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Filed:	May 6, 2004
90 th Day:	August 4, 2004
Staff:	Jim Baskin
Staff Report:	May 26, 2004
Hearing Date:	June 9, 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: **County of Del Norte LCP Amendment No. DNC-MAJ-2-04 (Redland)**
(Meeting of June 9, 2004, in Long Beach)

SYNOPSIS:

Amendment Description

Del Norte County is requesting certification of LCP Amendment No. DNC-MAJ-2-04 (Redland Company) to the County's certified Land Use Plan (LUP) and Implementation Plan (IP) to set procedures for the determinations regarding rural land division standards, amend the Density Combining Zone and Subdivision Ordinance to be consistent with the changed LUP rural land division criteria; and re-designate the zoning designation of 9.4-acre parcel near the mouth of the Smith River from Rural Residential (RR-1) to Rural Residential with Density Combining Zone (RR-1-D).

Summary of Staff Recommendation:

The staff recommends that the Commission, upon completion of a public hearing: **(1) certify the LUP amendment request as submitted; (2) deny the IP amendment request as submitted; and (3) certify the IP amendment request with suggested modifications.**

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The County's proposal for amending the text of the Land Use Plan's New Development chapter would make this portion of the County's LCP more consistent with the rural land division standards policies of Section 30250 of the Coastal Act. In addition, the proposed amendments to the LCP's Implementation Plan would provide greater clarity and guidance as to how land division projects are to be reviewed and acted upon so that the rural land division criteria and development policies of the LUP are carried out more effectively. Furthermore, the proposed rezoning of the 9.4-acre Rural Residential parcel with a Density Combining Zone would facilitate future subdivision of the site in a manner that would better protect the environmentally sensitive habitat on the property consistent with the ESHA policies of the certified LUP.

However, regarding the proposed amendments to the Implementation Plan, in reviewing the amended wording of the subdivision ordinance and the Density Combining Zone provisions relating to determinations of "usable parcels" for purposes of reviewing proposed land divisions against the rural land division standards, staff discovered an inadvertent drafting error in the wording of the usable parcel criteria which if certified would not conform with and carry out the associated LUP policies as amended. The Suggested Modifications to the Implementation Plan Amendment recommended by staff to correct this error would make the IP amendments conform with and carry out the LUP, as amended.

The appropriate motions and resolutions to adopt the staff recommendation are found on pages 2-4.

Analysis Criteria:

To certify the amendment to the Land Use Plan (LUP) portion of the City of Crescent City Local Coastal Program, the Commission must find that the LUP, as amended, is consistent with the policies of Chapter 3 of the Coastal Act. To certify the amendment to the Implementation Program (IP) portion of the LCP, the Commission must find that the IP, as amended, conforms with and is adequate to carry out the amended LUP.

Additional Information:

For additional information about the LCP Amendment, please contact Jim Baskin at the North Coast District Office at (707) 445-7833. Please mail correspondence to the Commission at the above address.

PART ONE: RESOLUTIONS AND SUGGESTED MODIFICATIONS

- I. MOTIONS, STAFF RECOMMENDATIONS, AND RESOLUTIONS FOR LCP AMENDMENT NO. CRC-MAJ-1-00**
- A. APPROVAL OF LUP AMENDMENT NO. CRC-MAJ-1-00, AS SUBMITTED:**

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MOTION I: I move that the Commission certify Land Use Plan Amendment No. DNC-MAJ-2-04 as submitted by the County of Del Norte.

STAFF RECOMMENDATION TO APPROVE:

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

RESOLUTION TO APPROVE CERTIFICATION OF THE LAND USE PLAN AS SUBMITTED:

The Commission hereby certifies Land Use Plan Amendment No. DNC-MAJ-2-04 as submitted by the County of Del Norte 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.

B. DENIAL OF IMPLEMENTATION PROGRAM AMENDMENT NO. DNC-MAJ-2-04, AS SUBMITTED:

MOTION II: I move that the Commission reject Implementation Program Amendment No. DNC-MAJ-2-04 for the County of Del Norte as submitted.

STAFF RECOMMENDATION OF REJECTION:

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

The Commission hereby denies certification of the Implementation Program submitted for the County of Del Norte and adopts the findings set forth below on grounds that the Implementation Program Amendment as submitted does not conform with and is inadequate to carry out the provisions of the Land Use Plan as certified. Certification of the Implementation Program Amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation

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measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted.

C. APPROVAL OF IMPLEMENTATION PROGRAM AMENDMENT NO. DNC-MAJ-2-04 WITH SUGGESTED MODIFICATIONS:

MOTION III: I move that the Commission certify the Implementation Program Amendment No. DNC-MAJ-2-04 for the County of Del Norte if it is modified as suggested in this staff report.

STAFF RECOMMENDATION TO CERTIFY WITH SUGGESTED MODIFICATIONS:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Program with suggested modifications 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 III TO CERTIFY THE IMPLEMENTATION PROGRAM WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Implementation Program Amendment for the County of Del Norte if modified as suggested on the grounds that the Implementation Program Amendment with the suggested modifications conforms with and is adequate to carry out the provisions of the Land Use Plan as certified. Certification of the Implementation Program if modified as suggested 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 Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

II. SUGGESTED MODIFICATIONS

Key for Modifications to City Language:

The attached Exhibit No. 5 presents the complete land use plan and zoning code amendments as proposed by the County, showing in strikeout and underline how the proposal would alter the existing zoning code text. In this Section, the resulting revised text proposed by the City is shown in ~~strikeout~~ and underline, while additions suggested by the Commission are in ***bold italics*** and suggested deletions are in ~~double-strike through~~.

A. SUGGESTED MODIFICATIONS TO THE IMPLEMENTAION PROGRAM:

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SUGGESTED MODIFICATION NO. 1: Section 16.04.037B.1of the County of Del Norte's Subdivision Ordinance shall be modified as follows:

Usable parcels does not include: (1) parcels committed to agricultural and designated as such in the land use plan; (2) parcels committed to timberland and designated as such on the land use plan; nor (3) ~~shall~~ parcels or portions of parcels committed to the resource conservation area for purposes other than of compliance with zoning district minimum yard regulations, traffic safety visibility standards, setbacks from geologically unstable areas, buffers around environmentally sensitive habitat areas, floodway management, or other such siting restrictions required by the certified LCP ~~be considered as usable parcels.~~

SUGGESTED MODIFICATION NO. 2: The fifth sentence of Section 21.36.030B.of the County of Del Norte's Local Coastal Program Zoning Enabling Ordinance shall be modified as follows:

Parcels or portions of parcels committed to the resource conservation area for purposes other than of compliance with zoning district minimum yard regulations, traffic safety visibility standards, setbacks from geologically unstable areas, buffers around environmentally sensitive habitat areas, floodway management, or other such siting restrictions required by the certified LCP may be excluded from the average size calculation.

PART TWO: INTRODUCTION

Background:

The impetus for the proposed LCP amendment is a decision of the County of Del Norte to grant a Coastal Tentative Map Permit with conditions to the Redland Company for 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 (File No. A-1-DNC-02-152). The approval of the permit was conditioned upon the certification by the Commission of an LUP amendment to add a Density Combining Zone (-D) designation to the subject property. The County's approval of the coastal permit has been appealed to the Commission.

At its meeting of January 8, 2003, the Commission found that the appeal raised a substantial issue of conformance of the project as approved with the certified LCP. The major contention of the appeal related to the County's action to conditionally approve the land division contingent upon the Commission's future certification of a zoning amendment to add a Density Combining Zone designation to the property. As the subdivision's conformance with coastal zoning standards depended upon the successful future amendment of the zoning map, the action to approve the coastal development permit for the subdivision was procedurally premature. In addition, the County action did not adequately address or consider several other issues of

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nonconformance with LCP policies and standards relating to whether: (1) fifty percent of the usable parcels in the area have been developed to allow further land divisions in the area to be authorized; (2) the resulting parcels created by the subdivision would be no smaller than the average size of surrounding parcels; (3) the extent of wetlands and riparian vegetation environmentally sensitive habitat areas on the project site had been fully delineated; and (4) buffers of adequate width would be provided between development and the environmentally sensitive areas at the site.

In reviewing the issues under appeal, Commission staff discovered internal inconsistencies between the wording of the New Development chapter of the County's Land Use Plan and how these provisions were implemented through the certified coastal zoning and subdivision ordinances. Text within the rural land division criteria of the New Development Chapter is intended to carry out the rural land division standards of Section 30250 of the Coastal Act which establish development timing and minimum parcel size restrictions for land divisions in areas outside of urban service areas. However, the wording of the New Development policies confuses maximum land use density limitations with minimum parcel size standards and contains a statement that equates the lot size standards of the base zone in which the subdivision would be located with the average size of surrounding parcels. This rural land division wording in the LUP significantly limits use of the provisions of the Density Combining Zone designation within the County's certified Implementation Plan (IP) that allow for creation of parcels smaller than those specified within the base zoning district standards. These limitations also appear within the text of the County's subdivision and coastal zoning ordinances of the IP. In addition, the LUP New Development Chapter typographically misquotes Coastal Act Section 30250, contains vague and confusing wording with regard to determining which parcels are "usable" for purposes of determining if 50% of parcels in the area of the proposed subdivision have been developed, and provides no guidance on setting study area bounds or how to calculate the average size of parcels "surrounding" the subdivision site.

After the January 8, 2003 hearing on substantial issue, the County acted to amend the LCP provisions which conflict with the proposed project and asked staff to schedule the *de novo* portion of the hearing on the appeal for a Commission meeting after the LCP amendment is acted on by the Commission. On January 23, 2003, the County applied to the Commission for certification of an amendment to the zoning maps section of the IP. The proposed amendment (DNC-MAJ-1-03) would have revised the zoning designation of the subject parcel from Rural Residential (RR-1) to Rural Residential with Density Combining Zone (RR-1-D). However, amendment of the zoning map for the property alone would not by itself correct the above-described underlying problems within the policy wording of the LUP New Development Chapter and the proposed IP amendment would not have conformed with or carried out the existing LUP standards for the subdivision of rural lands. Accordingly, the amendment was scheduled for a hearing at the Commission's March 2004 meeting and on March 4, 2004, staff published a staff report containing a recommendation that the Commission deny the amendment as submitted. Upon discussing the inherent problems associated with amending only the zoning designation, the County subsequently withdrew LCP Amendment Application No. DNC-MAJ-1-03 on March 9, 2004, prior to the scheduled hearing on the LCP amendment.

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Since withdrawal of the previous amendment, the Commission staff has worked closely with the County Community Development Department staff to identify appropriate changes to the wording of the LUP and the IP to better establish use of the Density Combining Zone provisions of the coastal zoning and subdivision ordinances so that future land divisions in rural areas could only occur consistent with all applicable policies of the LCP and the rural land division policies of the Coastal Act. The County's current amendment request reflects these collaborative efforts.

Amendment Description:

The County has applied to the Commission for certification of amendments to both the Land Use Plan's New Development chapter, and the Density Combining Zoning District and Subdivision ordinance maps portions of its Implementation Plan (IP). In addition, the proposed amendment would revise the zoning designation of the Redland Company parcel from Rural Residential (RR-1) to Rural Residential with Density Combining Zone (RR-1-D).

The western half of the Redland Company property consists of impounded wetlands and forested riparian vegetation. Application of a Density Combining Zoning District (-D) would allow 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 initially approved the zoning amendment to add the -D designation based on the determination that a land division of the subject property into four lots and a remainder parcel under strict compliance with the RR-1 zoning district's minimum one-acre lot size standard would likely result in impacts to 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.

Land designated with a -D combining zone cannot be divided into more lots than the land use plan designation would otherwise allow. In addition, 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 include some guidance for determining whether the 50% area development threshold has been met. However, the wording of this guidance is unclear, particularly with respect to whether a parcel is to be considered "usable" for purposes of making the 50%-developed determination. In addition, the subject LUP policy further declares that "the minimum lot size designated for the land use classification that (*sic*) the land division is proposed establishes the average size."¹ As discussed in the Background Section above, the

¹ 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

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LUP's rural land division policies prohibiting the creation of parcels smaller than the average parcel size of the surrounding area significantly limit use of the provisions of the -D zoning district that would allow for the creation of parcels smaller than the minimum parcel size standard of the base zone, because under the rural land division policies, the base zone minimum parcel size is stated as establishing the average surrounding parcel size.

Using the subject Redland Company development proposal as an example of the difficulties encountered in utilizing the Density Combining Zone in conjunction with the LUP's rural land division criteria, and assuming for purposes of this example that the land use plan maps do designate minimum parcel size and dictate the average size of surrounding parcels, the property's Rural Residential – One Dwelling Unit per One Acre (RR 1/1) land use designation effectively establishes a one-acre average parcel size. Thus, no lot in a rural subdivision could be smaller than one acre in size.

In contrast, the Density Combining Zone provisions specifically state that its regulations “shall apply in lieu of the respective regulations specified for the subject district with regard to minimum lot sizes.” Accordingly, once the -D designation had been applied to the property through a certification of a zoning amendment by the Commission, lots could in theory be created that were smaller than the one-acre minimum size established under the property's Rural Residential (RR-1) base zone district designation, provided the number of lots being created do not exceed the density limitations applied to the property under its land use plan designation. Nonetheless, as the LUP's rural land division criteria prohibit parcels from being created that would be smaller than the average size of surrounding parcels, and since the LUP states that the property's land use designation of one dwelling unit per one acre (read as one-acre minimum size) establishes the average size of the surrounding parcels, even if the property were to be rezoned to take advantage of the provisions of the Density Combining Zone, creation of a parcel smaller than one-acre in size would be inconsistent with the rural land division criteria of the LUP and therefore must be denied. These same limitations on the use of the Density Combining Zone are also encountered in the wording of the provisions within the subdivision and coastal zoning ordinances intended to implement the New Development policies of the LUP.

To better utilize the Density Combining Zone provisions, the County proposes the following LUP and IP changes:

- Amend Section D.1 of the LUP's New Development Chapter titles “Division of Rural Lands” to correct the misquotations of Section 30250 of the Coastal Act.
- Amend Section D.2 of the LUP's New Development Chapter titled “Rural Land Division Criteria” at sub-sections a. and c. to provide guidance as to which parcels are to be deemed “usable” for purposes of determining whether fifty percent of the lots in the area of a proposed rural subdivision have been previously developed and to clarify terminology regarding maximum land use density as set by the LUP designations and minimum allowable parcel size as established by the zoning district 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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- Amend the last paragraph of Section E of the LUP's *New Development* Chapter titled "Resolving Development Conflicts," to reference the cluster development and parcel size exemption provisions contained within the coastal zoning ordinance that can help facilitate protection of environmentally sensitive areas on parcels planned for subdivision development.
- Amend Section 16.04.037.B.1 of the IP's Subdivision Ordinance to establish specific criteria for considering which parcels are "usable" for purposes of the fifty-percent area development threshold determination for rural subdivisions.
- Amend Section 16.04.037.B.3 of the IP's Subdivision Ordinance to accurately state that the zoning district standards rather than the LUP's land use designations establish minimum parcel size.
- Re-codify Section 16.04.037.D of the IP's Subdivision Ordinance to Section 16.04.037.C for numeration consistency and add to the legislative citation parenthetical indication that the ordinance has been amended.
- Amend Section 21.36.030 of the IP's Local Coastal Program Zoning Enabling Ordinance (the Coastal Zoning Ordinance) to insert a new Section 21.36.030.B containing specific references to the LUP's New Development Chapter's requirements that lots within authorized rural land subdivisions be no smaller than the average size of parcels surrounding the subdivision and establishing criteria for determining the extent of the "surrounding area" and how to calculate the average size of parcels therein.
- Re-codify Sections 21.36.030.B and 21.36.030.C of the IP's Local Coastal Program Zoning Enabling Ordinance to Sections 21.36.030.C and 21.36.030.D, respectively, for numeration consistency.
- Strike existing Section 21.36.030.D of the IP's Local Coastal Program Zoning Enabling Ordinance that contains a provision to allow approval of a subdivision whose LCP consistency depends upon future application of a Density Combining Zone designation, prior to that zoning amendment to add the -D designation being certified by the Coastal Commission, and the implication that certification of the zoning amendment would occur at the time of the recordation of the final subdivision parcel or tract map.
- Amend Section 21.36.030 of the IP's Local Coastal Program Zoning Enabling Ordinance (the Coastal Zoning Ordinance) to insert a new Section 21.36.030.E containing a specific prohibition against approving a subdivision whose LCP consistency depends upon future application of a Density Combining Zone designation, prior to that zoning amendment to add the -D designation being certified by the Coastal Commission, and add to the legislative citation parenthetical indication that the ordinance has been amended.

LCP Update:

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Separate from the proposed LCP Amendment for the Redland site, the County is presently undertaking substantial revisions to its entire Local Coastal Program. On October 20, 2003, the County submitted LCP Amendment No. DNC-MAJ-2-03 for complete re-structuring of its Land Use Plan and to make select changes to the text and maps of the coastal zoning ordinance. On January 22, 2004, Commission staff responded to the LCP amendment application submittal seeking additional clarification and information regarding the requested changes. The County is currently responding to the Commission staff's request for additional information. Proposed Amendment No. DNC-MAJ-2-04 can be reviewed separately from the LCP update amendment as the subject amendment is not dependant on the proposed changes involved in the LCP update amendment.

PART THREE: AMENDMENTS 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 fully consistent with the policies of the Coastal Act.

II. FINDINGS FOR LUP AMENDMENT

The Commission finds and declares as following for LCP Amendment No. DNC-MAJ-2-04:

A. Findings for Approval of LUP Amendment No. DNC-MAJ-2-04 as Submitted.

1. Amendment Description:

As discussed above, the amendment was initiated by the County to help resolve issues regarding how the rural land division standards contained in Section 30250 of the Coastal Act are to be administered through the local government's certified Local Coastal Program. The impetus for these changes was the County's actions on a proposed subdivision development currently under appeal to the Commission (File No. A-1-DNC-02-152, Redland Company) in which deviation from the minimum lot size standards of the property's base zoning district could facilitate protection of environmentally sensitive areas on the property were being sought.

The proposed LUP amendment contains three separate text changes. The three major text changes to the existing LUP proposed by this LCP Amendment are as follows:

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- a. Amend Section D.1 of the LUP's New Development Chapter titled "Division of Rural Lands" to correct the misquotation of Section 30250 of the Coastal Act.
- b. Amend Section D.2 of the LUP's New Development Chapter titled "Rural Land Division Criteria" at sub-sections a. and c. to provide guidance as to which parcels are to be deemed "usable" for purposes of determining whether fifty percent of the lots in the area of a proposed rural subdivision have been previously developed and to clarify terminology regarding maximum land use density as set by the LUP designations and minimum allowable parcel size as established by the zoning district standards.
- c. Amend the last paragraph of Section E of the LUP's New Development Chapter titled "Resolving Development Conflicts," to reference the cluster development and parcel size exemption provisions contained within the coastal zoning ordinance that can help facilitate protection to environmentally sensitive areas on parcels planned for subdivision development.

The specific textual revisions proposed for amendment are attached as Attachment No. 1..

B. LUP AMENDMENT CONSISTENCY ANALYSIS

1. Locating and Planning New Development – Land Divisions in Rural Areas.

Section 30250(a) of the Coastal Act states:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels. [emphasis added]

The subject development sites that would be affected by the proposed LUP text amendments are those located outside of the County's urban services boundaries where water and wastewater public services are not provided. In these settings, domestic water supplies and sewage disposal facilities are developed either individually on a lot-by-lot basis, or are provided from small private "community" systems subject to local and/or state public health agency oversight. In such locales, regulating the timing of development, especially the creation of new building sites through land divisions, is crucial to prevent direct and cumulative adverse impacts to coastal resources, especially to avoid impacts to surface and groundwater.

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Under Section 30250(a), land divisions in such rural areas may only be authorized upon affirmative findings that: (1) fifty-percent of the usable parcels in the area have been developed; and (2) none of the parcels resulting from the subdivision would be smaller in size than the average size of parcels in the surrounding area. Clear administration of these development controls is, however, hampered by the various misstatements, imprecise directives, and contradictory language within the LUP's New Development Chapter. The proposed text amendments would correct this situation and bring the LUP in greater conformance with Section 30250.

The proposed LUP text amendments are of two kinds, (a) corrections to misquoted sections of the Coastal Act and corrections of inconsistent language, and (b) the addition of more precise language for assessing the average parcel size criterion of the rural land division criteria. The first kind of amendments include: (1) revising Section D.1 of the New Development Chapter to correct the typographical misquotations of Section 30250 of the Coastal Act; (2) revising Section D.2 of the New Development Chapter to correct the erroneous statements indicating that land use designations set minimum parcel size restrictions; (3) revising Section D.2.c of the New Development Chapter to clarify existing language, indicating that subdivision projects whose parcel sizes would conform to the minimum parcel size standards of the base zoning district and do not entail exceptions to minimum parcel size requirements would be prima facie consistent with the requirement of Section 30250(a) that no subdivided parcel be smaller than the average size of surrounding parcels; and (4) revising Section E of the New Development Chapter to make specific reference to the use of clustering development and deviation from minimum parcel size standards as a tool to help protect environmentally sensitive habitat areas, in tandem with the Density Combining Zone procedures of the Implementation Program.

The above described corrections and clarifications to existing text language in the LUP do not substantively change the LUP in a manner that affects the LUP's consistency with Section 30250 of the Coastal Act. By revising the erroneous wording in the first sentence of Section D.2.c to correctly state that the land use plan designations establish density limitations and inserting a new second sentence that references minimum parcel size standards being set within the zoning district standards, consistency with and implementation of the requirements of Coastal Act Section 30250 would be greatly improved. Rural subdivision projects involving deviation below the base zoning specified minimum parcel size could then be approved without questions arising as to project's consistency with the LUP's New Development policies through application of a -D combining zone, provided the over all allowable density of the project site is not exceeded, the average parcel size criterion of the rural land division criteria is satisfied and all other applicable policies of the LCP are satisfied.

The portion of the amendment adding more precise language for assessing the average parcel size criterion of the rural land division criteria adds to the existing list in New Development Chapter Section D.2.a of parcels and portions of parcels that should not be considered "usable" parcels for purposes of determining the number of parcels in the area have been developed and the average size of the surrounding parcels.

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With regard to the area adjoining a proposed rural subdivision in which the resulting created lots may not be smaller in size, the Commission has normally taken "surrounding parcels" to include those lands that fall within a quarter-mile radius of the project site. Consistent with the decision of a state court of appeal (Billings v. CCC (1980) 103 Cal.App.3rd 729) (see Exhibit No. 12), this ¼-mile radius may be modified where geographic or other features clearly distinguish some of the parcels within it from those surrounding the subject property. The court in Billings also concluded that it was permissible for the Commission to identify the "typical" or "representative" parcel size. Where the presence of several large parcels would skew the average, either the median or mode may provide a better picture of the typical parcel size in the area.

Thus, the Commission finds that the proposed LCP amendment as submitted is consistent with Section 30250 of the Coastal Act.

2. Protection of Environmentally Sensitive Habitat Areas.

Section 30240 of the Coastal Act states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas

As currently certified, LUP New Development Chapter Section E discusses, in very general terms, methodologies for resolving perceived conflicts within the LUP where lands have been identified for development at specified densities and intensities while requisite measures for preventing degradation of the coastal resources that would effectively negate development to planned levels are simultaneously being applied. The proposed text changes would correct and clarify the New Development Chapter policies' and standards' consistency with Section 30240 of the Coastal Act. Although the rural land division policies serve to prevent premature or inappropriate subdivision in remote areas where urban services are not available, these policies also serve as a tool to further protect environmentally sensitive habitat areas in or in proximity to new development.

The proposed amendment to the LUP would specifically introduce a reference to the building site and lot design flexibility development tools afforded by the Density Combining Zone designation. For example, clustering the new development onto reduced-size parcels away from the resource areas could serve to provide greater spatial separation between the building sites and the habitat. The amendment would therefore be consistent with Section 30240 of the Coastal Act.

2. Conclusion

The proposed Land Use Plan amendments (i.e., correcting erroneous text, refining criteria for determining usable parcels, revising statements regarding which provisions of the LCP establish minimum parcel size) are consistent with Sections 30250, 30240, and the other Chapter 3 policies of the Coastal Act. All of the other existing land use policies and standards set forth for the various chapters of the LUP would remain as currently certified in conformance with the Coastal Act. Therefore the Commission finds that the Land Use Plan amendment as submitted conform with the requirements of Chapter 3 of the Coastal Act pursuant to Section 30512.2 of the Coastal Act.

PART FOUR: AMENDMENTS 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.

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 Local Coastal Program Zoning Enabling Ordinance (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, following this chapter.

For the reasons discussed in the findings below, the proposed amendment to the Implementation Program are not consistent with or adequate to carry out the certified Land Use Plan. As modified, the proposed amendment to the Implementation Program would be consistent with and adequate to carry out the certified Land Use Plan.

II. FINDINGS FOR DENIAL OF IP AMENDMENT NO. DNC-MAJ-2-04 AS SUBMITTED AND CERTIFICATION IF MODIFIED

The Commission finds and declares as following for Amendment No. DNC-MAJ-2-04:

1. Description of Proposed Implementation Program Amendments:

The proposed IP amendments include text changes to standards of the Density Combining zoning district, text changes to the Subdivision Ordinance, reclassification of the zoning designation and amendment of the Zoning Map to apply the Density Combining zoning designation for the subject 9.4-acre Redland Company parcel.

The eight amendments proposed by this IP Amendment are as follows:

- a. Amend Section 16.04.037.B.1 of the IP's Subdivision Ordinance to establish specific criteria for considering which parcels are "usable" for purposes of the fifty-percent area development threshold determination for rural subdivisions.
- b. Amend Section 16.04.037.B.3 of the IP's Subdivision Ordinance to accurately state that the zoning district standards rather than the LUP's land use designations, establish minimum parcel size.
- c. Re-codify Section 16.04.037.D of the IP's Subdivision Ordinance as Section 16.04.037.C for numeration consistency and add to the parenthetic indication that the ordinance has been amended.
- d. Amend Section 21.36.030 of the IP's Local Coastal Program Zoning Enabling Ordinance (the Coastal Zoning Ordinance) to insert a new Section 21.36.030.B containing specific references to the LUP's New Development Chapter's requirements that lots within authorized rural land subdivisions be no smaller than the average size of parcels surrounding the subdivision and establishing criteria for determining the extent of the "surrounding area" and how to calculate the average size of parcels therein.
- e. Re-codify Sections 21.36.030.B and 21.36.030.C of the IP's Local Coastal Program Zoning Enabling Ordinance as Sections 21.36.030.C and 21.36.030.D, respectively, for numeration consistency.
- f. Strike existing Section 21.36.030.D of the IP's Local Coastal Program Zoning Enabling Ordinance that contains a provision allowing approval of a subdivision whose LCP consistency depends upon application of a Density Combining Zone designation prior to the zoning amendment to add the -D designation being certified by the Coastal Commission, and a statement that implies certification of the zoning amendment would occur at the time of the recordation of the final subdivision parcel or tract map.

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- g. Amend Section 21.36.030 of the IP's Local Coastal Program Zoning Enabling Ordinance (the Coastal Zoning Ordinance) to insert a new Section 21.36.030.E containing a specific prohibition against approving a subdivision whose LCP consistency depends upon application of a Density Combining Zone designation prior to that zoning amendment to add the -D designation being certified by the Coastal Commission.
- h. Amend Section 21.06.050 IP's Local Coastal Program Zoning Enabling Ordinance (the zoning maps of the Coastal Zoning Ordinance) to reclassify the zoning designation on Zoning Map B-3 for a 9.4-acre property (APN 102-080-47) in the Smith River Sub-region of Planning Area No. 1 – Ocean View Drive from Rural Residential Zoning District (RR-1) to Rural Residential with Density Combining Zoning District (RR-1-D).

The specific textual revisions to the County's subdivision and coastal zoning ordinances proposed for amendment are attached as Attachment No. 1. The existing and proposed amended zoning maps are also included in Attachment No. 1.

2. Consistency of Text Changes with the Policies of the LUP.

Under the County's current coastal zoning ordinance provisions, implementation of the LUP's New Development policies, particularly as they relate to subdivisions within rural areas of the County outside of the urban services boundary are addressed within the Subdivision Ordinance at Section 16.04.037. The LUP New Development policies that relate to subdivision projects seeking exception to the minimum lot size standards of the base zoning district are implemented primarily through the Density Combining Zoning District standards of Chapter 21.36 of the Local Coastal Program Zoning Enabling Ordinance (coastal zoning ordinance).

Similar to the problematic wording of the policies within the LUP's rural land division criteria, the subject subdivision and zoning regulations proposed for amendment presently contain erroneous and/or confusing language relating to determining which parcels in the vicinity of the subdivision site would be considered "usable" for assessing if fifty percent of those parcels had already been developed, and assuring that the parcels created by the subdivision would be no smaller than the average size of surrounding parcels. The erroneous and conflicting language within the LUP and IP have been in existence since the LCP's initial certification in 1983. Since that time the rural land division standards of Coastal Act Section 30250 have come under judicial scrutiny with resulting case law adjudication providing greater clarity on permissible interpretations the Commission may utilize to interpret and administer these provisions (see excerpt from the Billings v. Coastal Commission decision in Exhibit No. 6).

As amended to incorporate the changes proposed by LUP Amendment No. DNC-MAJ-2-04, the erroneous language of the LUP would be corrected and clear criteria for determining "usable" parcels in the area of the proposed subdivision would be provided. In addition, the changes to the LUP would clarify the requirements of Section 30250(a) with regard to how the average size of the surrounding parcels is to be ascertained. The corresponding changes to the subdivision and coastal zoning ordinances of the IP would implement the related changes to the LUP New Development policies by correcting and clarifying similar language within the IP and providing

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criteria for delineating a study area in the subdivision site's vicinity and identify methods for calculating the "average" size of the parcels situated therein. In addition, by striking existing Section 21.36.030D of the Density Combining Zoning District standards and appending the proposed new Section 21.36.030E, a procedural conflict caused by the present allowance for approval of a subdivision contingent upon the Commission certifying a future zoning change to apply a -D Combing Zone designation would be eliminated.

However, a review of the wording of the revised language of the subdivision ordinance and Density Combining Zone provisions relating to determinations of which parcels in the subdivision area would be considered "usable" for purposes of determining conformance with the rural land division criteria of the LUP's New Development policies reveals an inadvertent error in the language. The error in the IP provisions causes the IP as amended to not conform with the associated policies of the New Development Chapter of the LUP.

The proposed amended LUP New Development Chapter Policy D.2.a would read:

Useable parcels do not include: (1) parcels committed to agricultural and designated as such in the Land Use Plan; (2) parcels committed to timberland and designated as such on the Land Use Plan; (3) parcels or portions of parcels committed to open space **for purposes of** compliance with zoning district minimum yard regulations, traffic safety visibility standards, setbacks from geologically unstable areas, buffers around environmentally sensitive habitat areas, floodway management, or other such siting restrictions required by the certified LCP. [emphasis added]

However, the proposed amended IP Subdivision Ordinance Section 16.04.037.B.1 would read:

Useable parcels do not include: (1) parcels committed to agricultural and designated as such in the Land Use Plan; (2) parcels committed to timberland and designated as such on the Land Use Plan; (3) parcels or portions of parcels committed to open space **for purposes other than** compliance with zoning district minimum yard regulations, traffic safety visibility standards, setbacks from geologically unstable areas, buffers around environmentally sensitive habitat areas, floodway management, or other such siting restrictions required by the certified LCP. [emphasis added]

Similarly, the fifth sentence of the proposed amended IP Density Combining Zone Ordinance Section 21.36.030.B would read:

Parcels or portions of parcels committed to the resource conservation area **for purposes other than** compliance with zoning district minimum yard regulations, traffic safety visibility standards, setbacks from geologically unstable areas, buffers around environmentally sensitive habitat areas, floodway management, or other such siting restrictions required by the certified LCP may be excluded from the average size calculation.

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For the proposed amended subdivision and Density Combining Zone ordinances to be effective in ensuring that new subdivision development in areas outside of the urban services boundary is consistent with the rural land division criteria of the LUP, the usable parcels criteria as stated in the LUP and IP needs to be identically worded. Similarly, as proposed, the IP language conveys the opposite meaning of the language of LUP New Development Chapter Policy D.2.a.

Therefore, the Commission finds that it is necessary to modify Section 17.73.040A of the Subdivision Ordinance and Section 21.30.030.B of the Density Combining Zone Ordinance so that they match the wording of the usable parcel criteria of the LUP. **Suggested Modification No. 1** adjusts proposed amended Subdivision Ordinance Section 16.04.037.B.1 by changing the modifier phrase from an exceptive to an exemplifying form, making it consistent with the wording of proposed amended LUP New Development Chapter Policy D.2.a. **Suggested Modification No. 2** adjusts the proposed amended Density Combining Zone Ordinance Section 21.36.030.B in the same manner to make it consistent with amended LUP New Development Chapter Policy D.2.a.

SUGGESTED MODIFICATION NO. 1: Section 16.04.037.B.a of the Land Division Ordinance of Del Norte County shall be modified as follows:

Useable parcels does not include: (1) parcels committed to agricultural and designated as such in the Land Use Plan; (2) parcels committed to timberland and designated as such on the Land Use Plan; nor shall (3) parcels or portions of parcels committed to open space for purposes other than of compliance with zoning district minimum yard regulations, traffic safety visibility standards, setbacks from geologically unstable areas, buffers around environmentally sensitive habitat areas, floodway management, or other such siting restrictions required by the certified LCP be considered as useable parcels.

SUGGESTED MODIFICATION NO. 2: The fifth sentence of Section 21.36.030B.of the County of Del Norte's Local Coastal Program Zoning Enabling Ordinance shall be modified as follows:

Parcels or portions of parcels committed to the resource conservation area for purposes other than of compliance with zoning district minimum yard regulations, traffic safety visibility standards, setbacks from geologically unstable areas, buffers around environmentally sensitive habitat areas, floodway management, or other such siting restrictions required by the certified LCP may be excluded from the average size calculation.

The amendments as modified would therefore conform with and adequately carry out the LUP's New Development policies as proposed to be amended.

3. Consistency of Zoning Map Change with the Certified LUP as Amended

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As discussed above, a portion of the proposed amendments to the IP involves reclassifying the zoning designation on Coastal Zoning Map B-3 for a 9.4-acre property from Rural Residential Zoning District (RR-1) to Rural Residential with Density Combining District (RR-1-D).

a. Subject Property

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 under story 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 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.

b. Consistency of the Proposed Application of the Density Combining Zone Designation with the Rural Residential – One Dwelling Unit per One Acre (RR 1/1) Land Use Designation.

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As appears on the attached LCP Zoning Enabling Ordinance Table A – “Coastal Element Land Use Plan and Zoning Consistency Matrix” (See Exhibit No. 11), the Density Combining Zone designation is indicated as being a consistent zone designation for implementing the Rural Residential – One Dwelling Unit per One Acre (RR 1/1) land use designation currently applied to the Redland Company property. In addition, contrary to the somewhat misleading name of the subject combining zoning district, application of a -D designation to the property does not allow subdivision development to exceed the density limitations applied to the property by the RR land use designation. Accordingly, the proposed amendment to add a Density Combining Zone designation to the subject Redland Company property would adequately carry out the policies of the site’s RR 1/1 land use designation.

c. Consistency with the Policies of New Development Chapter of LUP

Adding a Density Combining Zone designation to the subject property would be consistent with the LUP New Development Chapter as the designation would provide subdivision design flexibility so that parcels could be created that would be smaller than the one-acre minimum of the property’s RR-1 base zoning, but these parcels would still be larger than the minimum size necessary to conform with the Chapter’s rural land division criteria.

A total of 82 individual parcels and four mobilehome / recreational vehicle parks lie within one-quarter mile of the subject property. However, several significant features exist within the quarter-mile radius that distinguish the low-density rural residential area in which the project site is located from the other adjacent lands. These factors include: (a) surrounding areas dissimilarly zoned for commercial-recreational and large-lot rural residential / agricultural uses; (b) lands under the regulatory authority of the Smith River Rancheria and/or held in trust by the Bureau of Indian Affairs; and (c) lots within the RR-1 zoning district, where major portions of their overall lot areas are reserved for forested open space or the protection of estuarine or riparian corridor resources rather than being developable for low-density rural residential uses.

Using the method in Billings to identify an average parcel size that is typical and representative of project site, Staff has excluded the above-described parcels under dissimilar zoning or regulatory programs and has assessed only those thirty five lots lying within the area ascribed by Highway 101, Mouth of Smith River Road, Salmon Harbor Drive, and the mouth of the Smith River as being “surrounding parcels.” These parcels lie within a definable neighborhood area as delineated by the perimeter streets developed with 1,000- to 2000-square-foot single-family residences. Like the project parcel, all of these lots are designed by the LCP for Rural Residential use at a one-dwelling-unit-per-one-acre development density (RR 1/1), implemented through a Rural Residential – One Acre Minimum Parcel Size zoning district (RR-1). Further, for those 16 lots having significant portions taken up by estuarine or riparian resource areas, only the net developable area of the parcel was considered. Of these 35 residential parcels, over half (20) are less than one acre in gross size, with the largest being 2.29 acres. The arithmetic mean of these parcels is .78-acre, the median parcel size (the value falling in the middle of the range) is .52-acre, and the mode (the value which occurs most frequently) is one acre (see Exhibit No. 8). Thus, if either the arithmetic mean or the median parcel size were to be considered as comprising the “average,” the application of the -D combining zone designation to the Redland Company

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property would be appropriate for carrying out the LUP rural land division criteria as a range of potential parcel sizes exists between the RR-1 zone's one-acre minimum size and the .52-acre median "average" size of the parcels surrounding the site. Therefore, although rezoning the Redland Company property as proposed to include a -D Combining Zone designation would allow for the reduction of parcel sizes below that allowed by the base zone, such a land division could only occur consistent with all applicable policies of the LCP, including the rural land division criteria.

d. Consistency with Marine and Water Resources Policies of the LUP.

Policy 6 of the LUP's Marine and Water Resources Chapter states:

Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas. [emphasis added]

The proposed amendment to the zoning designation to add the Density Combining Zone designation to the subject Redland property proposed for subdivision would provide the applicant flexibility in the siting of building sites and the design of the lots. Development of the land to planned densities could if otherwise approvable under all applicable policies of the LCP, then be authorized with the resulting new parcels reduced in size and clustered onto the open upland portions of on the eastern side of the property. As a result, all of the environmentally sensitive areas on the western side of the property would be contained on one large remainder parcel containing extensive areas without ESHA, avoiding further parcelization of the habitat, and providing greater spatial separation between the building sites on the new reduced-size, clustered parcels and the resource areas. Consequently, degradation to the wetlands and riparian vegetation would be avoided consistent with the policies within the Marine and Water Resources Chapter of the certified LCP.

4. Conclusion

The zoning code amendments (i.e., text revisions to subdivision and zoning ordinances, revising the zoning map for the subject property) as modified would conform with and be adequate to carry out the provisions of the County's Land Use Plan as amended. Therefore, the Commission finds the City's Implementation Program as modified would conform with and be adequate to carry out the requirements of the certified Land Use Plan as amended consistent with Section 30513 of the Coastal Act.

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

ATTACHMENT 1: LCP AMENDMENT AS SUBMITTED

EXHIBITS:

1. Location Map (Redland Company property)
2. Vicinity Map
3. County of Del Norte Assessor's Parcel Map 102-08
4. Site Plan Map
5. County Resolution
6. Excerpt, *Billings v. California Coastal Commission*
7. LCP Zoning Enabling Ordinance Table A – "Coastal Element Land Use Plan and Zoning Consistency Matrix"
8. Lot Size Study

ATTACHMENT 1

County of Del Norte LCP Amendment No. DNC-MAJ-2-04 (Redland)

Proposed Changes to LCP Policies & Standards and Zoning Map B-3

(As submitted by the County of Del Norte)

- Existing LCP text is shown in plain type. Proposed new text is shown in underline. Proposed deletions are indicated by ~~strikethroughs~~.
- Existing Coastal Zoning Map B-3 is followed by Proposed Coastal Zoning Map B-3.

Changes to the LUP New Development Chapter

D. Division of Rural Lands: This section will develop criteria to apply to the division of all lands outside an established urban limit line (urban/rural boundary) as shown in each area plan.

1. Coastal Act Policies: Leases for agricultural uses are specifically exempt from the land division criteria by the Coastal Act. This indicates a priority in the Coastal Act to protect agricultural viability of existing agricultural lands.

302590(a)...land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50% **percent** of the usable parcels in the area have been developed and the created parcels would ~~not~~ be **no** smaller than the average size of surrounding parcels.

Another policy of the Coastal Act including the above-stated portion, guides development other than agricultural uses from agricultural lands and encourages development consistent with existing development in areas able to accommodate such development.

30250(a) New **residential, commercial, or industrial** development, ~~exempt~~ **except** as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively on coastal resources.

2. Rural Land Division Criteria: In rural areas new development shall be required to prove the subject area's ability to accommodate such development prior to approval. Land divisions, both major and minor subdivisions (not including boundary adjustments and inside the urban/rural boundary) shall be permitted when 50% of the useable parcels in the area have been developed and the created parcels would not be smaller than the average size of the surrounding parcels. To determine if this criteria is met, the following shall apply:
 - a. Useable parcels does not include: (1) parcels committed to agricultural and designated as such in the Land Use Plan; (2) parcels committed to timberland and designated as such on the Land Use Plan; ~~nor shall~~ (3) parcels or portions of parcels committed to open space for purposes of compliance with zoning district minimum yard regulations, traffic safety visibility standards, setbacks from geologically unstable areas, buffers around environmentally sensitive habitat areas, floodway management, or other such siting restrictions required by the certified LCP 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 maximum development density ~~minimum lot size~~ for parcels in each planning area. These density limitations are implemented through minimum lot size standards established for each zoning district within the LCP Zoning Enabling Ordinance. As these minimum lot sizes are reflective of the average size of lots parcels within a land use classification in each planning area, the minimum lot size designated on the maps are equal to or larger than the ~~average size of parcels in the same land use classification consistent with parcel size requirements of Section 30250(a) of the Act, thereby eliminating the need for determination of allowable parcel size on an individual basis, for the land use classification that the land division is proposed establishes the average size.~~

E. Resolving Development Conflicts: The Coastal Act declares that the basic goals of the State for the Coastal Zone include assuring the orderly, balanced utilization of Coastal Zone resources taking into account the social and economic needs of the people of the State. Another goal of the Act is to maximize public access to and along the coast and maximize public recreational opportunities in the Coastal Zone consistent with sound resource conservation principles and constitutionally protect rights of private property owners.

Policies of the act, originated to implement the goals of the Act, tend to be partially in conflict if viewed from the broad-base approach. The function of the Local Coastal Program is to examine these policies on a local basis and formulate a method of application. During this program the various components have been drafted as a whole have inherent conflicts with each other. The area plans in the land use element delegate the general distribution, location and extent of the various uses allowed with the Act. These general patterns of land uses outlined on the area maps are a result of examining the various policies of each component and apply them to the land.

The area Land Use Maps are, therefore, reflective of each component and therefore represent an area application of each component. The area Land Use Maps provide a reasonable transition from one land use to another. Land uses designated adjacent to sensitive areas are designed to provide reasonable assurances that these adjacent uses will not cumulatively nor significantly impair the quality of the sensitive area. The developed zoning ordinance will further clarify development issues within each land use category and provide mechanisms, such as provisions for clustering development and/or deviation from parcel minimum size standards to further protect environmentally sensitive areas.

Changes to the Subdivision Ordinance

16.04.037 Rural land division criteria within the California Coastal Zone

A. Rural areas shall be those nonurban areas designated by the general plan coastal element land use plan. Those areas shall be divided into five separate and distinct sections as set forth in the land use plan and shall be known as:

1. Planning Areas No. 1, Ocean View Drive;
2. Planning Areas No. 2, Smith River Area;
3. Planning Areas No. 3, Lake Earl Area;
4. Planning Areas No. 4, Crescent City;
5. Planning Areas No. Klamath Area.

B. In the above rural areas, new development shall be required to prove the subject area's ability to accommodate such development prior to approval. Both major and minor subdivisions shall be permitted when fifty percent of the useable parcels in the area have been developed and the created parcels would not be smaller than the average size of the surrounding parcels. To determine if this criteria is met, the following shall apply:

1. Useable parcels does not include: (1) parcels committed to agricultural and designated as such in the land use plan; (2) parcels committed to timberland and designated as such on the land use plan; nor (3) shall parcels or portions of parcels committed to the resource conservation area for purposes other than compliance with zoning district minimum yard regulations, traffic safety visibility standards, setbacks from geologically unstable areas, buffers around environmentally sensitive habitat areas, floodway management, or other such siting restrictions required by the certified LCP be considered as useable parcels.
2. To determine if the fifty percent 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 fifty percent or more of the existing lots are developed, then the land division may be processed.
3. The local coastal program zoning 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 by the zoning ~~land use classification~~ district standards ~~that in which~~ the proposed land division is ~~proposed~~ located establishes the average size for new development.

~~D. C.~~ This section is not applicable to lands designated as agriculture, timber or resource conservation area by the general plan. Any specific criteria set forth by the respective zoning district regulations and the balance of this title shall still apply. (Ord. 83-03 (part), 1983. Amended by Ord. - , 2003.)

Changes to the D Combining Zone Ordinance

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. For subdivisions utilizing the D combining district located within the Coastal Zone outside of the urban/rural boundary, the resulting lot sizes of the subdivided parcel(s) shall be no smaller than the average size of surrounding parcels, as established under the criteria for Division of Rural Lands within the general plan coastal element land use plan.

The "average size" usually means the arithmetic mean, although the mode or the median size may be used when the majority of parcels are of a common size and a very few parcels skew the mean to create an average atypical of the size of surrounding lots.

The study area for determining "the average size of surrounding parcels" shall include all parcels within one-quarter (1/4) mile of the exterior bounds of the property being subdivided. The study area may be reduced to exclude parcels with land use or zoning designations, or other characteristics markedly dissimilar to the subject property, or those lying outside of a readily identifiable neighborhood area as delineated by a perimeter of major streets, or other cultural or natural features. Parcels or portions of parcels committed to the resource conservation area for purposes other than compliance with zoning district minimum yard regulations, traffic safety visibility standards, setbacks from geologically unstable areas, buffers around environmentally sensitive habitat areas, floodway management, or other such siting restrictions required by the certified LCP may be excluded from the "average size" calculation.

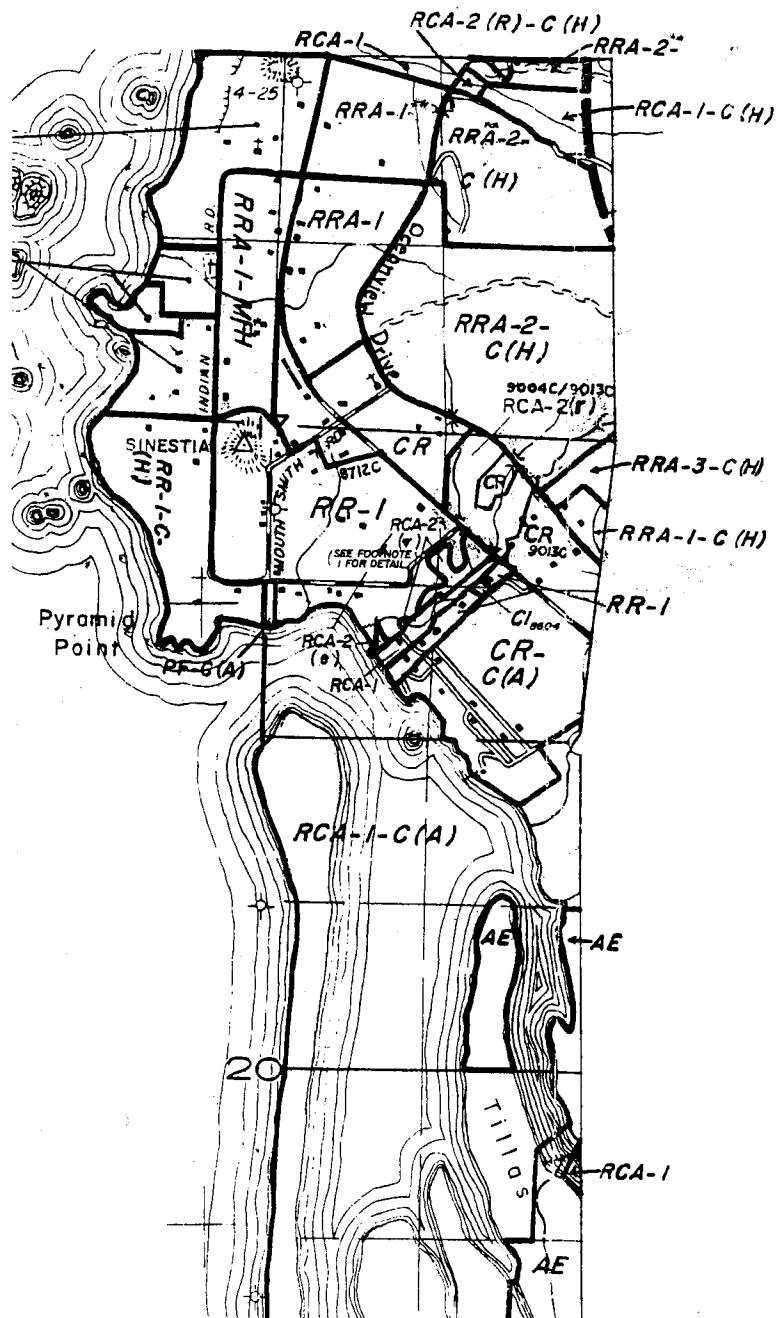
BC. The overall project density shall not exceed the General Plan density requirement for the project site.

CD. 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.~~

E. The subdivision map may not be approved by the County prior to certification of the D overlay rezone as an LCP amendment by the Coastal Commission. (Ord. 83-03 (part), Amended by Ord. -)



I. 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 1 W HB&M
 SMITH RIVER AREA

APPROVED BY PLANNING COMMISSION *[Signature]*

APPROVED BY BOARD OF SUPERVISORS *[Signature]*

COUNTY OF DEL NORTE, CALIFORNIA

83-03: Sept 6, 83

85-02: Feb 19, 85

REVISED: 3/23/95

A B C D E F G H I J K L M N O

EXHIBIT NO. 1

APPLICATION NO.

DNC-MAJ-2-04

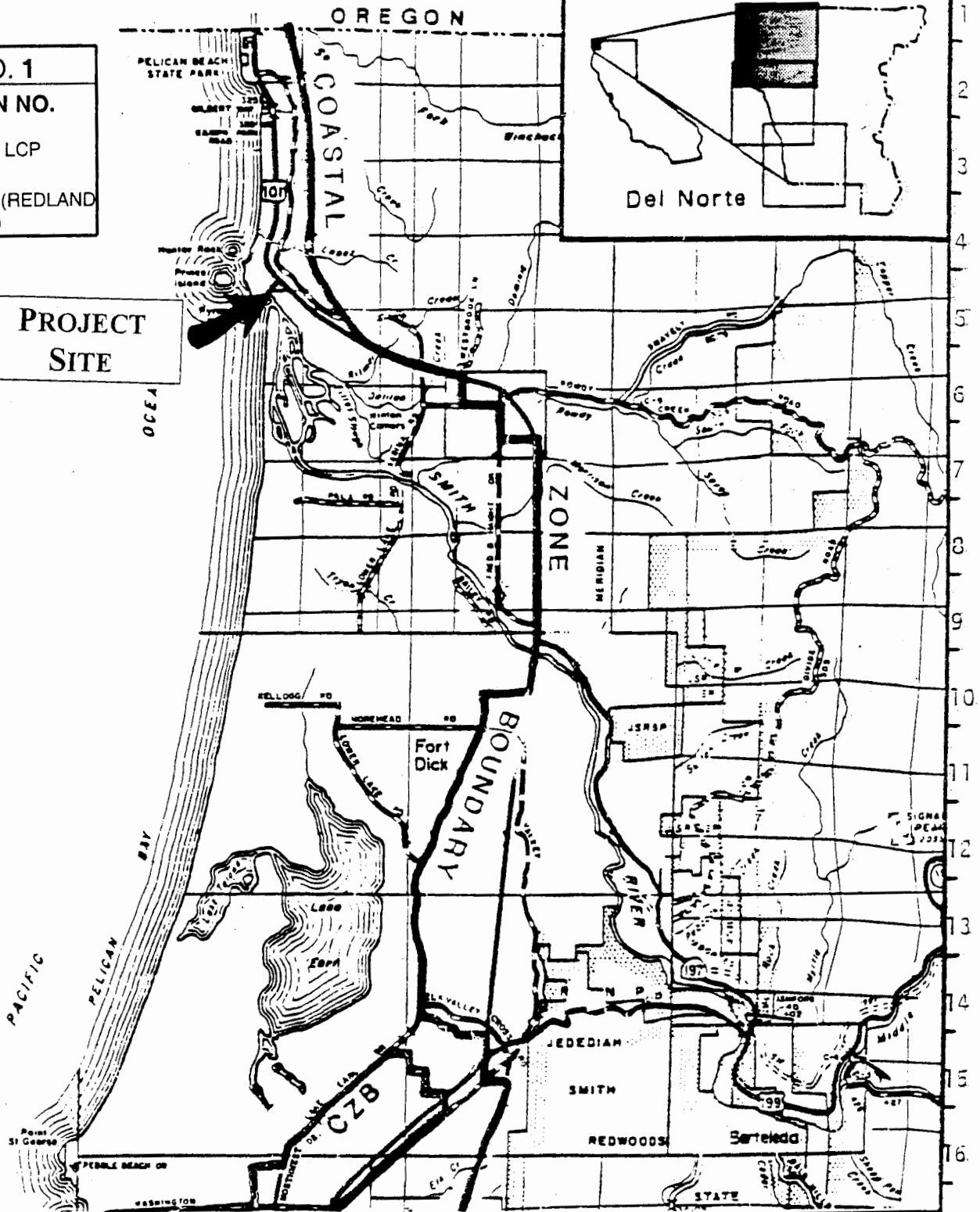
DEL NORTE CO. LCP

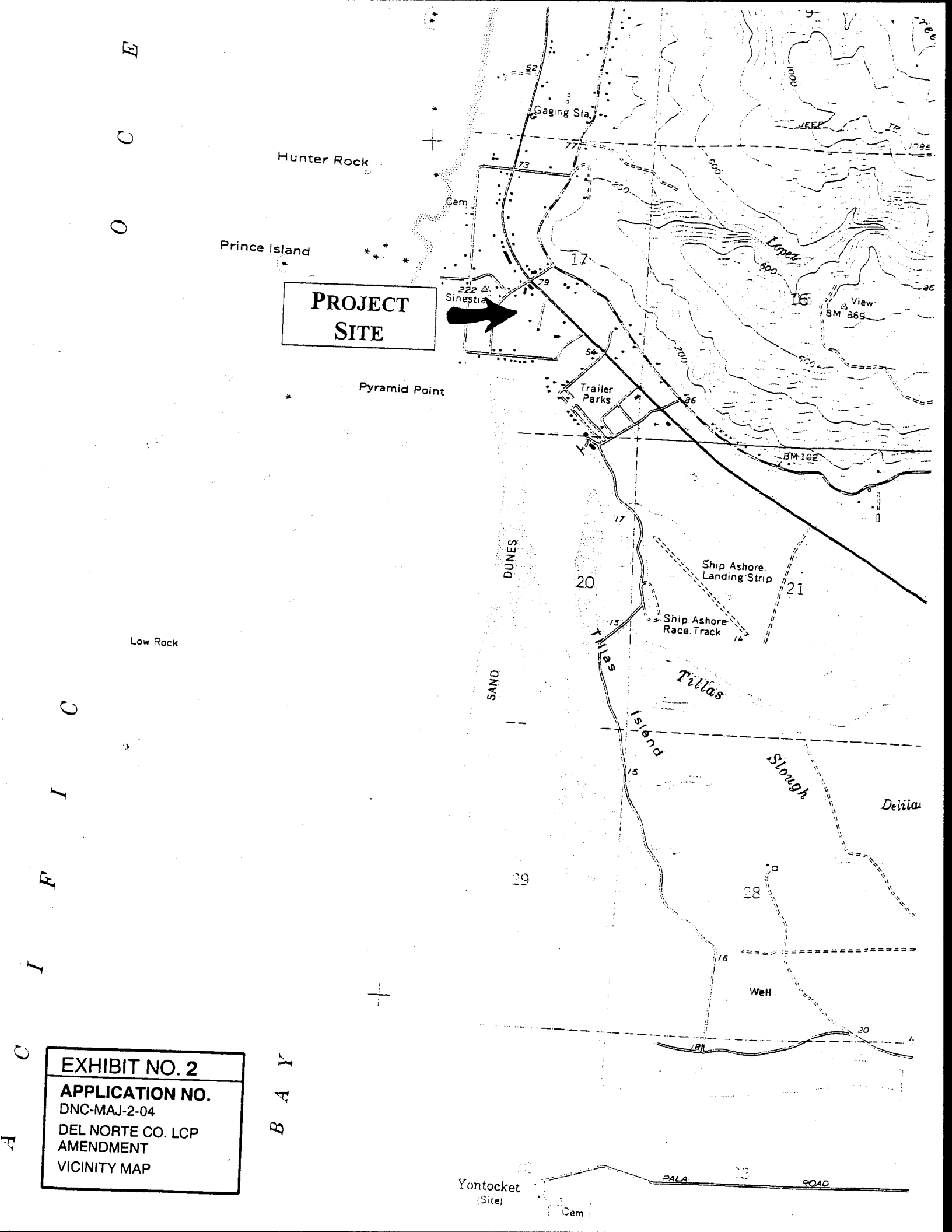
AMENDMENT

LOCATION MAP (REDLAND
CO. PROPERTY)

PROJECT
SITE

Del Norte





**PROJECT
SITE**

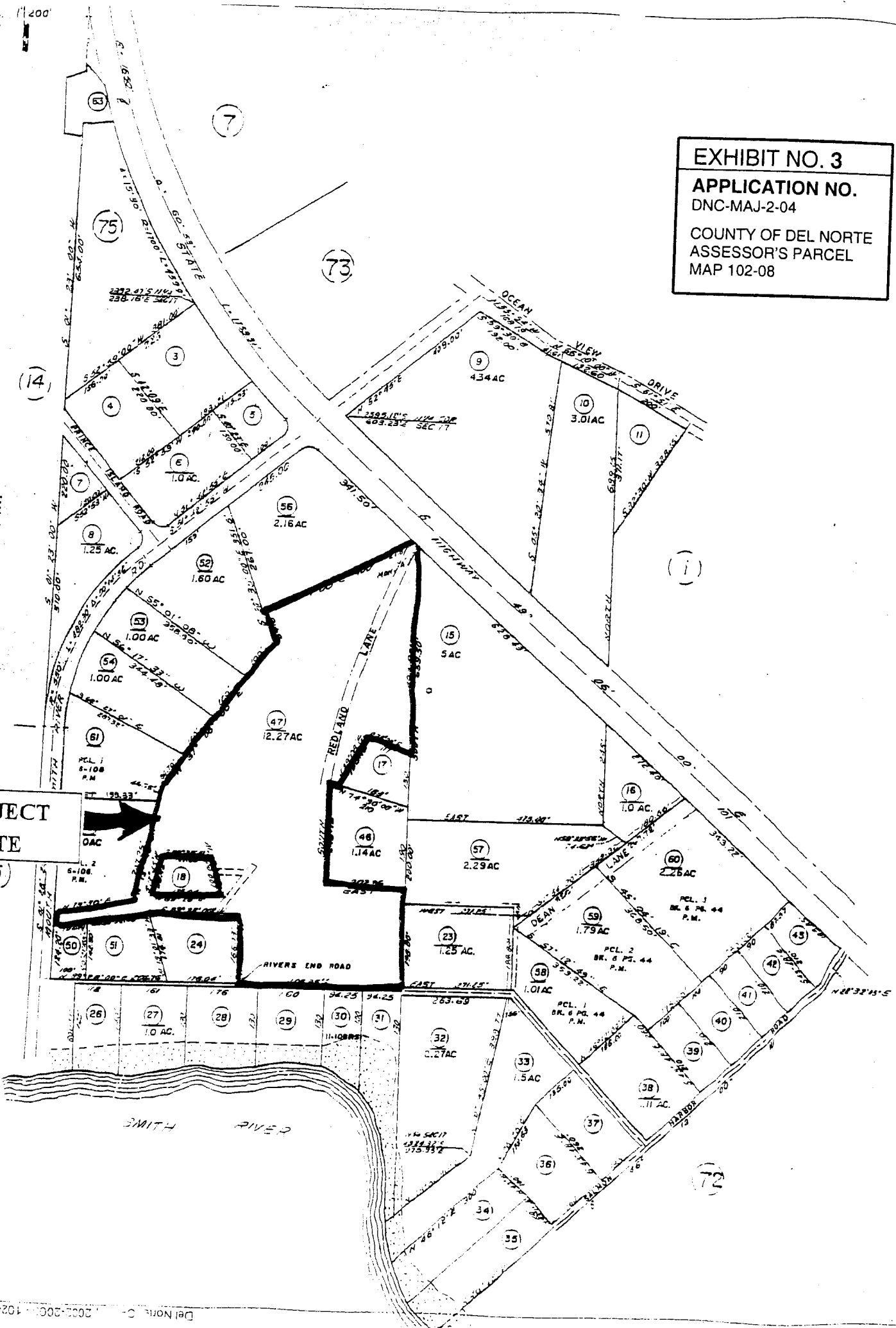
EXHIBIT NO. 2
APPLICATION NO.
DNC-MAJ-2-04
DEL NORTE CO. LCP
AMENDMENT
VICINITY MAP

B A Y

EXHIBIT NO. 3
APPLICATION NO.
DNC-MAJ-2-04
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
OR ASSESSMENT PURPOSES ONLY.





NORTH

TENTATIVE MAP
MINOR SUBDIVISION

APN 102-080-47

NO SCALE

EXHIBIT NO. 4

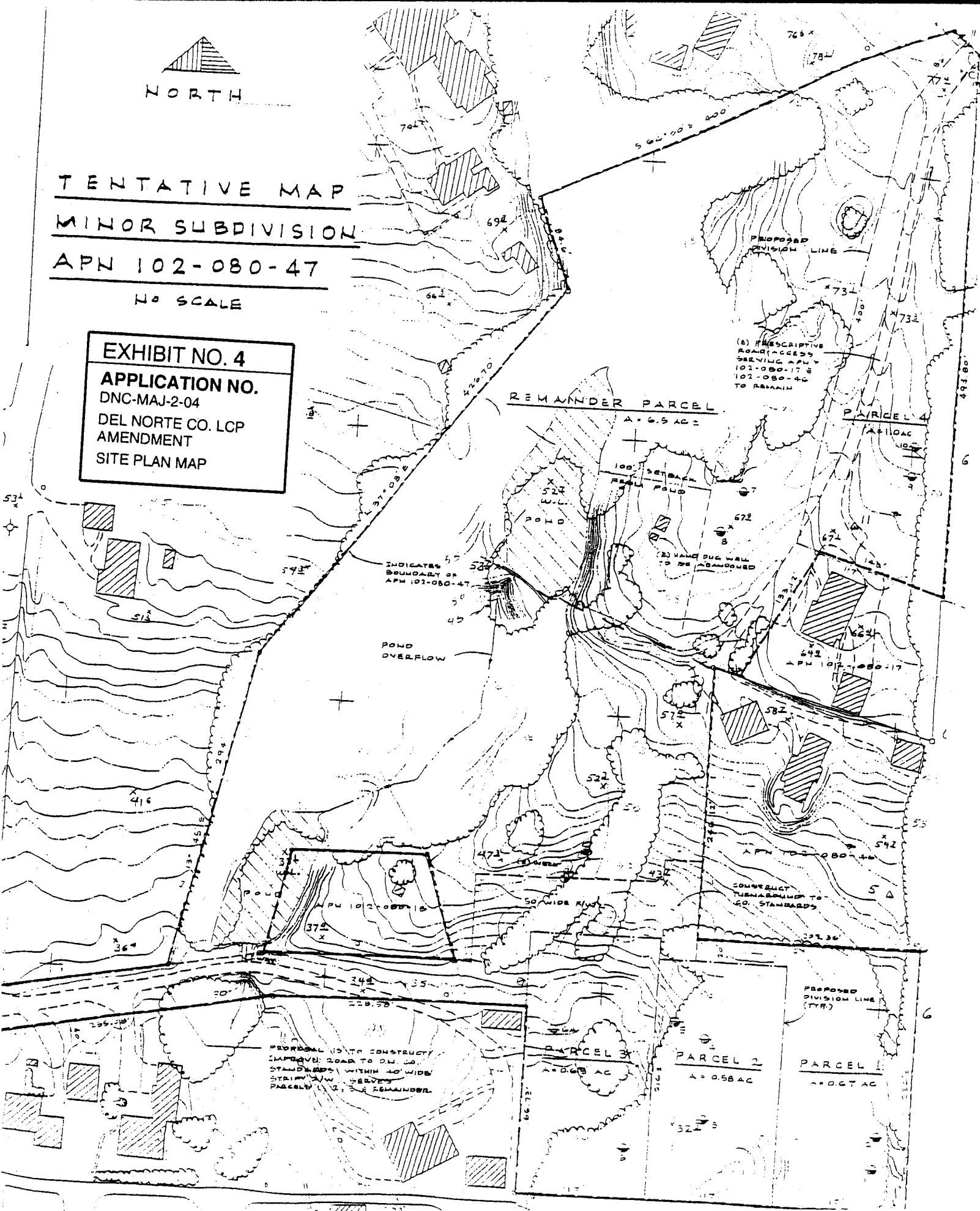
APPLICATION NO.

DNC-MAJ-2-04

DEL NORTE CO. LCP

AMENDMENT

SITE PLAN MAP



THE REDLAND CO.

MS0211C

Minor Subdv.

102-080-47

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

EXHIBIT NO. 5

APPLICATION NO.
DNC-MAJ-2-04
DEL NORTE CO. LCP
AMENDMENT
COUNTY RESOLUTION
(1 of 8)

RESOLUTION NO. 2004- 033-B

**A RESOLUTION OF THE DEL NORTE COUNTY BOARD OF SUPERVISORS
SUBMITTING AN ORDINANCE AMENDING ORDINANCE NO. 83-03 AND A TEXT
AMENDMENT TO THE LAND USE PLAN NEW DEVELOPMENT CHAPTER
TO THE CALIFORNIA 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, the project is exempt from the California Environmental Quality Act under Section 15183 of Article 12 – Special Situations and under Section 15315 (Class 5) of Article 19 – Categorical Exemptions; and

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

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

WHEREAS, the amendments in this resolution supercede any other previously submitted LCP amendments for the affected portions;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Del Norte, State of California do hereby approve the changes to the D Combining District and rural land division criteria within the California Coastal Zone as outlined by the attached Ordinance (Exhibit A); and

BE IT FURTHER RESOLVED, that the Board of Supervisors of the County of Del Norte, State of California do hereby approve the changes to the Land Use Plan New Development Chapter as outlined by the attached text amendment (Exhibit B); 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 27th day of April 2004, by the following polled vote:

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

NOES: None

ABSENT: None

ATTEST:

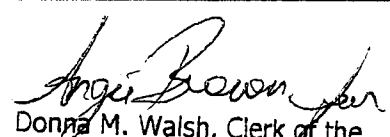

Chair
Board of Supervisors

ATTEST


Angie Brown

Clerk of the Board of Supervisors,
County of Del Norte,
California.
BOOK PAGE


Deputy


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

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BOOK PAGE

EXHIBIT A

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

ORDINANCE NO. 2004-

**AN ORDINANCE OF THE DEL NORTE COUNTY BOARD OF SUPERVISORS
AMENDING SECTION 21.36.030 (Coastal) AND SECTION 16.04.037 (Non-
Coastal) of DEL NORTE COUNTY CODE**

The Board of Supervisors of the County of Del Norte do ordain as follows:

SECTION ONE:

The Del Norte County Code Chapter 21.36, Section 21.36.030 Restrictions is hereby amended to read:

- 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. For subdivisions utilizing the D combining district located within the Coastal Zone outside of the urban/rural boundary, the resulting lot sizes of the subdivided parcel(s) shall be no smaller than the average size of surrounding parcels, as established under the criteria for Division of Rural Lands within the general plan coastal element use plan.

The "average size" usually means the arithmetic mean, although the mode or the median size may be used when the majority of parcels are of a common size and a very few parcels skew the mean to create an average atypical of the size of surrounding lots.

The study area for determining "the average size of surrounding parcels" shall include all parcels within one-quarter (1/4) mile of the exterior bounds of the property being subdivided. The study area may be reduced to exclude parcels with land use or zoning designations, or other characteristics markedly dissimilar to the subject property, or those lying outside of a readily identifiable neighborhood area as delineated by a perimeter of major streets, or other cultural or natural features. Parcels or portions of parcels committed to the resource conservation area for purposes other than compliance with zoning district minimum yard regulations, traffic safety visibility standards,

setbacks from geologically unstable areas, buffers around environmentally sensitive habitat areas, floodway management, or other such siting restrictions required by the certified LCP may be excluded from the "average size" calculation.

- C. The overall project density shall not exceed the General Plan density requirement for the project site.
- D. 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.
- E. The subdivision map may not be approved by the County prior to certification of the D overlay rezone as an LCP amendment by the Coastal Commission (Ord 83-03 (part)1983)

SECTION TWO:

Section 16.04.037 Rural land division criteria within the California Coastal Zone

- A. Rural areas shall be those nonurban areas designated by the general plan coastal element land use plan. Those areas shall be divided into five separate and distinct sections as set forth in the land use plan and shall be known as:
 - 1. Planning Area No. 1, Ocean View Drive;
 - 2. Planning Area No. 2, Smith River Area;
 - 3. Planning Area No. 3, Lake Earl Area;
 - 4. Planning Area No. 4, Crescent City;
 - 5. Planning Area No. 5, Klamath;
- B. In the above rural areas, new development shall be required to prove the subject area's ability to accommodate such development prior to approval. Both major and minor subdivisions shall be permitted when fifty percent of the useable parcels in the area have been developed and the created parcels would not be smaller than the average size of the surrounding parcels. To determine if this criteria is met, the following shall apply:
 - 1. Useable parcels do not include: (1) parcels committed to agricultural and designated as such in the land use plan; (2) parcels committed to timberland and designated as such on the land use plan; (3) parcels or portions of parcels committed to the resource conservation area for purposes other than compliance with zoning district minimum yard regulations, traffic safety visibility standards, setbacks from geologically unstable areas, buffers around environmentally sensitive habitat areas floodway management, or other such siting restrictions required by the certified LCP.
 - 2. To determine if the fifty percent rule has been met, a survey of the existing parcels in each planning area (delineated on the land use

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- maps) will need to be conducted. If fifty percent or more of the existing lots are developed, when the land division may be processed.
3. The local coastal program zoning 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 by the zoning district standards in which the proposed land division is located establishes the average size for new development.
 - C. This section is not applicable to land designated as agriculture, timber or resource conservation area by the general plan. Any specific criteria set forth by the respective zoning district regulations and the balance of this title shall still apply (Ord. 83-03 (part) 1983).

SECTION THREE:

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION FOUR:

This ordinance shall not take effect until it has been certified by the California Coastal Commission. (Ord. 86-042 (part, 1986; Ord. 83-03 (part))

EXHIBIT B

Changes to the LUP New Development Chapter

D. Division of Rural Lands: This section will develop criteria to apply to the division of all lands outside an established urban limit line (urban/rural boundary) as shown in each area plan.

1. Coastal Act Policies: Leases for agricultural uses are specifically exempt from the land division criteria by the Coastal Act. This indicates a priority in the Coastal Act to protect agricultural viability of existing agricultural lands.

30250(a)...land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Another policy of the Coastal Act including the above-stated portion, guides development other than agricultural uses from agricultural lands and encourages development consistent with existing development in areas able to accommodate such development.

30250(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively on coastal resources.

2. Rural Land Division Criteria: In rural areas new development shall be required to prove the subject area's ability to accommodate such development prior to approval. Land divisions, both major and minor subdivisions (not including boundary adjustments and inside the urban/rural boundary) shall be permitted when 50% of the useable parcels in the area have been developed and the created parcels would not be smaller than the average size of the surrounding parcels. To determine if this criteria is met, the following shall apply:
 - a. Useable parcels does not include: (1) parcels committed to agricultural and designated as such in the Land Use Plan; (2) parcels committed to timberland and designated as such on the Land Use Plan; or (3) parcels or

portions of parcels committed to open space for purposes of compliance with zoning district minimum yard regulations, traffic safety visibility standards, setbacks from geologically unstable areas, buffers around environmentally sensitive habitat areas, floodway management, or other such siting restrictions required by the certified LCP.

- 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 maximum development density for parcels in each planning area. These density limitations are implemented through minimum lot size standards established for each zoning district within the LCP Zoning Enabling Ordinance. As these minimum lot sizes are reflective of the average size of parcels within a land use classification in each planning area, the minimum lot size designated on the maps are equal to or larger than the average size of parcels in the same land use classification consistent with requirements of Section 30250(a) of the Act, thereby eliminating the need for determination of allowable parcel size on an individual basis.

E. Resolving Development Conflicts: The Coastal Act declares that the basic goals of the State for the Coastal Zone include assuring the orderly, balanced utilization of Coastal Zone resources taking into account the social and economic needs of the people of the State. Another goal of the Act is to maximize public access to and along the coast and maximize public recreational opportunities in the Coastal Zone consistent with sound resource conservation principles and constitutionally protect rights of private property owners.

Policies of the act, originated to implement the goals of the Act, tend to be partially in conflict if viewed from the broad-base approach. The function of the Local Coastal Program is to examine these policies on a local basis and formulate a method of application. During this program the various components have been drafted as a whole have inherent conflicts with each other. The area plans in the land use element delegate the general distribution, location and extent of the various uses allowed with the Act. These general patterns of land uses outlined on the area maps are a result of examining the various policies of each component and apply them to the land.

The area Land Use Maps are, therefore, reflective of each component and therefore represent an area application of each component. The area Land Use Maps provide a reasonable transition from one land use to another. Land uses

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designated adjacent to sensitive areas are designed to provide reasonable assurances that these adjacent uses will not cumulatively nor significantly impair the quality of the sensitive area. The developed zoning ordinance will further clarify development issues within each land use category and provide mechanisms, such as provisions for clustering development and/or deviation from parcel minimum size standards to further protect environmentally sensitive areas.

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 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. 6

APPLICATION NO.

DNC-MAJ-2-04

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

**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	
Res 0-15														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	
GC																	C	C				C								C	C	C	C	C	C	C	C	
VSC																							C	C								C	C	C	C	C	C	
GI																									C							C	C	C	C	C	C	
LI/HC																										C	C					C	C	C	C	C	C	
RR 1/1									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	
RR 1/3												C						C				C									C	C	C	C	C	C	C	
RN										C		C						C				C									C	C	C	C	C	C	C	C
RMHP														C				C				C								C	C	C	C	C	C	C	C	
W 1/2							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
W 1/5							C	C				C	C					C													C	C	C	C	C	C	C	C
A Prime	C												C					C													C	C	C	C	C	C	C	C
GA 20		C																														C	C	C	C	C	C	C
GA 5			C																													C	C	C	C	C	C	C
AI				C																												C	C	C	C	C	C	C
TP							C	C																								C	C	C	C	C	C	C
NonTPZ								C																								C	C	C	C	C	C	C
PF																																C	C	C	C	C	C	C
RCA					C	C	C																									C	C	C	C	C	C	C
HD-C																				C	C											C	C	C	C	C	C	
HD-R																																						
G																					C																	

☒ Consistent

☐ Not Consistent

* When assigned density does not exceed General Plan Density

EXHIBIT NO. 7
APPLICATION NO.
 DNC-MAJ-2-04
 LCP ZONING ENABLING
 TABLE A - "Coastal
 Element Land Use Plan &
 Zoning Consistency Matrix"

**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**

ASSESSORS PARCEL NO	SIZE (SQ. FT.)
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
TOTAL	1190614

EXHIBIT NO. 8

APPLICATION NO.

DNC-MAJ-2-04

DEL NORTE CO. 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)

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Del Norte, C. - 2002-2003 - 102-01, SNE

