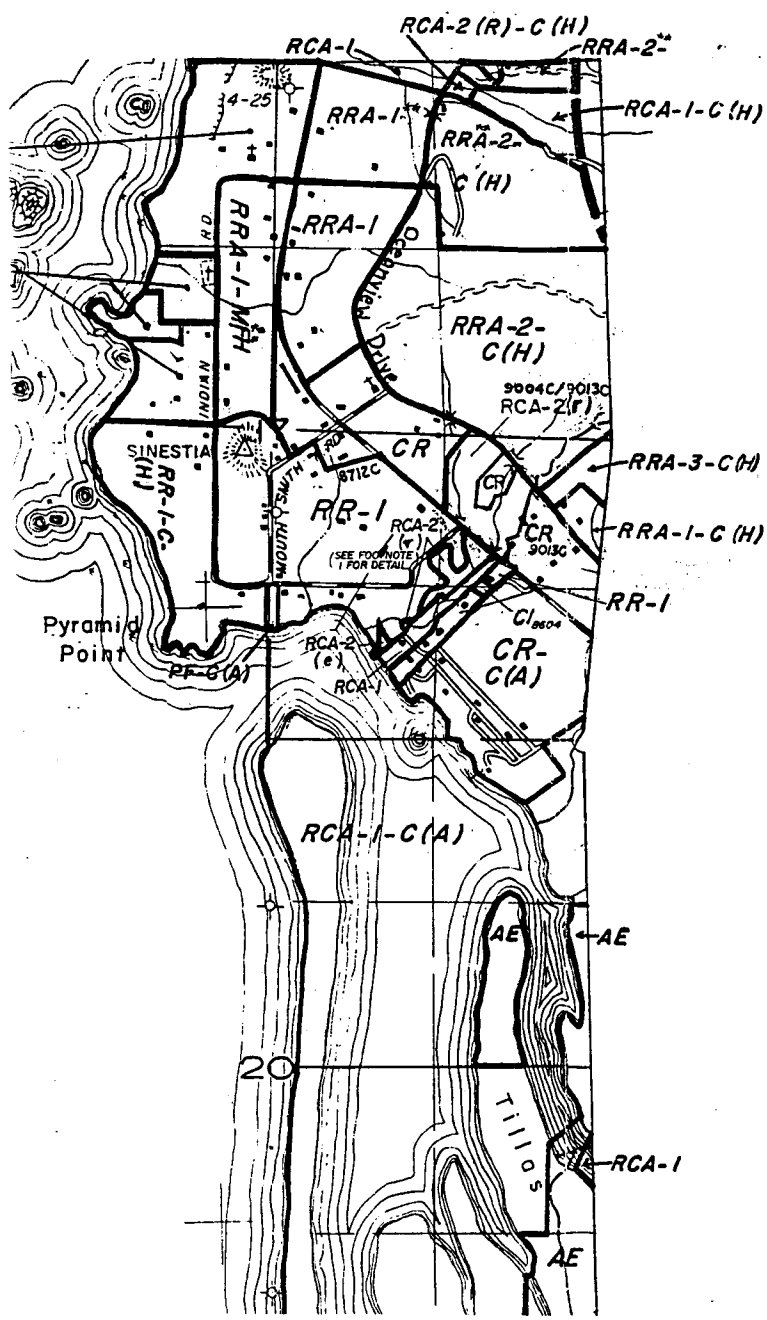


THE REDLAND CO.

MS0211C

Minor Subdv.

102-080-47

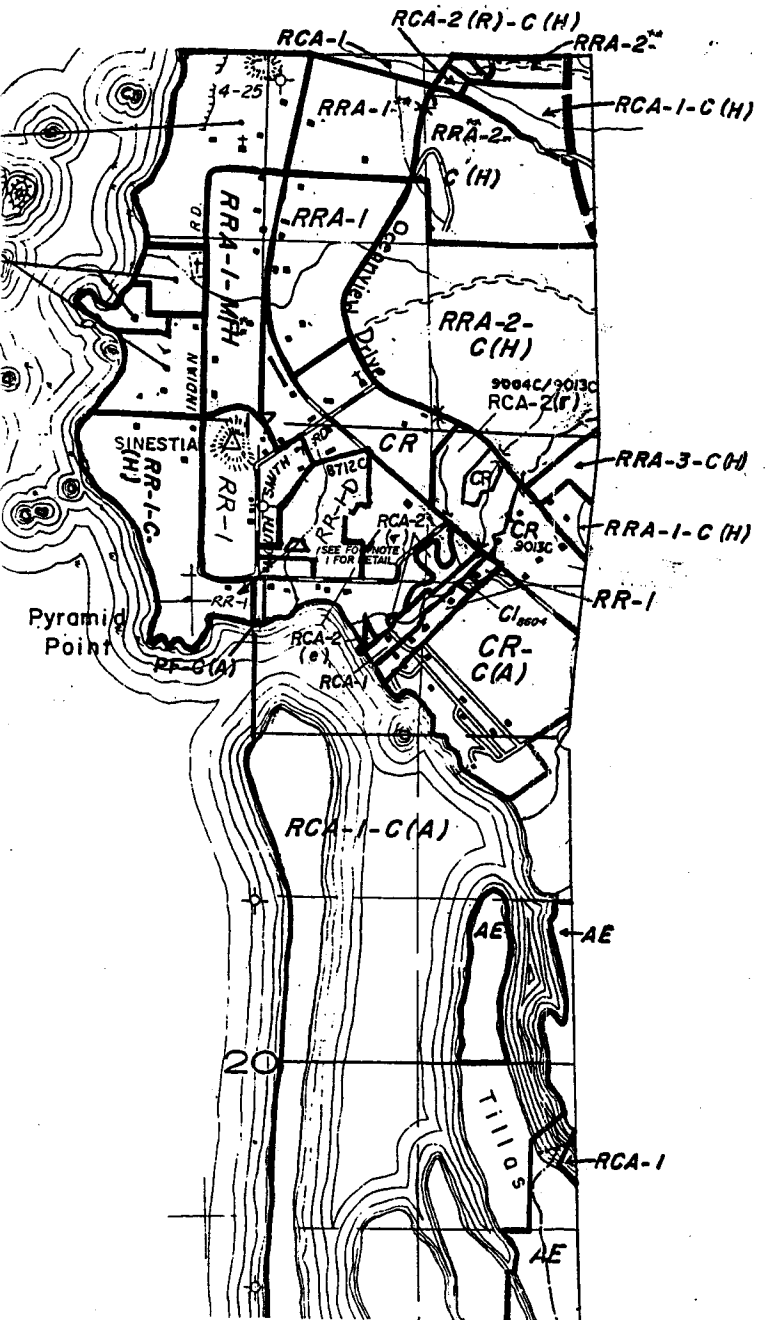


1. See R8502C & R8504C for detailed boundary delineation.  
 \* See Rezone File  
 \*\* R9502C

EXISTING  
 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 *Ed Dorn*  
 APPROVED BY BOARD OF SUPERVISORS *Richard R. Buss*  
 COUNTY OF DEL NORTE, CALIFORNIA  
 83-03: Sept 6, 83  
 85-02: Feb 19, 85  
 85-02: Feb 19, 85  
 REVISED: 3/23/85

**EXHIBIT NO. 5**  
**APPLICATION NO.**  
 DNC-MAJ-1-03  
 DEL NORTE COUNTY  
 LCP AMENDMENT  
 ZONING MAP AREA B-3  
 (1 of 2)



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

**REPLACEMENT**  
 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: *Robert E. Donnell*  
 APPROVED BY BOARD OF SUPERVISORS: *Robert L. ...*  
 COUNTY OF DEL NORTE, CALIFORNIA  
 83-03: Sept 6, 83  
 85-02: Feb 19, 85  
 86-04: Oct 21, 85  
 REVISED: 3/23/95

292

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

**RESOLUTION NO. 2003- 005**

**A RESOLUTION OF THE DEL NORTE COUNTY BOARD OF SUPERVISORS  
SUBMITTING AN ORDINANCE AMENDING ORDINANCE NO. 83-08 AND  
COUNTY CODE TITLE 21 BY ADOPTING NEW COASTAL ZONING MAP B-3 (Redland)  
TO THE COASTAL COMMISSION AS AN LCP AMENDMENT**

**WHEREAS**, the County of Del Norte has adopted an ordinance amending the local Coastal Plan and Title 21 Coastal Zoning Ordinance; and

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

**WHEREAS**, a negative declaration has been prepared for the density overlay rezone in compliance with the California Environmental Quality Act; and

**WHEREAS**, this ordinance 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.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Supervisors of the County of Del Norte, State of California do hereby approve the changes as outlined by the attached Ordinance; and

**BE IT FURTHER RESOLVED**, that by submission of such changes to the Coastal Commission for certification, the Board of Supervisors is requesting the subject amendments be identified as requiring rapid and expeditious action.

**PASSED AND ADOPTED** this 14th day of January 2003, by the following polled vote:

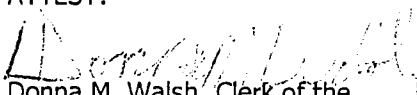
AYES: Supervisors Finigan, Reese, Blackburn, McClure & Sampels

NOES: None

ABSENT: None

  
David Finigan, Chair  
Board of Supervisors

ATTEST:

  
Donna M. Walsh, Clerk of the  
Board of Supervisors, County  
of Del Norte, State of California

**EXHIBIT NO. 6**

**APPLICATION NO.**

DNC-MAJ-1-03

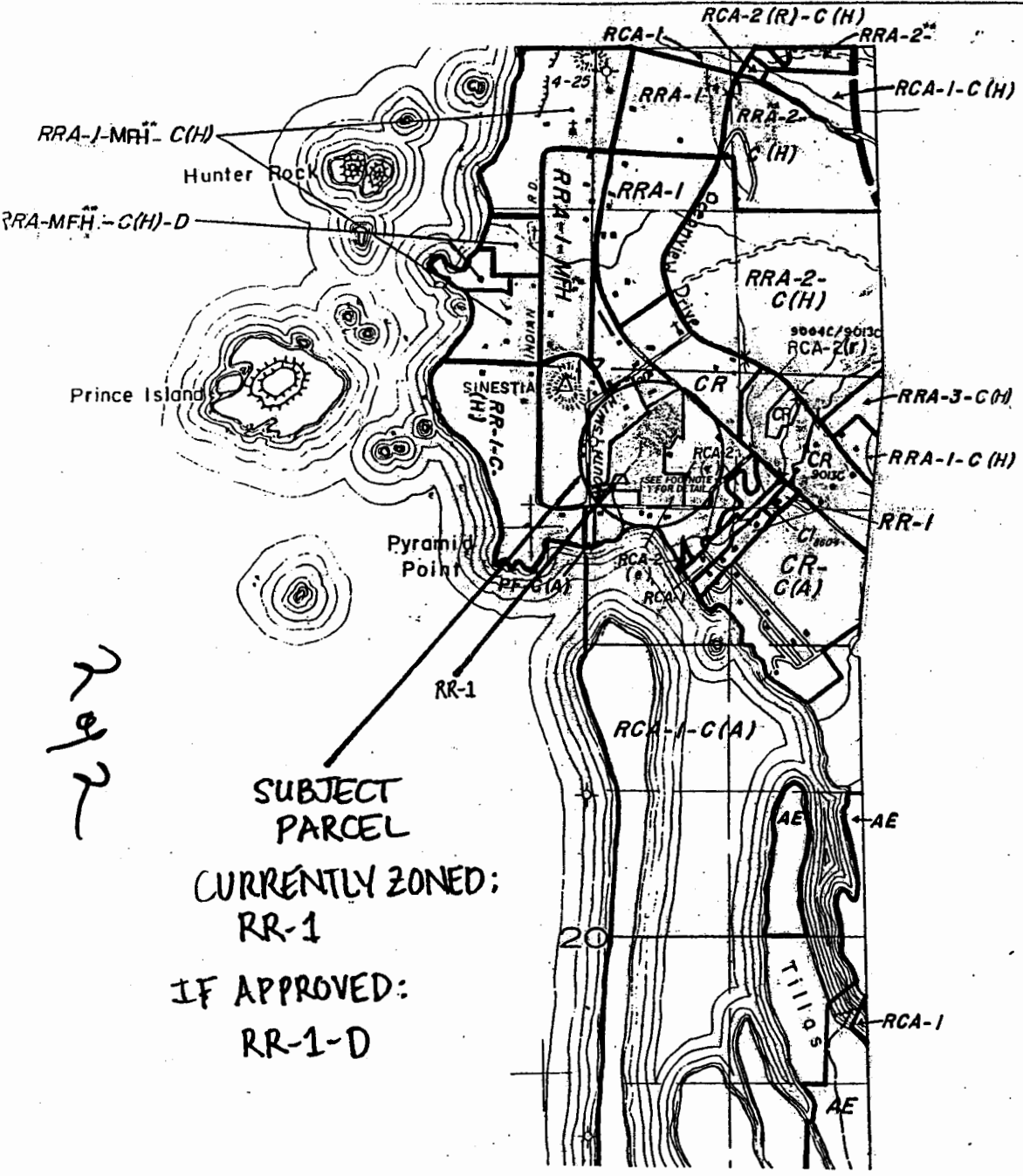
DEL NORTE COUNTY

LCP AMENDMENT

COUNTY RESOLUTION

(1 of 2)

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



*Refer*

**SUBJECT  
PARCEL**  
**CURRENTLY ZONED:**  
**RR-1**  
**IF APPROVED:**  
**RR-1-D**

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 *[Signature]*  
APPROVED BY BOARD OF SUPERVISORS *[Signature]*

**Chapter 21.06  
DISTRICTS**

<b>EXHIBIT NO. 7</b>
<b>APPLICATION NO.</b> DNC-MAJ-1-03 LCP ZONING ENABLING ORDINANCE CH. 21.06 – "ZONING DISTRICTS" (1 of 2)

- Sections:**  
**21.06.010 Designation.**  
**21.06.020 Establishment.**  
**21.06.030 Boundary uncertainty--Determination.**  
**21.06.040 Regulations to govern uses.**  
**21.06.050 Zoning maps on file.**

**21.06.010 Designation.**

The several classes of districts provided and into which the county may be divided are designated as follows:

- |                |  |
|----------------|--|
| AE Districts   | Agriculture Exclusive District                       |
| A Districts    | Agriculture General District                         |
| AI Districts   | Agriculture Industrial District                      |
| RCA1 Districts | General Resource Conservation Area District          |
| RCA2 Districts | Designated Resource Conservation Area District       |
| TPZ Districts  | Timberland Preserve Zone District                    |
| CT Districts   | Coastal Timber District                              |
| RR-1 Districts | Rural Residential District                           |
| RRA Districts  | Rural Residential Agriculture District               |
| R-1 Districts  | One-Family Residence District                        |
| MHP Districts  | Mobilehome Park District                             |
| R-2 Districts  | Low Density Multiple-Family Residence District       |
| R-3 Districts  | High Density Multiple-Family Residence District      |
| PC Districts   | Planned Community District                           |
| C-1 Districts  | Neighborhood Commercial District                     |
| C-2 Districts  | Light Commercial District                            |
| C-3 Districts  | Central Business District                            |
| C-R Districts  | Commercial Recreation District                       |
| C-4 Districts  | General Commercial District                          |
| M Districts    | Manufacturing and Industrial District                |
| MP Districts   | Manufacturing and Industrial Performance District    |
| PF Districts   | Public Facilities District                           |
| B Districts    | B Combining District                                 |
| C Districts    | C Combining District                                 |
| D Districts    | D Combining District                                 |
| FP1 Districts  | Flood Zone Area-Combining District                   |
| FP2 Districts  | Flood Overflow Area-Combining District               |
| FP3 Districts  | Protected Area Within Flood Zones Combining District |
| MH-1 Districts | Mobilehome Combining District                        |
| W Districts    | Woodlot Combining District (Ord. 83-03 (part))       |

**21.06.020 Establishment.**

The designation, location, and boundaries of the aforesaid districts shall be by written description or by delineation on zoning maps which may hereafter be adopted as provided in Chapter 21.50. These maps and all notations, references, data and other information shown thereon shall become a part of these regulations and subject thereto, and all such written descriptions and maps shall constitute Section 21.06.050. (Ord. 83-03 (part))

**21.06.030 Boundary uncertainty - Determination.**

Where uncertainty exists as to the boundaries of any of the aforesaid districts as shown on the zoning maps, the planning commission, upon written application or upon its own motion, shall determine the location of such boundaries. (Ord. 83- 03 (part))

**21.06.040 Regulations to govern uses.**

Except as hereinafter otherwise provided, the following shall apply to established districts:

- A. Upon the establishment by ordinance of any of the districts within the unincorporated areas of the county the regulations for such districts and the provisions set forth in Chapters 21.02 through 21.60 shall apply and be enforced in all such districts.
- B. No development or expansion of development shall occur for any purpose or in any manner other than is included among the uses hereinafter indicated as permitted in the district in which such building, land, development or premises is located.
- C. No development shall be erected, reconstructed or structurally altered to exceed in height the limit hereinafter designated for the district in which such development is located.
- D. No development shall be altered, enlarged or rebuilt, nor shall any open space be encroached upon or reduced in any manner, except in conformity to the yard, building site area and building location regulations hereinafter designated for the district in which such building or open space is located.
- E. No yard or other open space provided about any building for the purpose of complying with provisions of Chapters 21.02 through 21.60 shall be considered as providing a yard or open space for any other building and no yard or other open space on one lot shall be considered as providing a yard or open space for a building on any other lot. (Ord. 83-03 (part))

**21.06.050 Zoning maps on file.**

This section consists of zoning maps of the county of Del Norte which will be found on file in the county clerk's office. (Ord. 83-03 (part))

2 of 2



## Chapter 21.16

### RR-1 RURAL RESIDENTIAL DISTRICT

#### Sections:

- 21.16.010 Intent--Purpose.
- 21.16.020 The principal permitted use.
- 21.16.030 Uses permitted with a use permit.
- 21.16.040 Building height limit.
- 21.16.050 Minimum lot area required.
- 21.16.060 Minimum lot width required.
- 21.16.070 Percentage of lot coverage permitted.
- 21.16.080 Front yard required.
- 21.16.090 Side yard required.
- 21.16.100 Rear yard required.
- 21.16.110 Special yards and distances between buildings required.

<b>EXHIBIT NO. 8</b>
----------------------

<b>APPLICATION NO.</b>
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DNC-MAJ-1-03
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LCP ZONING ENABLING ORDINANCE CH. 21.16 - "RURAL RESIDENTIAL ZONING DISTRICT" (1 of 3)
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#### 21.16.010 Intent---Purpose.

This district classification is designed for the orderly development of rural home- sites in the one acre category, to encourage a suitable environment for family life for those who desire rural residential land. Since there is a limited area within the county which is suitable for rural residential land, this district is intended to protect rural residential uses against encroachment by other uses which may be in conflict therewith. The provisions of this section, therefore, shall be liberally interpreted to apply to rural residential and related services to the end that no other use shall be permitted, and no regulation shall be deemed or construed to interfere with any normal accessory use conducted in conjunction therewith. It is the intention of this section to prevent the further subdividing of rural residential land into lot sizes which might threaten the rural quality of areas zoned RR-1, and changes of zone from RR-1 to another classification are to be made only where such uses are in accord with the General Plan or an adopted specific plan. For the purposes of Section 21.52.020 (A) (4), the rural residential districts uses listed under the principal permitted use section herein shall be considered as the principal permitted use in the California Coastal Zone. Variances and adjustments to the district's requirements and standards shall not be considered a principal permitted use for purposes of Section 21.52.020(A)(4). The following regulations shall apply in the RR-1 district subject to the provisions of Chapters 21.02 through 21.60. (Ord. 83-03(part))

#### 21.16.020 The principal permitted use.

The principal permitted rural residential use includes:

- A. A one-family residence;
- B. Accessory buildings;

- C. Animal husbandry, where no more than one horse, mule, cow or steer, nor more than five goats, sheep or similar livestock are kept for each twenty thousand square feet of lot area. (Ord. 94-19 §11, 1995; Ord. 83-03(part))

**21.16.030 Uses permitted with a use permit.**

Uses permitted with a use permit shall be as follows:

- A. Home occupations;
- B. Guest lodging where it is an integral part of the principal one-family residential use;
- C. Animal husbandry, where more than one horse, mule, cow or steer, or more than five goats, sheep or similar livestock are kept for each twenty thousand square feet of lot area. (Ord. 94-19 §12, 1995; Ord. 83-03(part))

**21.16.040 Building height limit.**

Building height limit shall be twenty-five feet. Accessory buildings shall be subject to Section 21.04.140. (Ord. 83-03(part))

**21.16.050 Minimum lot area required.**

Minimum lot area shall be as specified by the planning commission, but in no case less than one acre. (Ord. 83-03(part))

**21.16.060 Minimum lot width required.**

Minimum lot width shall be one hundred feet. (Ord. 83-03(part))

**21.16.070 Percentage of lot coverage permitted.**

Percentage of lot coverage permitted shall be twenty percent. (Ord. 83-03 (part))

**21.16.080 Front yard required.**

Required front yard shall be twenty-five feet. (Also refer to Chapter 21.46.) (Ord. 83-03 (part))

**21.16.090 Side yard required.**

Required side yard shall be ten feet unless the building site is less than one hundred feet in width, in which case side yards of ten percent of the width, but not less than five feet, shall be required. (Ord. 83-03(part))

**21.16.100 Rear yard required.**

Required rear yard shall be twenty feet for main building and five feet for accessory building.  
(Ord. 83-03(part))

**21.16.110 Special yards and distances between buildings required.**

- A. Accessory buildings used as barns, stables or farm out-buildings for animals other than small livestock farming shall be not less than twenty feet from side or rear property line, and not less than fifty feet from the front property line, and not less than twenty feet from any dwelling unit on the property.
- B. Yards for the use of any animal husbandry livestock shall be fenced to keep animals not less than twenty feet from any dwelling. (Ord. 83-03(part))



## Chapter 21.36

### D COMBINING DISTRICT

**EXHIBIT NO. 9**

**APPLICATION NO.**

DNC-MAJ-1-03

LCP ZONING ENABLING  
ORDINANCE CH. 21.36 -  
"DENSITY COMBINING  
DISTRICT"

**Sections:**

- 21.36.010 Intent.**  
**21.36.020 Application.**  
**21.36.030 Restrictions.**

**21.36.010 Intent.**

The intent of this chapter is to create a district which, when combined with a basic zoning district, will not allow further land division of lots created by a subdivision. This in turn will allow cluster-type developments, and/or varied lot sizes which would best utilize unique site situations yet remain consistent with density and use requirements of the county General Plan or adopted specific plan. (Ord. 83-03 (part))

**21.36.020 Application.**

This D district may be combined with any A, RR, R or CT zoning district. The regulations set forth in this chapter shall apply in lieu of the respective regulations specified for the subject district with regard to minimum lot sizes. (Ord. 83-03 (part))

**21.36.030 Restrictions.**

- A. The D combining district may be utilized on subdivision projects when, because of terrain, site characteristics or overall project design, varying lot sizes or cluster development with mitigating open areas are more desirable than standard uniform lot sizes.
- B. The overall project density shall not exceed the General Plan density requirement for the project site.
- C. The building site area required for each lot shall be shown on the final subdivision map. No further land divisions shall be permitted unless a rezone is granted and the land division is consistent with the General Plan or adopted specific plan density requirement for the total original project site.
- D. A resolution of intention to rezone to the D combining district may be adopted at the time of approval of the tentative map, however, the rezone shall not be in effect until the final subdivision or parcels map has been recorded with the county clerk. (Ord. 83-03 (part))

**TABLE A  
COASTAL ELEMENT LAND USE PLAN AND ZONING CONSISTENCY**

LUP LAND USE	ZONING DISTRICT																																											
	AE	A-20	A-5	A-1	RCA-1	RCA-2	TP	CT	RR-1	RRA-1	RRA-2	RRA-3	RRA-5	R-1	MHP	R-2	R-3	PC	HDR	HDC	G	C-1	C-2	C-3	C-R	C-4	M	MP	PF	B*	C	D	FP1	FP2	FP3	MHI&2	W							
Res 0-2			C					C	C					C			C					C								C	C	C	C	C	C	C	C							
Res 0-6														C		C		C				C								C	C	C	C	C	C	C	C	C						
Res 0-15														C		C	C	C				C								C	C	C	C	C	C	C	C	C						
Res 12-30																C	C	C					C		C					C	C	C	C	C	C	C	C	C						
GC																							C	C	C					C	C	C	C	C	C	C	C	C						
VSC																								C		C					C	C	C	C	C	C	C	C	C					
GI																										C					C	C	C	C	C	C	C	C	C					
LI/HC																										C			C		C	C	C	C	C	C	C	C	C					
RR 1/1								C	C									C				C								C	C	C	C	C	C	C	C	C	C					
RR 1/2											C							C				C								C	C	C	C	C	C	C	C	C	C	C				
RR 1/3												C						C				C								C	C	C	C	C	C	C	C	C	C	C				
RN									C					C				C				C								C	C	C	C	C	C	C	C	C	C	C				
RMHP															C																													
W 1/2							C	C				C						C													C	C	C	C	C	C	C	C	C	C	C	C		
W 1/3							C	C				C						C													C	C	C	C	C	C	C	C	C	C	C	C	C	
W 1/5							C	C					C					C													C	C	C	C	C	C	C	C	C	C	C	C	C	
A Prime	C																																											
GA 20		C																																										
GA 5			C																																									
AI				C																																								
TP							C	C																																				
Non TPZ								C																																				
PF																																												
RCA					C	C	C																																					
HD-C																				C																								
HD-R																						C																						
G																							C																					



Consistent



Not Consistent

\*

When assigned density does not exceed General Plan Density

**EXHIBIT NO. 10**  
**APPLICATION NO.**  
 DNC-MAJ-1-03  
 LCP ZONING ENABLING  
 ORDINANCE TABLE A -  
 "COASTAL ELEMENT LAND  
 USE PLAN AND ZONING  
 CONSISTENCY MATRIX"

not be converted to nonagricultural use unless such conversion would concentrate development consistent with section 30250.

This language is substantially different from the rejected portions of the Bei section 30218 provided that nonprime agricultural land should not be conveyed even in part, if that would "increase tax assessments on nearby agricultural land"; section 30220 which stated that land divisions "shall not be permitted to reduce agricultural production that could be uneconomic or impractical for continued agricultural production or on adjoining parcels"; and proposed section 30221 which would not have permitted agricultural land to be divided if that would "have an adverse economic effect on the preservation of agricultural lands" (*italics added*).

**EXHIBIT NO. 11****APPLICATION NO.**

DNC-MAJ-1-03

EXCERPT, BILLINGS V.  
CALIFORNIA COASTAL  
COMMISSION (1 of 2)

The Legislature in rejecting the above provisions and adopting section 30242 chose the more limited approach of permitting the conversion of nonprime agricultural land to nonagricultural use where such conversion would concentrate development consistent with section 30250. Here, in view of the owners' affidavits indicating that they would dedicate the land to agricultural use, there is no evidence of any conversion of the land to a nonagricultural use.

[4] Section 30250, quoted so far as pertinent above at page 737, first requires that a new development shall not be located in a previously [103 Cal.App.3d 741] undeveloped area fn. 14 unless there are adequate public services and the development "will not have significant adverse effects, either individually or cumulatively, on coastal resources."

The Commission did not find that the owners' minor subdivision would have a significant adverse effect. Rather, the Commission's finding as to sections 30241, 30242 and 30250 focused on its future adverse effect, as it "would encourage similar divisions of other large parcels" and threaten the continued viability of the mainly low intensive agriculture economy of the area. The Commission thus erroneously relied on the precedential impact of the owners' proposed minor subdivision and the difficulty of rejecting other future requests for similar minor subdivisions. Further, the Commission could not base its refusal of the permit on such a speculative future contingency. The Commission clearly has the authority to prohibit any future development whose cumulative effect is both significant and adverse.

The Commission urges that its reference to "significant effect" is sufficient, and points to its reliance on section 21083, fn. 15 a part of the California Environmental Quality Act (CEQA). We note that the particular language of this CEQA provision has been construed to include favorable as well as unfavorable effects on the environment (*Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190, 206 [132 Cal.Rptr. 377, 553 P.2d 537]). As the Legislature did not repeat CEQA's elaborate definition of cumulatively in section 30250, and specifically used the narrower term "significant adverse effect," we do not think "probable future projects" can or should be read into the term "cumulatively," as used in section 30250. Thus, the term should be given its everyday common sense definition. We conclude that the Commission erred in considering the precedential effect of the owners' minor subdivision.

The evidence does not and cannot support a finding of a significant adverse effect. The addition of two residences and two barns on the two [103 Cal.App.3d 742] smaller parcels, the increase in water use and additional traffic, while it may be significant, is not adverse. The Commission's finding is not supported by the evidence and does not meet the statutory requirement.

[5] We turn next to the second requirement of section 30250, namely, that land divisions shall be permitted only where 50 percent of the usable parcels in the area have been developed fn. 16 and "the created parcels would be no smaller than the average size of surrounding parcels" (*italics added*).

To ascertain the "surrounding parcels," the Commission applied its interpretative guideline of the



parcels within one-fourth of a mile of the property; thus, the Commission considered eight parcels. As these 8 parcels range in size from 5 to 750 acres, and 5 are over 100 acres, the average (mean) size is 286 acres. While the use of the one-fourth mile guideline may not be unreasonable, per se, or in other cases, we think the Commission's use of this guideline in the instant case was arbitrary. The record indicates that at the Regional Commission proceedings, the Regional Commission and the owners had agreed that the "surrounding area" was comprised of the 32 parcels along Stage Road between Pescadero and San Gregorio. This area has a distinctive rural and agricultural character, and is similar to the owners' property. Of these 32 parcels, 22 have already been developed; 10 have not. Fifteen of the 32 parcels are under 16 acres in size; fn. 17 4 are about 40 acres or more fn. 18 and 13 are over 100 acres or more. fn. 19

The record indicates that the Commission also determined that "average" meant the arithmetic mean, computed by adding the total acreage of the eight parcels within the quarter-mile radius and dividing this figure by the number of parcels. The result was the mean of 286 acres, which the Commission then determined made the proposed new parcels of 25 and 26 acres smaller than 50 percent of the "average" in the surrounding area. The Commission also reasoned that it was required to use an arithmetic definition of average in order to have an objective standard and to carry out the legislative intent of preventing "leap frog" development. The Commission's approach ignores the fact that since [103 Cal.App.3d 743] some of the surrounding parcels are so large, the arithmetic mean is necessarily "skewed," even when properly computed on the basis of 32 parcels. Using this mean figure of 137, over 2/3 of the parcels (22 of 32) are "below average" and 40 percent of the parcels (13 of 32) are about 1/10 as large as the "average," an absurd result.

The owners urge that if an arithmetic figure is appropriate, the arithmetic median (half above and half below) is more appropriate as it produces an average of 40 acres, the average (mean) size of the three new parcels to be created by their proposed minor subdivision.

The Legislature's use of the term "average," of course, is ambiguous. In an arithmetic sense, the term could describe either the mean, the median or the mode (the most frequently met figure).

While we can understand the Commission's search for a readily ascertainable and objective arithmetic standard, both in terms of the one-quarter mile guideline, and the arithmetic mean, we do not think that the Legislature intended such a standard. As no particular definition for "average" was provided, we can only conclude that the Legislature used "average" in its everyday sense of the term, to mean typical or representative. Applying this definition to the 32 parcels in the surrounding area, the record indicates that the 25- and 26-acre size of the 2 parcels to be created is no smaller than the average size of the 32 surrounding parcels.

We conclude that the Commission also abused its discretion and acted arbitrarily in applying its one-quarter mile guideline and construing "average" as the arithmetic mean. It follows that the record does not support the Commission's finding that the owners' proposed minor subdivision was contrary to section 30250.

[6] The Commission also found that because of the increase in traffic on Highway 1 and in water use, the owners' proposed minor subdivision was prohibited by section 30254, set forth below. fn. 20 The record indicates that this finding also was predicated on the precedential nature of the development and future traffic and water problems rather than the additional burden of the two additional residences and related farm buildings. [103 Cal.App.3d 744]

Specifically, the Commission found that as the instant subdivision could not be distinguished from many similar parcels, it would conflict with the requirement that limited public services be reserved for coastal-dependent and visitor serving uses. Section 30254, however, requires that the new development, because of its effect on limited existing services, would preclude coastal dependent and other preferred

**LOT SIZE STUDY FOR SUBDIVISION OF ASSESSORS PARCEL NO. 102-080-47  
 PLANNING AREA NO. 1, SMITH RIVER SUB-SECTION OF THE  
 COUNTY OF DEL NORTE'S LOCAL COASTAL PROGRAM  
 THE REDLAND COMPANY, APPLICANT**

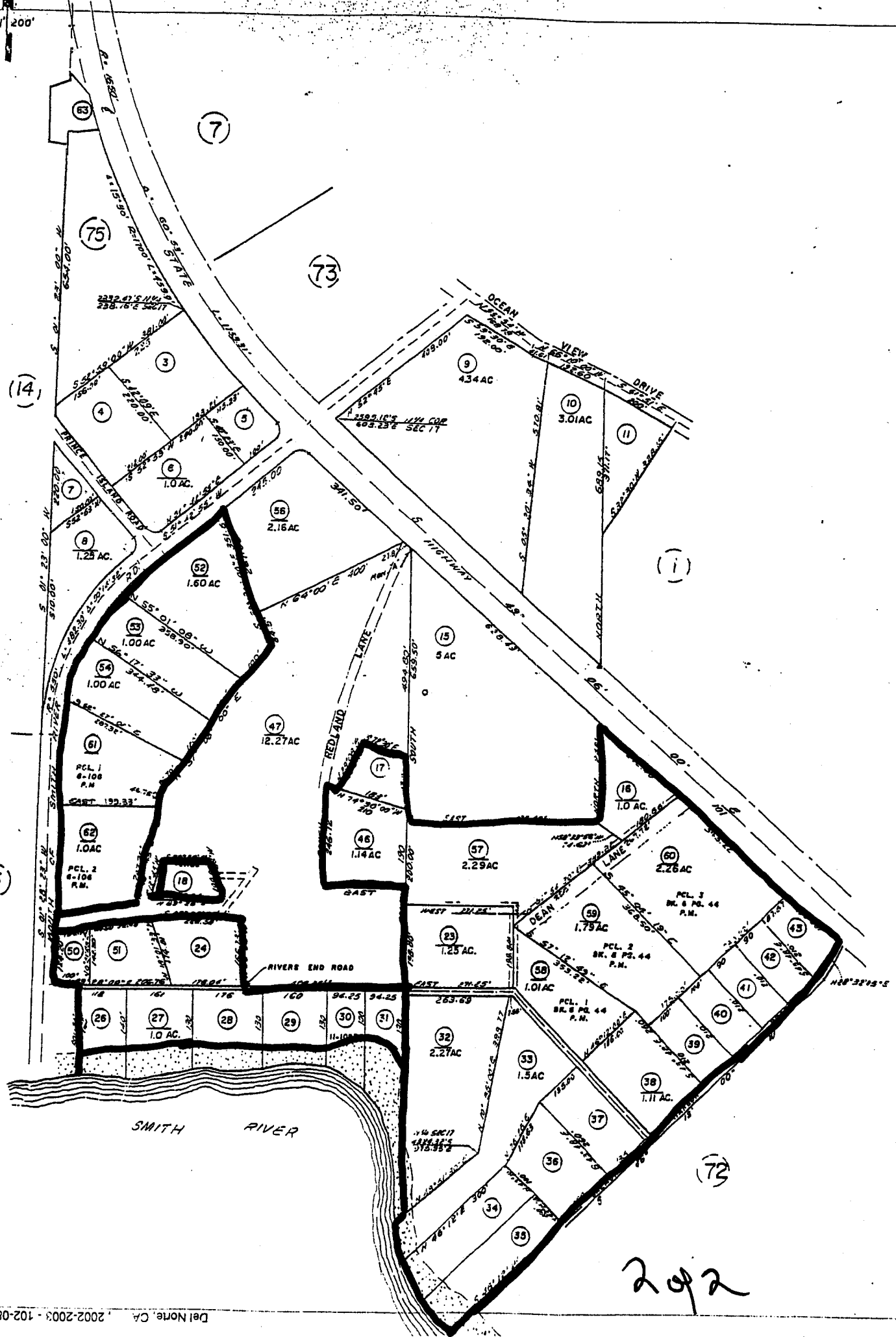
<b>ASSESSORS PARCEL NO</b>	<b>SIZE (SQ. FT.)</b>
102-080-31	9425
102-080-41	9731
102-080-30	10838
102-080-39	10909
102-080-40	10909
102-080-42	11231
102-080-50	13068
102-080-18	14201
102-080-37	15034
102-080-36	15284
102-080-43	16685
102-080-26	16815
102-080-38	20452
102-080-29	20800
102-080-27	21735
102-080-17	21780
102-080-28	21780
102-080-34	22670
102-080-35	24670
102-080-51	28453
102-080-24	33731
102-080-58	40946
102-080-61	42688
102-080-16	43560
102-080-53	43560
102-080-54	43560
102-080-62	43560
102-080-46	49658
102-080-33	54290
102-080-23	54450
102-080-59	68389
102-080-52	69696
102-080-60	74923
102-080-32	91381
102-080-57	99752
<b>TOTAL</b>	<b>1190614</b>

<b>EXHIBIT NO. 12</b>
<b>APPLICATION NO.</b> DNC-MAJ-1-03 DEL NORTE COUNTY LCP AMENDMENT LOT SIZE STUDY (1 of 2)

n = 35      min = 9,425 sq. ft. (0.21 ac.)      max = 99,752 sq. ft. (2.28 ac.)  
 $\Sigma = 1,190,614$  sq. ft. (27.33 ac. total net parcel area)  
 $\mu = \Sigma / n = 1,190,614 \div 35 = 34,017$  sq. ft. (.78 ac.)  
 median = 22,670 sq. ft. (.52 ac.)  
 mode = 43,560 sq. ft. (1.0 ac.)

Data Sources:      First American Real Estate Solutions, LLC (gross parcel sizes)  
                                  County of Del Norte - Community Development Department (net parcel sizes)

POR SEC 17 T18N, R1W, H.M.



THIS IS NOT AN OFFICIAL MAP  
OR ASSESSMENT PURPOSES ONLY