

CALIFORNIA COASTAL COMMISSION

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Filed:	June 20, 2006
60 th Day:	Aug. 19, 2006
Staff:	Robert Merrill
Staff Report:	July 27, 2006
Hearing Date:	Aug. 11, 2006
Commission Action:	

TO: Commissioners and Interested Parties

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

SUBJECT: **Humboldt County LCP Amendment No. HUM-MAJ-1-06, Ambrosini Zoning Amendment (Concurrently Remove and Restore “X” Combining Zone to APNs 100-162-08, 09, and 29)**
(Meeting of August 11, 2006, in San Pedro)

SYNOPSIS:

1. Description of Proposed LCP Amendment.

Humboldt County has submitted an application for an amendment to its certified Implementation Plan (IP) to reclassify the zoning designations of two residential parcels by concurrently removing and then restoring the “X” (no further subdivision) combining zone to APN Nos. 100-162--08, -09, and -29, known as 396 and 456 Port Kenyon Road. The property is located 200 feet southwest of the intersection of Port Kenyon Road and Market Street in the Arlynda Corners area near Ferndale. The current and proposed zone for the property is Residential Single Family with a No Further Subdivision Manufactured Home and Flood Hazard Area combining zones (RS-X-M/F). The zoning amendment would facilitate a proposed subdivision of the property into two parcels of approximately .28 and 3.62 acres to establish the two existing homes on the property on separate parcels.

2. Summary of Staff Recommendation.

The staff recommends that the Commission, upon completion of a public hearing, **certify the requested LCP amendment as submitted**. The proposed changes to the Implementation Plan as proposed are consistent with the policies of the certified LUP.

The proposed zoning amendment has been proposed to facilitate the division of the subject property into two lots to establish the two existing residences on separate legal parcels. The proposed zoning map amendment would be consistent with the Land Use Plan (LUP) for the area. At the time the LUP was adopted, parcels shown on an antiquated subdivision map of Arlynda Corners were thought by the County to be separate legal lots that could be developed. The Eel River Area Land Use Plan was certified by the Commission in 1982, more than twenty years prior to the Supreme Court decision in *Gardner v. Sonoma County*, which established that such antiquated subdivision maps recorded prior to the adoption of the Subdivision Map Act do not by themselves establish separate legal parcels. The text of the LUP describes the Arlynda Corners Urban Area as containing urban size lots and notes that 22 of the 28 parcels were currently developed at that time. There are fewer separate legal lots recognized today in this area, and only by relying on the antiquated subdivision map could one establish a basis for 28 separate legal parcels to exist. The LUP recognizes that the area was impacted by flood hazards and that securing new connections from the City of Ferndale to serve the remaining vacant parcels was unlikely. Therefore, the “X” combining zone was placed on residential lands through the zoning ordinance to prevent further subdivision where additional services may not be available and flood hazards exist. The proposed zoning amendment to concurrently lift and then restore the “X” combining zone would be done to facilitate a subdivision that maintains the established density consistent with the Plan.

Both of the existing single-family residences are already served by community water and sewer service. The subject property is located in a developed area able to accommodate the existing residential use, and no increase in demand for services is expected as a result of the land division that would be facilitated by the proposed zoning amendment. Therefore, the proposed amendment conforms with and carries out Coastal Act Section 30250(a), incorporated into the LUP as a development policy, which requires that development be located in areas able to accommodate the development and where it will not have significant adverse impacts on coastal resources, individually or cumulatively.

The zoning amendment will not foster the development of principal structures within the County’s designated design floodway that will either be directly endangered by flooding or reduce the capacity of the floodway to convey floodwaters within its current limits and increase the risk of spreading flood impacts. Therefore, the proposed zoning amendment conforms with and carries out Section 30253 of the Coastal Act which is incorporated into Section 3.28 of the certified LUP, as the LCP as amended will minimize risks to life

and property in an area subject to high flood hazard and. In addition, the amendment conforms with and carries out the requirements of LUP Policy 3.28(A)(4) that new critical and non-critical facilities not be located within the flood plain.

Finally, as the proposed zoning amendment would only temporarily remove and then reattach the “X” combining zone, the amendment does not change the range of principally permitted and conditional uses of the zoning district previously determined by the Commission to conform with and carry out the LUP designation for the subject property when the Commission certified the original Implementation Plan. Both the LUP land use classification and the zoning district provide for a similar range of low density single family residential use and are thus compatible.

The motion to adopt the staff recommendation is found on page 4.

3. Analysis Criteria.

The relationship between the Coastal Act and a local government’s Local Coastal Program can be described as a three-tiered hierarchy with the Coastal Act setting generally broad statewide policies. The Land Use Plan (LUP) portion of the LCP incorporates and refines Coastal Act policies for the local jurisdiction, giving guidance as to the kinds, locations, and intensities of coastal development. The Implementation Program (IP) of an LCP typically sets forth zone districts and site development regulations through legally enforceable ordinances which are the final refinement specifying how coastal development is to precede on a particular parcel. The LUP must be consistent with the Coastal Act. The IP must conform with, and be adequate to carry out the policies of the LUP.

In this case, the proposed LCP amendment affects just the IP component of the Humboldt County LCP. The proposed IP amendment would solely effectuate changes to the zoning of APN Nos. 100-162--08, -09, and -29 as illustrated on Humboldt County Zoning Map. No changes to the text of the IP would result from the proposed LCP amendment.

This analysis concentrates on the conformity of by the subject zoning redesignations with the policies and standards of the Coastal Act and the LCP most directly affected. The proposed division of the property separately requires a coastal development permit. The property owners have submitted Coastal Development Permit Application No. 1-06-026 for the land division. The Coastal Development Permit Application will be considered concurrently by the Commission at the August 11 meeting. See the separate staff recommendation prepared for the LCP amendment for further details.

4. Additional Information.

COUNTY OF HUMBOLDT LCP AMENDMENT (AMBROSINI)
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For further information, please contact Robert Merrill at the North Coast District Office (707) 445-7833. Correspondence should be sent to the District Office at the above address.

PART ONE: MOTIONS, RECOMMENDATIONS, AND RESOLUTIONS

I. MOTIONS, STAFF RECOMMENDATIONS, AND RESOLUTIONS FOR LCP AMENDMENT NO. HUM-MAJ-1-06 (AMBROSINI)

A. APPROVAL OF IP AMENDMENT NO. HUM-MAJ-1-06 (AMBROSINI) AS SUBMITTED:

MOTION: I move that the Commission reject the Implementation Program Amendment No HUM-MAJ-1-06 for the County of Humboldt as submitted.

STAFF RECOMMENDATION TO CERTIFY:

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

RESOLUTION TO CERTIFY IMPLEMENTATION PROGRAM AS SUBMITTED:

The Commission hereby certifies the Implementation Program Amendment No HUM-MAJ-1-06 for the County of Humboldt as submitted and adopts the findings set forth below on grounds that the Implementation Program conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended, and certification of the Implementation Program will meet the requirements of the California Environmental Quality Act, because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program on the environment; or (2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program.

PART TWO: AMENDMENT TO IMPLEMENTATION PROGRAM

I. ANALYSIS CRITERIA

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

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

To approve the amendment, the Commission must find that the amended Implementation Plan will conform with and adequately carry out the provisions of the LUP as certified. For the reasons discussed in the findings below, the proposed amendment to the Implementation Program is consistent with and is adequate to carry out the certified Land Use Plan.

II. FINDINGS FOR APPROVAL OF IP AMENDMENT NO. HUM-MAJ-1-06 AS SUBMITTED

The Commission finds and declares as following for IP Amendment No. HUM-MAJ-1-06:

A. Description of Amendment.

Humboldt County has submitted an application for an amendment to its certified Implementation Plan (IP) to reclassify the zoning designations of two residential parcels by concurrently removing and then restoring the “X” (no further subdivision) combining zone to APN Nos. 100-162--08, -09, and -29, known as 396 and 456 Port Kenyon Road. The property is located 200 feet southwest of the intersection of Port Kenyon Road and Market Street in the Arlynda Corners area near Ferndale. The current and proposed zone for the property is Residential Single Family with a No Further Subdivision Manufactured Home and Flood Hazard Area combining zones (RS-X-M/F).

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The zoning amendment would facilitate a proposed land division of the property into two parcels of approximately .28 and 3.62 acres to establish the two existing homes on the property on separate parcels. The long-time owners of the subject property wish to separately sell one or both of the residences and until recently had thought the two homes already existed on separate parcels. The subject property is within an area covered by an antiquated subdivision map of the Town of Arlynda dated August 3, 1882. This antiquated subdivision map shows the subject property as consisting of approximately a dozen separate parcels, with each of the two existing houses on separate parcels as shown on the map. The applicants and previous owners of the property have relied on this antiquated subdivision map as evidence that the two homes were constructed on separate parcels. However, the California Supreme Court ruled in *Gardner v. County of Sonoma* (2003) 29 C4th 990, 129 CR2d 869 that subdivision maps that were recorded before the first map act in 1893 do not create legal lots unless: (1) the map was recorded under a local statute that governed subdivisions at the time; or (2) the parcels were conveyed separately after the map was recorded, which may entitle them to legal status under common law. The County has reviewed the specifics of this case and has determined that the 1882 subdivision map did not create separate legal lots on the applicants' property under the *Gardner* decision. Therefore, the entire property owned by the applicants is currently recognized by the County as a single legal parcel.

To separately sell either of the residences, the property owners must first divide the property and establish the existing residences on separate legal parcels. However, the land division cannot occur with the "X" combining zone in place, as the X combining zone prohibits subdivision of the property. Therefore, the County is amending the zoning map to temporarily remove the "X" combining zone to allow the tentative map for the land division to be approved, and concurrently reapplying the "X" combining zone after approval of the land division to reimpose the "X" combining zone's prohibitions against any further subdivision of the property.

The County believes the proposed zoning map amendment would be consistent with the Land Use Plan (LUP) for the area. The County indicates that at the time the LUP was adopted, the parcels shown on the antiquated subdivision map were thought by the County to be separate legal lots that could be developed. The Eel River Area Land Use Plan was certified by the Commission in 1982, more than twenty years prior to the Supreme Court decision in *Gardner v. Sonoma County*. The LUP describes the Arlynda Corners Urban Area as containing urban size lots and notes that 22 of the 28 parcels were currently developed at that time. The County suggests that there are fewer separate legal lots recognized today in this area, and that only by relying on the antiquated subdivision map could one establish a basis for 28 separate legal parcels to exist. The County states that the LUP recognizes that the area was impacted by flood hazards and that securing new connections from the City of Ferndale to serve the remaining vacant parcels was unlikely. Therefore, the "X" combining zone was placed on residential lands through the zoning ordinance to prevent further subdivision where additional services may not be

available and flood hazards exist. The County states that the proposed zoning amendment to concurrently lift and then restore the “X” combining zone would be done to facilitate a subdivision that maintains the established density consistent with the Plan.

B. Site Description

The 3.9-acre subject property is located approximately ¼-mile south of Ferndale in the Arlynda corners area, near the intersection of Port Kenyon Road and Market Street, at 396 and 456 Port Kenyon Road.

Arlynda Corners is a largely developed residential neighborhood surrounded by agricultural lands mostly used for dairy farms and grazing. Arlynda Corners is centered on the angled T-intersection where Market Street meets Port Kenyon Road, and contains a couple of commercial establishments and approximately 20 homes. The irregularly-shaped subject property fronts on the portion of Port Kenyon Road that extends west of Market Street, and also borders the west side of Market Street in two locations. The subject property is surrounded by agricultural lands and the Arlynda Corners neighborhood. The property is bordered on the southwest by a single-family residence and an agricultural property. Across Port Kenyon Road to the northeast of the subject property is an agricultural property containing a farm house and barns. The subject property is bordered to the east by the portions of the Arlynda Corners neighborhood that front along the west side of Market Street, including a commercial establishment at the corner of Market and Port Kenyon and approximately five residences extending south along the west side of Market Street. Finally, agricultural fields border the subject property to the south.

The subject property is currently developed with two single-family residences, one with an attached garage and the other a detached garage, a barn, and a separate accessory structure located just to the south of both residences. The two houses are both one story with a maximum height of 20 feet. The homes were developed in the early to mid 1900s and are clad in painted wood siding with composition shingle pitched roofs. Each house has a recently paved approximately 25-foot-long paved driveway with room for at least two off-street parking spaces and constructed with driveway aprons connecting to Port Kenyon Road.

A broad shallow drainage swale cuts across the middle of the mostly flat and open property in a southeast to northwesterly direction from Market Street to Port Kenyon Road. This drainage swale is known as the “East Side Drainage,” and conveys runoff from areas to the south and east. The approximately 150-foot-wide and several-foot-deep drainage swale contains some wetland vegetation in its lower elevations consisting mostly of sedges or rushes. Areas of the property to the southwest of the drainage swale and some of the area between the swale and the residences on the property are covered with grasses. The applicants use some of this land to support farm animals including

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cattle and geese. The grounds immediately surrounding each residence are separated from the drainage swale by low fencing built atop a low retaining wall and are landscaped with lawn and ornamental shrubs and trees.

The East Side Drainage” is the only identified wetland area on the subject property itself. No Environmentally Sensitive Habitat Area (ESHA) would be affected by the project. In addition, no known archaeological resources have been identified on the property. The property is not within any designated highly scenic area and is not located between the first through public road and the sea.

The property is designated as Residential Low Density in the County’s Eel River Area Plan and zoned Residential Single-Family, with certain combining zones, including a “No Further Subdivision Manufactured Home” and a “Flood Hazard Area” combining zones (RS-X-M/F). The subject property is located within the urban limit line and urban service boundary for the Arlynda Corners Urban Area and is served by the community sewer and water systems of the City of Ferndale.

The subject property is within an area covered by an antiquated subdivision map of the Town of Arlynda dated August 3, 1882 that shows the property containing approximately 12 separate parcels. As discussed in Finding A, however the property is currently recognized by the County as consisting of only one legal parcel. The subject property is assigned the three separate Assessor’s Parcel Numbers for tax purposes of 100-162-08, 100-162-09, and 100-162-29.

The subject property is bisected by a “design” floodway that extends over approximately the northern half of the property, and covers the area containing all of the existing structures on the site. It should be noted that the floodway is a “design” floodway that is based on mathematical modeling, and the configuration of the floodway does not necessarily match topographical features on the ground. For example, immediately south of the boundary of the floodway is the “East Side Drainage.” Any actual flooding of the property would first affect this drainage swale, but the drainage swale is not included within the design floodway.

C. New Development

LUP/Coastal Act Policy 30250

Section 3025) of the Coastal Act states, in applicable part:

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.

The LUP incorporates Section 30250 of the Coastal Act verbatim as a policy of the LUP.

The proposed development that would be facilitated by the IP amendment would subdivide a 3.9-acre parcel currently developed with two, one-story, single-family residences, barns, and accessory structures into two parcels, Parcel 1, consisting of 0.28 acres or 12,197-square feet of area, and Parcel 2, consisting of 3.62 acres or 157,687 square feet of area. The parcels would be configured so that each residence is on a separate parcel.

The property site is in an existing small urbanized area, in the Arlynda Corners community south of Ferndale. The subject property is located within both the urban limit line recognized under the County land use plan and within the community services district service area. The Eel River Area Plan land use designation for the site is Residential Low Density (RL) / Density: 1-7 dwelling units per acre, and it is zoned Residential Single-Family specifying a minimum parcel size of 5,000 square feet. (RS-5). The proposed parcel subdivision would create 2 separate parcels that would be consistent with the designated density range. Both parcels would be of a size greater than the 5,000-square-foot minimum parcel size established by the zoning. The resultant parcels would be similar in size to surrounding parcels in this urban neighborhood, and essentially constitute “in-filling” of the neighborhood, compatible with the community development pattern.

The proposed zoning map amendment would be consistent with the Land Use Plan (LUP) for the area. At the time the LUP was adopted, parcels shown on an antiquated subdivision map of Arlynda Corners were thought by the County to be separate legal lots that could be developed. The Eel River Area Land Use Plan was certified by the Commission in 1982, more than twenty years prior to the Supreme Court decision in *Gardner v. Sonoma County*. The text of the LUP describes the Arlynda Corners Urban Area as containing urban size lots and notes that 22 of the 28 parcels were currently developed at that time. There are fewer separate legal lots recognized today in this area, and only by relying on the antiquated subdivision map could one establish a basis for 28 separate legal parcels to exist. The LUP recognizes that the area was impacted by flood hazards and that securing new connections from the City of Ferndale to serve the remaining vacant parcels was unlikely. Therefore, the “X” combining zone was placed on residential lands through the zoning ordinance to prevent further subdivision where additional services may not be available and flood hazards exist. The proposed zoning amendment to concurrently lift and then restore the “X” combining zone would be done to facilitate a subdivision that maintains the established density consistent with the Plan.

Both of the existing single-family residences are already served by community water and sewer service. Therefore, the proposed development is consistent with Section 30250(a), as the development is located in a developed area able to accommodate it, and no increase in demand for services is expected as a result of the land division.

Therefore, the Commission finds that the proposed project is located in a developed area able to accommodate it, and, that as proposed and conditioned, the development will not have significant adverse impacts on coastal resources, individually or cumulatively, consistent with Section 30250(a) of the Coastal Act which is incorporated into Section 3.28 of the certified LUP. Therefore, the Commission finds that the proposed amendment conforms with and carries out the LUP Policies concerning new development and the planned density for the Arlynda Corners area.

D. Flood Hazards

LUP/Coastal Act Policy 30253

Section 30253 of the Coastal Act states, in applicable part:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

The LUP incorporates Section 30253 of the Coastal Act verbatim as a policy of the LUP.

LUP Policy 3.28(A)(4) states:

Flood Plains – No critical facilities should be permitted to locate within the 100 year flood plain. Utility lines may cross hazard zones if there is no reasonable alternative and provisions are made to mitigate the hazards. Non-critical facilities should be permitted in the 100 year flood plain only if adequate flood control measures, such as control works, compact fill, etc., that would result in a site being beyond or above the 100 year flood extent, are provided. Further, the County will continue to review development in light of and impose conditions consistent with the national Flood Insurance Program.

Section 30253 requires that new development minimize risks to life and property in areas of flood hazard. LUP Policy 3.28(A)(4) requires, among other things non-critical facilities should only be permitted in the 100-year flood plain if adequate flood control measures that would result in a site being beyond or above the 100-year flood extent are provided.

The subject property is located in the lower Eel River Valley and is within the flood plain of both the Salt and Eel Rivers. The Salt River is a tributary of the Eel and both rivers flood periodically. In addition, as noted previously, the subject property is bisected by a County-designated “design” floodway that extends over approximately the northern half of the property, and covers the area containing all of the existing structures on the site. It should be noted that the floodway is a “design” floodway that is based on mathematical modeling, and the configuration of the floodway does not necessarily match topographical features on the ground. For example, immediately south of the boundary of the floodway on the applicants’ property is a topographical depression known as the “East Side Drainage.” Any actual flooding of the property would first affect this drainage facility, but the drainage facility is not part of the design floodway.

The IP amendment is proposed to facilitate a land division that would establish the two existing residences on the site on separate properties, rather than to facilitate the construction of new homes or new structures that would contribute to flood hazards. Given the purpose of the land division, the project facilitated by the IP amendment would not directly contribute to flood hazards. In addition, amending the IP to allow for the land division would not by itself perpetuate the continued existence or future rebuilding of structures within harms way of flooding. Section 30610(g)(1) of the Coastal Act provides no coastal development permit shall be required for the replacement of any structure, other than a public works facility, destroyed by a disaster as long as the replacement structure conforms to applicable existing zoning requirements, is for the same use as the destroyed structure, and does not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent. The proposed IP amendment and land division would not affect whether either of the two existing residences could be reconstructed legally in the event of a flood disaster because both structures could be reconstructed in the event of such a disaster on the property now in its current configuration of one parcel. Reconstruction of the second residential unit on the property as it currently exists is also permissible under the County’s zoning ordinance. According to County staff, the second residential unit on the property may be reconstructed in the event of a damaging flood or other disaster either as a legal, non-conforming structure pursuant to the nonconforming uses and structures provisions of the code (Sections 313-131 and 132), or as a permitted second residential unit upon securing a coastal development permit from the Commission and a Special Permit from the County. Therefore, the existing residences could be rebuilt in the future if they were ever destroyed or torn down whether or not the IP amendment and land division were approved and approval of the subdivision would not by itself perpetuate the continued existence or future rebuilding of structures within harms way of flooding.

Finally, the proposed zoning amendment would reapply the “X” combining zone to the subject property. This aspect of the amendment is important for avoiding flood hazards, as each of the parcels that would result from the initial land division that the IP amendment is intended to accommodate could be divided at least one more time given the 5,000 square-foot minimum parcel size established by the zoning district, with the

result that new structures could be proposed on these additional lots which would contribute to future flooding concerns. Therefore, the zoning amendment as submitted will preclude further subdivisions in the future that, unlike the initial land division to be accommodated by the LCP amendment, would contribute to flood hazards.

The Commission finds that the zoning amendment will not foster the development of principal structures within the County's designated design floodway that will either be directly endangered by flooding or reduce the capacity of the floodway to convey floodwaters within its current limits and increase the risk of spreading flood impacts. Therefore, the Commission finds that the proposed zoning amendment conforms with and carries out Section 30253 of the Coastal Act which is incorporated into Section 3.28 of the certified LUP, as the LCP as amended will minimize risks to life and property in an area subject to high flood hazard and.

As the proposed zoning amendment will not foster the development of new structures within the flood plain, the amendment conforms with and carries out the requirements of LUP Policy 3.28(A)(4) that new critical and non-critical facilities not be located within the flood plain. In addition, the fact that the amendment will not foster the development of additional structures will enable the County to act on the land division that the amendment is designed to facilitate in a manner consistent with the requirements of the National Flood Insurance Program. Therefore, the Commission finds that the proposed amendment conforms with and carries out LUP Policy 3.28(A)(4).

E. Implementation Conformity.

For any proposed change to a property's zoning designation to be certifiable, the implementing zoning designation must be shown to conform with its land use plan counterpart and adequately carry out all applicable LUP policies. In this case, the certified LUP designation for the subject property is Residential Low Density and the proposed IP map designation Residential Single-Family, with certain combining zones, including a "No Further Subdivision Manufactured Home" and a "Flood Hazard Area" combining zones (RS-X-M/F). As the proposed zoning amendment would only temporarily remove and then reattach the "X" combining zone, the amendment does not change the range of principally permitted and conditional uses of the zoning district previously determined by the Commission to conform with and carry out the LUP designation for the subject property when the Commission certified the original Implementation Plan. Both the LUP land use classification and the zoning district provide for a similar range of low density single family residential use and are thus compatible. Moreover, no other zoning district's allowable uses would more closely match with the uses enumerated under the LUP's Residential Low Density designation. Thus, given this consistency between LUP and zoning designations, the proposed zoning amendment will conform with and be adequate to carry out the policies and standards of the LUP classification for the subject property.

F Conclusion

Based on the foregoing analysis, the Commission finds the proposed amendment to the County's Implementation Program as submitted to be consistent with and adequate to carry out the certified Land Use Plan.

III. CALIFORNIA ENVIRONMENTAL QUALITY ACT

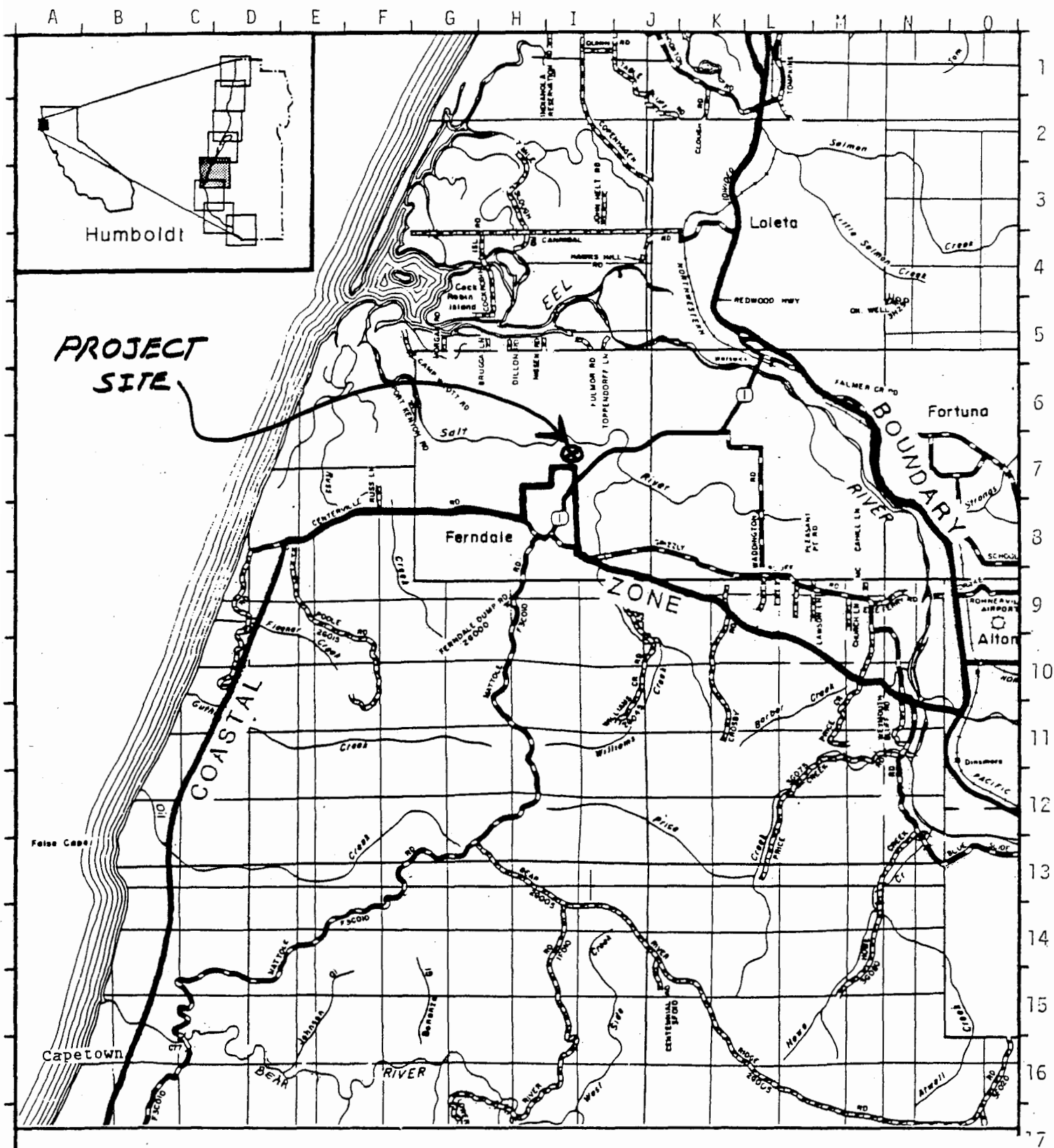
In addition to making a finding that the amendment is in full compliance with the Coastal Act, the Commission must make a finding consistent with Section 21080.5 of the Public Resources Code. Section 21080.5(d)(2)(A) of the Public Resources Code requires that the Commission not approve or adopt an LCP:

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

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

EXHIBITS:

1. Regional Location Map
2. Vicinity Map
3. Zoning Map
4. Assessor Parcel Map
5. Plot Plan of Proposed Land Division
6. Antiquated Subdivision Map
7. Design Floodway
8. County Resolution of Submittal and Zoning Ordinance



Arlynda Corners

Francis

SALT
RIVER

PORT KENYON
RD

ST

2G065

PROJECT SITE

2G070 ST

MARKET

CALIFORNIA

2G060

NESS

AVE

AMBROSINI

2G075

FERNDALE

LINCOLN
ST

MILTON

LOCATION MAP

PROPOSED AMBROSINI PARCEL MAP SUBDIVISION + ZONE RECLASSIFICATION
FERNDALE AREA

PMS-04-35 / ZR-04-11

APN: 100-162-08, 100-162-09 & 100-162-29

SECTION 35 T3N R2W H. B. & M.

EXHIBIT NO. 2

LCP AMENDMENT NO.

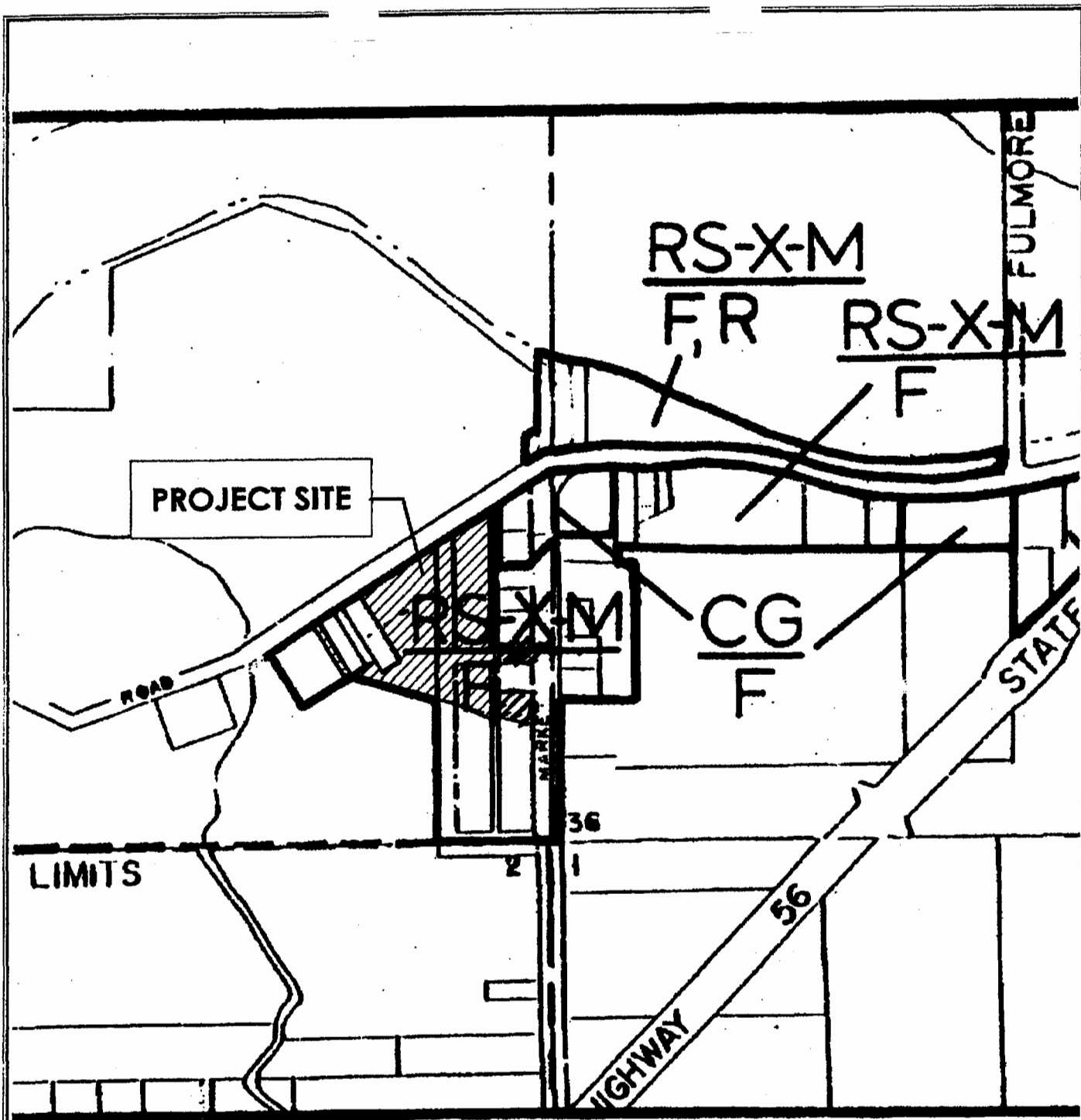
HUM-MAJ-1-06

(AMBROSINI)

VICINITY MAP



Map is not drawn to scale.



ZONING MAP

PROPOSED AMBROSINI PARCEL MAP SUBD. + ZONE RECLASSIFICATION

FERNDAL AREA

PMS-04-35 / ZR-04-11

APN: 100-162-08, 100-162-09 & 100-162-29
SECTION 35 T3N R2W H. B. & M.



EXHIBIT NO. 3

LCP AMENDMENT NO.

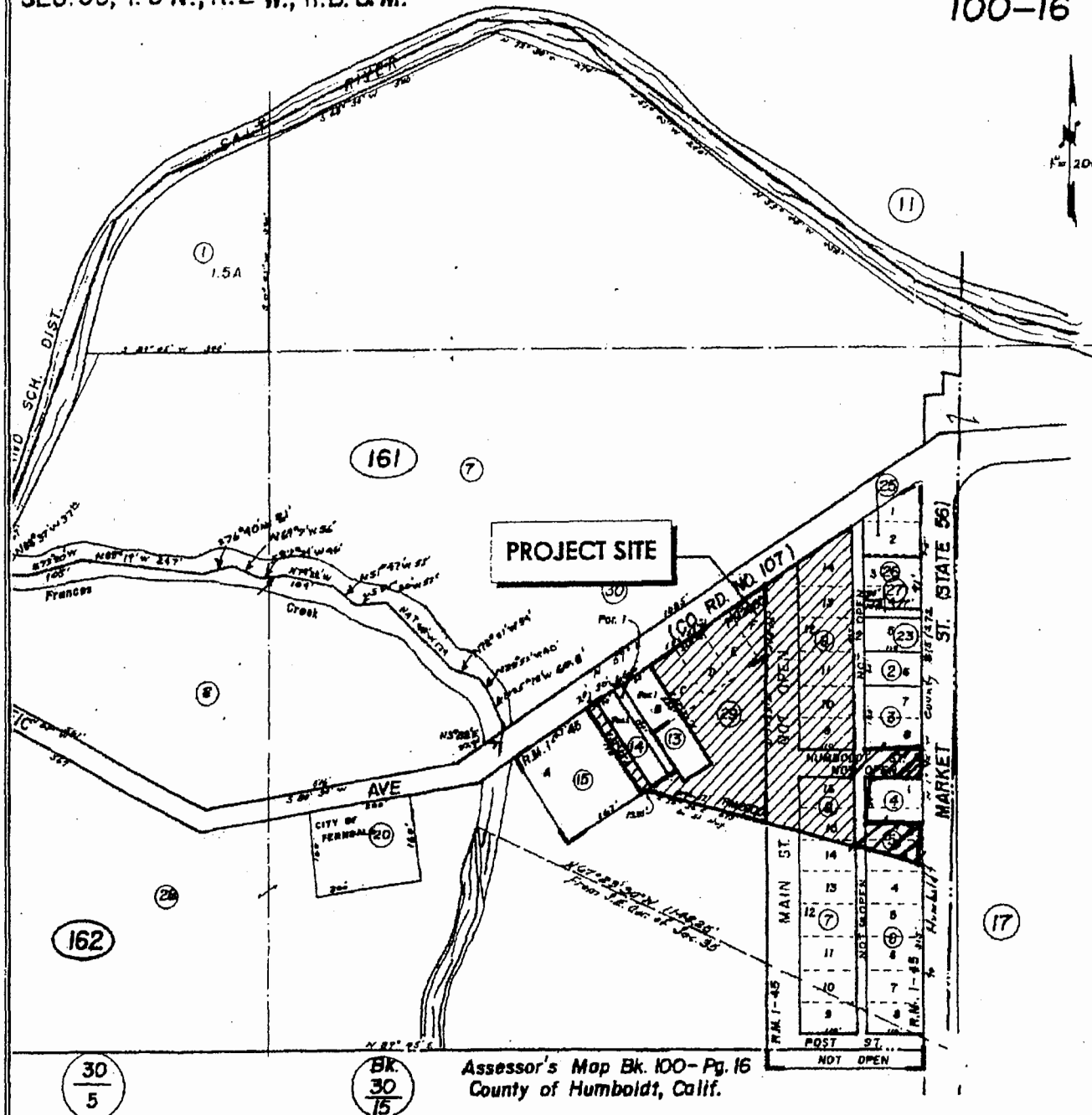
HUM-MAJ-1-06

(AMBROSINI)

ZONING MAP

SEC. 35, T. 3 N., R. 2 W., H. B. & M.

100-16



Assessor's Map Bk. 100-Pg. 16
County of Humboldt, Calif.

ASSESSOR PARCEL MAP

PROPOSED AMBROSINI PARCEL MAP SUBDIVISION
FERNDAL AREA

PMS-04-35/ZR-04-11

APN: 100-162-08, 100-162-09 & 100-162-29
SECTION 35 T3N R2W H. B. & M.

EXHIBIT NO. 4

LCP AMENDMENT NO.

HUM-MAJ-1-06

(AMBROSINI)

ASSESSOR PARCEL MAP

MAP IS NOT TO SCALE

EXHIBIT NO. 5

LCP AMENDMENT NO.

HUM-MAJ-1-06

(AMBROSINI)

PROPOSED LAND DIVISION

LEGEND

- JOINT UTILITY POLE
- SEWER MAIN
- WATER MAIN
- WATER FLOW LINE
- WATER LINE
- SEWER MAIN
- OVERHEAD ELECTRIC LINE
- EDGE OF PAVED
- PROPERTY LINE
- PROPERTY LINE TO BE ADDED
- FENCE LINE
- EXISTING BUILDING

VICINITY MAP

NOTES

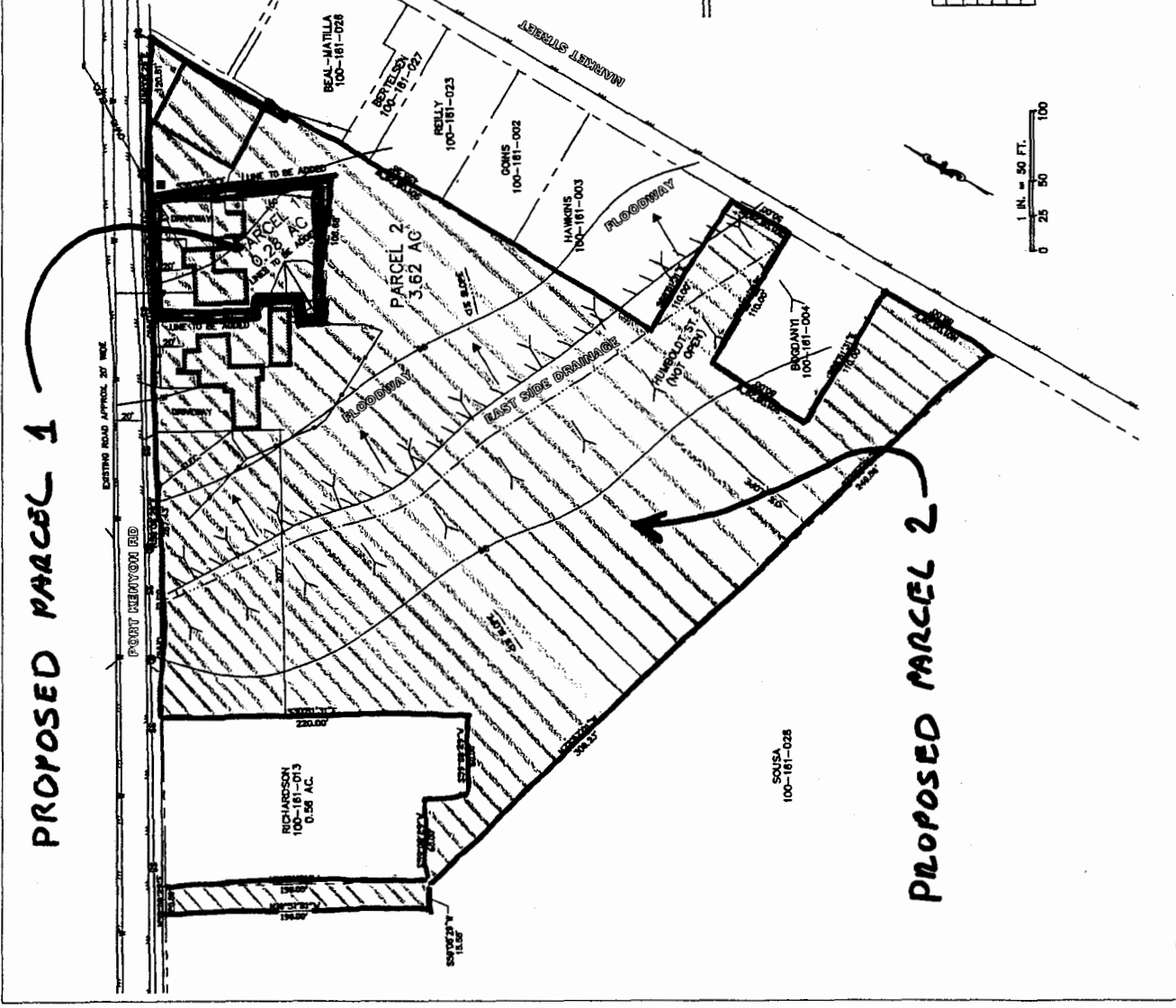
ALL PARCELS OF RECORD ARE SHOWN ON THE TENTATIVE MAP AND WILL APPEAR ON THE RECORDED SUBDIVISION MAP

NO NEW STRUCTURES TO BE BUILT

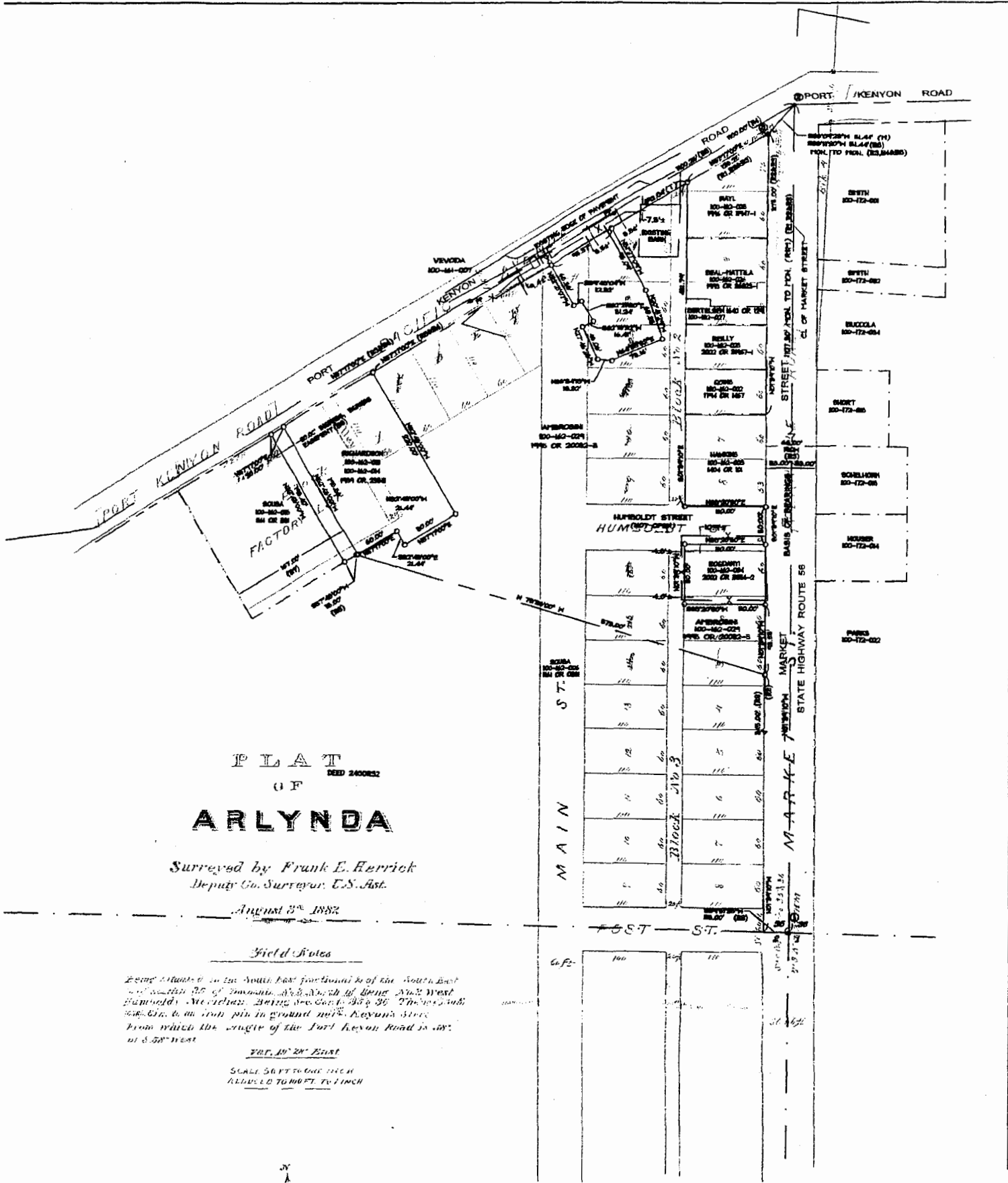
ALL PARCELS ARE ON CITY SEWER AND WATER SERVICES

ALL PARCELS ARE IN 100 YR. FLOOD ZONE

NO KNOWN ARCHAEOLOGICAL OR PALEONTOLOGICAL SITES



LINE	LENGTH	BEARING
1	76.23	S31°03'11"E
2	11.99	N59°13'42"E
3	29.25	S30°08'20"E
4	15.25	S59°20'17"W
5	17.59	S31°26'35"E



A.M. Baird
Engineering & Surveying

1257 Main St., P.O. Box 396, Fortuna, CA 95540, (707) 725-5182

PREPARED FOR: CURTIS AMBROSINI
APN: APN:100-162-025
EXHIBIT TO ACCOMPANY
PARCEL MAP

EXHIBIT NO. 6

LCP AMENDMENT NO.
HUM-MAJ-1-06
(AMBROSINI)
ANTIQUATED SUBDIVISION
MAP

SUBJECT PROPERTY

FLOODWAY BOUNDARY

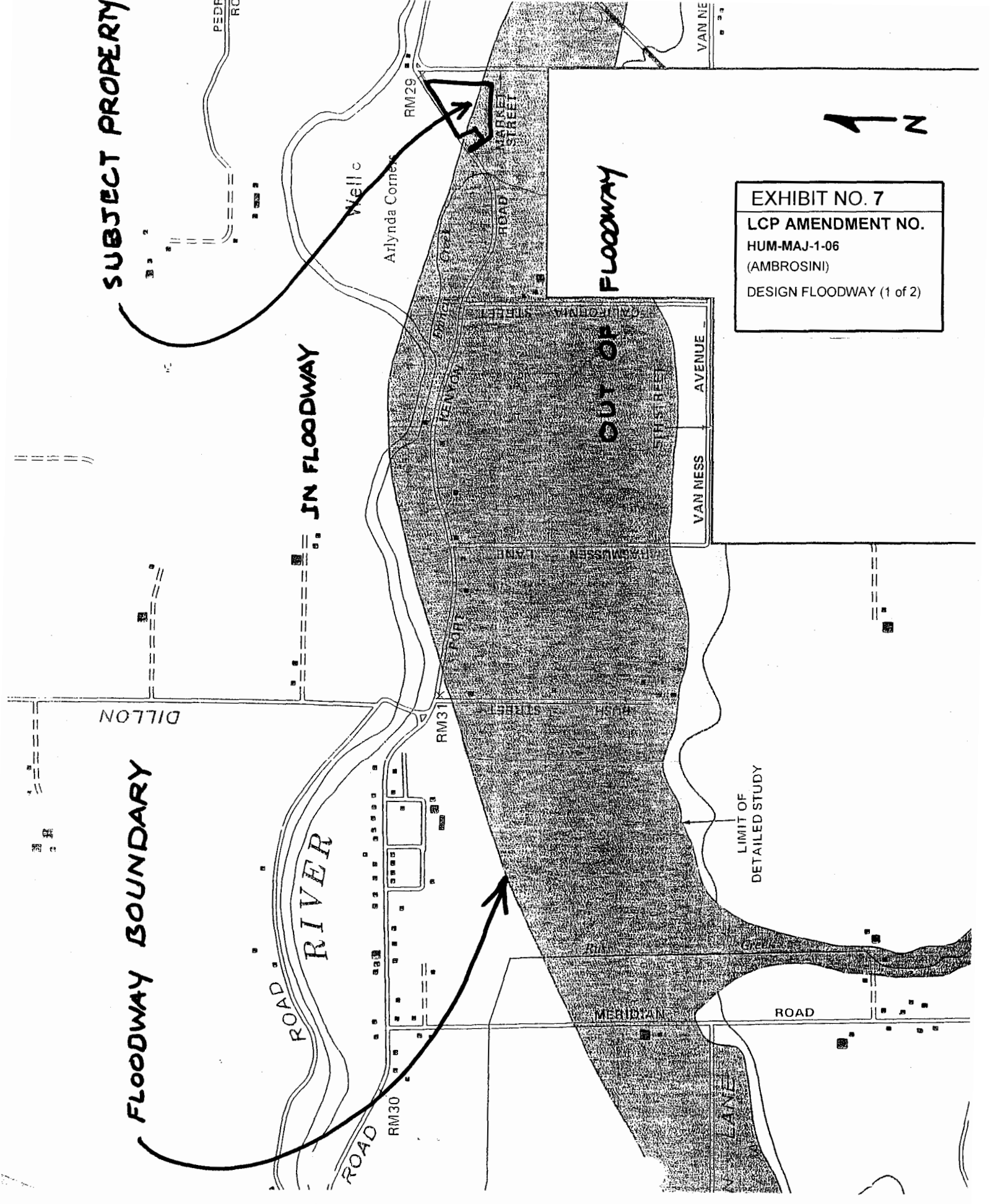
IN FLOODWAY

FLOODWAY

OUT OF

EXHIBIT NO. 7
LCP AMENDMENT NO.
HUM-MAJ-1-06
(AMBROSINI)
DESIGN FLOODWAY (1 of 2)

12



T-24
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فيلسوف كبير،

F OAL 1111
PF2 AAL 1111

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**FLOODWAY
BOUNDARY**

SUBJECT
PROPERTY

②

191

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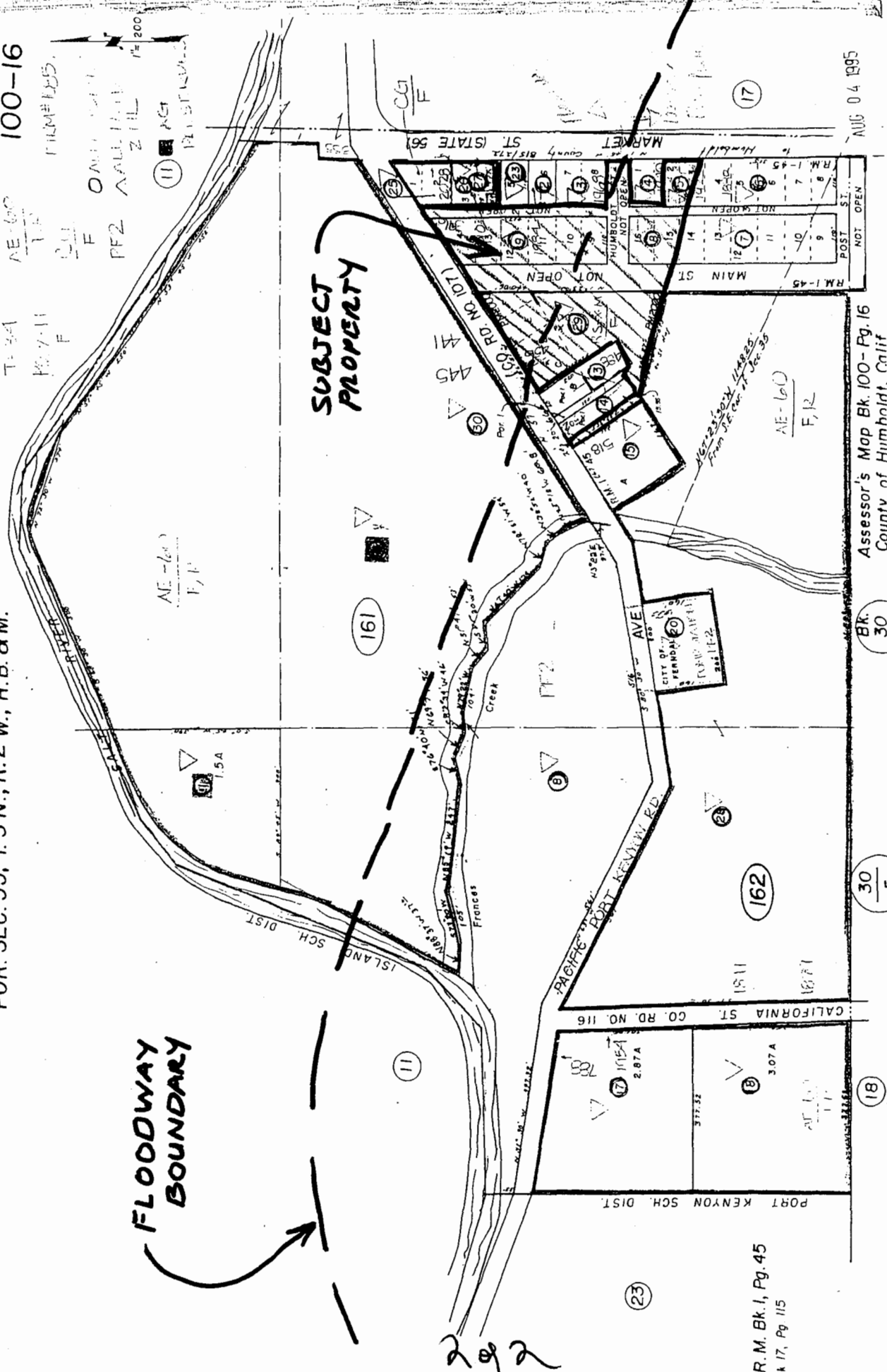
18

30 BK.

Assessor's Map Bk. 100 - Pg. 16

DATE: 04 1995

Sub. R.M. Bk. I, Pg. 45
PM Bk 17, Pg. 115



AGENDA ITEM NO. **I-3**

COUNTY OF HUMBOLDT

For Meeting of December 6, 2005

DATE: October 28, 2005

TO: Board of Supervisors

FROM: Kirk A. Girard, Director of Community Development Services

SUBJECT: **AMBROSINI** Parcel Map Subdivision/Zone Reclassification Application
File No.: **100-162-08 et al.** Case No.: **PMS-04-35/ZR-04-11**
Ferndale Area**EXHIBIT NO. 8****LCP AMENDMENT NO.**

HUM-MAJ-1-06

(AMBROSINI)

COUNTY RESOLUTION OF
SUBMITTAL & ORDINANCE
(1 of 7)**RECOMMENDATION**

That the Board of Supervisors:

1. Hold a public hearing in the manner prescribed by law, and receive the staff report and public testimony.
2. Deliberate on the project as necessary.
3. Adopt the Planning Commission's findings; and tentatively approve Parcel Map Subdivision and the adoption of Ordinance No. 355 attached on page ___, amending Section 311-7 of the Humboldt County Code by concurrently rezoning to remove and then restore the "X" (no further subdivision) combining zone. The current and proposed zone for the property is Residential Single Family with a No Further Subdivision, Manufactured Home and Flood Hazard Area combining zones (RS-X-M/F). The zoning amendment will be returned to you for final approval once the Coastal Commission has certified the proposed amendment.
4. Transmit the amendment to the implementing zoning maps to the California Coastal Commission for certification in accordance with the Coastal Act.
5. Direct Planning to prepare and file a Notice of Exemption pursuant to CEQA for the project.
6. Direct the Clerk of the Board to give notice of the decision to the applicant, the County Assessor's Office and any other interested party.

Prepared by: Anita Punla
Anita Punla, Senior PlannerCAO Approval: [Signature]

REVIEW:

Auditor _____ County Counsel [Signature] Personnel _____ Risk Manager _____ Other _____TYPE OF ITEM: cc: Applicant; Owner; Assessor
Consent
Departmental
☒ Public Hearing
Other
Curtis Ambrosini
465 Port Kenyon Rd.
Ferndale, CA 95536

PREVIOUS ACTION/REFERRAL

Board Item No. _____
A.M. Baird Engineering
PO Box 396
Fortuna, CA 95540

Assessor's Office

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon the motion of Supervisor SMITH
seconded by Supervisor NEELY
and unanimously carried by those members present,
the Board hereby adopts the recommended action
contained in this report.**DEC 6 2005**Dated: _____
Lora Ganzoneri, Clerk of the Boardby: [Signature]
Deputy

SOURCE OF FUNDING

Source of Funding is Current Planning Trust. The applicant has paid a deposit for costs associated with processing the application. The applicant is responsible for paying all fees for services rendered.

DISCUSSION*Summary*

The matter for consideration by the Board is approval of a concurrent Zone Reclassification to remove and then restore the "X" (no further subdivision) combining zone. The ZR will facilitate a subdivision of the property into Parcels 1 and 2 of approximately 0.28 and 3.62 acres, respectively. The subdivision will allow placement of existing homes and accessory structures onto separate parcels, thereby maintaining established uses consistent with the Plan and preserving existing housing stock.

Findings and Analysis

Section 312-50 of the Humboldt County Code (H.C.C.) specifies the findings that must be made in order to approve a Zone Reclassification. The required findings are as follows:

1. The proposed change is in the public interest; and
2. That the proposed change is consistent with the General Plan.

Finally, the California Environmental Quality Act (CEQA) states that one of the following findings must be made prior to approval of any development which is subject to the regulations of CEQA:

3. a) The project either is categorically or statutorily exempt; or
 - b) There is no substantial evidence that the project will have a significant effect on the environment or any potential impacts have been mitigated to a level of insignificance and a negative declaration has been prepared pursuant to Section 15070 of the CEQA Guidelines; or
 - c) An environmental impact report (EIR) has been prepared and all significant environmental effects have been eliminated or mitigated to a level of insignificance, or the required findings in Section 15091 of the CEQA Guidelines are made.

These findings may be made based on the following analysis.

Discussion

The property is in the Ferndale area, at the intersection of Port Kenyon Road with Market Street. The property is planned Residential Low Density by the Eel River Area Plan (ERAP) and zoned Residential Single Family. The property is constrained by a design floodway that bisects the property and by the X combining zone which restricts further subdivision.

The property is underlain by a portion of the antiquated subdivision map of the Town of Arlynda. However, based on a 2003 Appellate Court decision, the County cannot recognize a record map that predates the 1893 State Subdivision Map Act as a map of subdivision. Consequently, lots that may appear on this record map within the Ambrosini ownership are not separate and may not be developed or conveyed without compliance with current subdivision requirements.

In 1982, some 20 years before this court decision, the record map and the development pattern of the lots were considered when the Local Coastal Plan land use and zoning were first adopted. A clear reflection of this fact is that the ERAP describes the Arlynda Corners Urban Area as containing urban size lots and notes that 22 of the 28 parcels are currently developed. The ERAP recognized that this area was impacted by flood hazards and that securing new connections from the City of Ferndale to serve the remaining vacant parcels was unlikely.

The "X" combining zone was placed on residential lands in recognition of these limitations to maintain the status quo. Policies for Arlynda Corners in the ERAP ensured that no further subdivision beyond the recognized lots would be permitted and that vacant lots must obtain services from the City before development was allowed.

Planning staff believes that, in recognition of the foregoing, the proposal to subdivide and separate the two existing homes onto parcel sizes similar to those in the neighborhood appears consistent with the original intent of the Plan. The subdivision maintains the established uses consistent with the Plan and preserves existing housing stock. When viewed in the light of the court decision, the subdivision is consistent with the Subdivision Map Act and with Plan policies. The subdivision, in concert with the removal and restoration of the "X" combining zone, is consistent with zoning standards.

The concurrent rezoning to lift and then restore the "X" combining zone would facilitate the subdivision. By limiting the subdivision to accommodate only the two existing home sites, the project can satisfy the competing public interests to preserve existing housing stock and protect the public from hazards such as flooding.

Further, the amendment to the implementing zoning maps may be approved where the California Coastal Commission finds, upon submittal by the County, that the amendment meets the requirements of, and is in conformity with, the Coastal Act, and that the implementing ordinances are in conformity with and carry out the provisions of the certified ERAP. Project approval is conditioned accordingly.

The rezone is statutorily exempt per Section 15061(b)(3). The subdivision places the existing residences onto separate parcels, and no new development is proposed. The project is consistent with the intent of the Plan, and the project maintains the status quo.

Planning staff believes all of the required findings for the project can be made and supports the Planning Commission's recommendation.

FINANCIAL IMPACT

The applicant has paid for all costs incurred in processing the project.

OTHER AGENCY INVOLVEMENT

The project was circulated to various local agencies for comments and recommendations. Staff included all recommendations as conditions of approval.

ALTERNATIVE TO STAFF RECOMMENDATIONS

The Board may choose not to approve the project. Staff does not recommend this alternative. Staff believes that satisfactory evidence has been provided in the project record to support making the requisite County findings.

ATTACHMENTS

NOTE: The attachments supporting this report have been provided to the Board of Supervisors; copies are available for review in the Clerk of the Board's Office.

Attachment A:	Ordinance, Exhibit A (map), Exhibit B (legal description)
Attachment B:	Summary of Ordinance, Map for publication (see Exhibit A)
Attachment C:	Planning Commission Resolution No. 05-78 and Certified Copy of Portion of Proceedings
Attachment D:	Planning Commission Staff Report of October 6, 2005

397

ORDINANCE NO. 2355

**AMENDING SECTION 311-7 OF THE HUMBOLDT COUNTY CODE
BY REZONING PROPERTY IN THE FERNDALE AREA
[ZR-04-11 (Ambrosini)]**

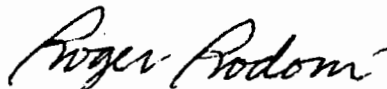
The Board of Supervisors of the County of Humboldt ordains as follows:

SECTION 1. ZONE AMENDMENT. Section 311-7 of the Humboldt County Code is hereby amended by concurrently rezoning to remove and then restore the "X" (no further subdivision) combining zone for an approximate four acres in the Port Kenyon Road/Market Street area of Ferndale in order to facilitate a two-parcel subdivision (PMS-04-35). The current and proposed zone for the property is Residential Single Family with a No-Further-Subdivision, Manufactured Home and Flood Hazard Area combining zones (RS-X-M/F). The area described in Exhibit B is also shown on Humboldt County zoning map for the Eel River Area Plan and on the map attached as Exhibit A.

SECTION 2. EFFECTIVE DATE. This ordinance shall become effective thirty (30) days after the date of its passage.

PASSED, APPROVED AND ADOPTED this sixth (6th) day of December 2005 on the following to wit:

AYES: Supervisors Smith, Rodoni, Woolley, Neely, and Geist
NOES: None
ABSENT: None



Chairperson of the Board of Supervisors of the
County of Humboldt, State of California

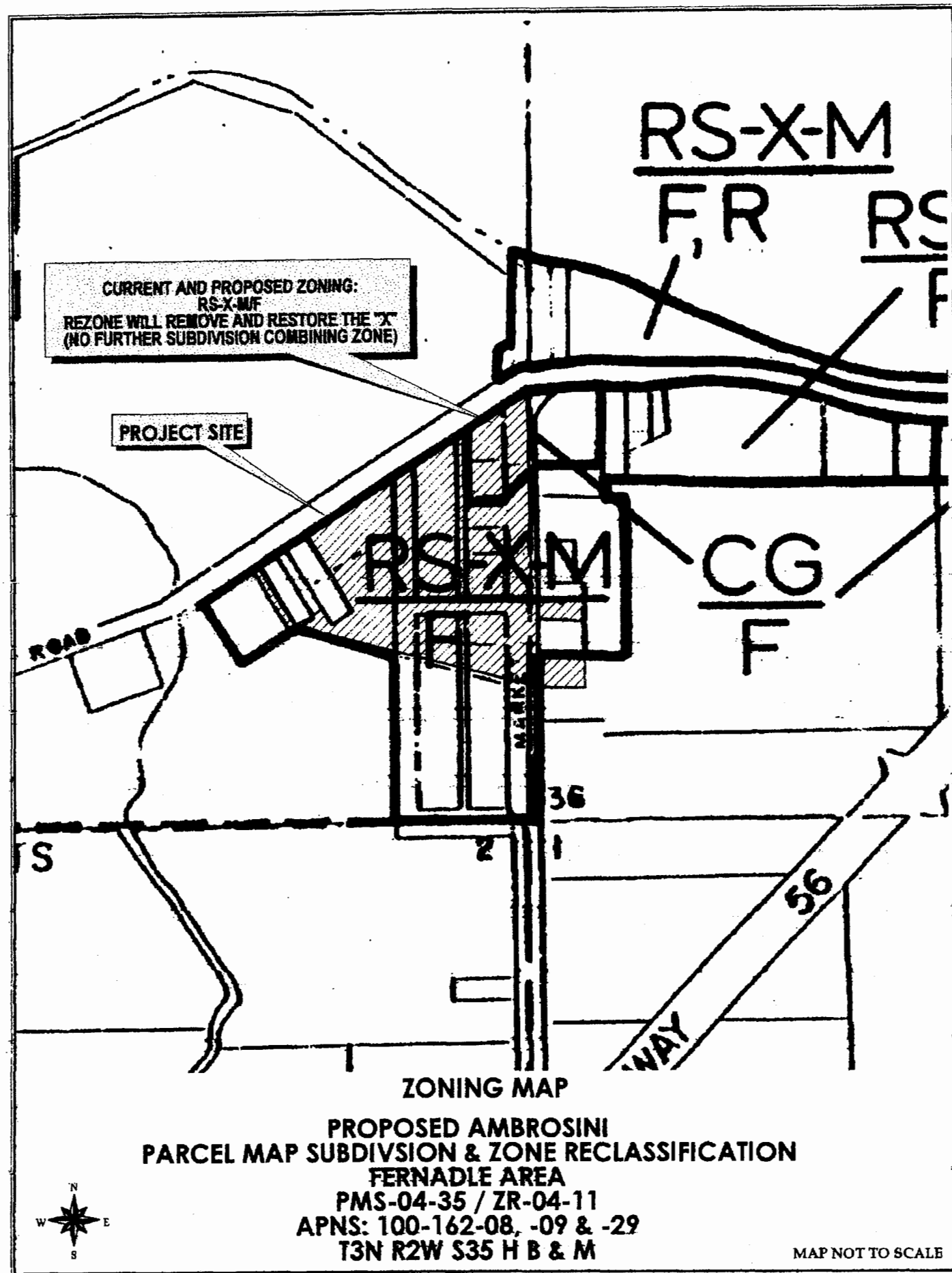
ATTEST:



LORA CANZONERI

Clerk of the Board of Supervisors of the
County of Humboldt, State of California

(I-3)



LEGAL DESCRIPTION

Real property in the unincorporated area of the County of Humboldt, State of California, described as follows:

That portion of the Southeast Quarter of the Southeast Quarter of Section 35, Township 3 North, Range 2 West, Humboldt Meridian and of Lots A, C, D, E and F of Block One of Arlynda, of Lots 9, 10, 11, 12, 13 and 14 of Block Two of Arlynda, and Lots 2, 3, 14, 15 and 16 of Block Three of Arlynda and of the streets and alleys within the exterior boundaries of the following description, as shown on the Map of Arlynda recorded in Book 1, Page 45 of Maps and official copy thereof recorded in Book 6, Page 21 of Maps, in the Office of the County Recorder of said County, described as a whole as follows:

BEGINNING at a point on the Westerly line of Market Street (now the State Highway from Fernbridge to Ferndale), as shown on said Map of Arlynda, distant Northerly thereon 345 feet from the South line of said Section, said point being the Northeast corner of a parcel of land described in Deed from Robert H. Smith and wife to Joe E. Silva and wife recorded January 25, 1940 in Book 245, Page 52 of Deeds, in the Office of the county Recorder of said County; thence North 75 degrees 36 minutes West along the Northeasterly line of land described in said Deed 573 feet to the Southeasterly line of said Lot A; thence Southwesterly along said last mentioned line 18 feet, more or less, to the most Easterly corner of a parcel of land described in Deed from Robert H. Smith and wife to Joe S. Sousa and wife, recorded January 5, 1938 in Book 232, Page 229 of Deeds in the Office of the County Recorder of said County; thence Northwesterly along the Northeasterly line of land described in said last mentioned Deed 200 feet, more or less, to the Northwesterly line of said Lot A; thence Northeasterly along said last mentioned line 20 feet, more or less, to the most Westerly corner of a parcel of land described in Deed from Robert H. Smith and wife to Milton Antonsen and wife recorded July 6, 1944, in Book 267 of Deeds, Page 446, in the Office of the County Recorder of said county; thence Southeasterly along the Southwesterly line of land described in said last mentioned Deed 200 feet, more or less, to the Southeasterly line of said Lot A; thence Northeasterly along the Southeasterly line of said Lot A, 40 feet to the most Easterly corner thereof; thence Northwesterly along the Northeasterly line of said Lot A, 200 feet, more or less, to the most Northerly corner of said Lot A; thence Northeasterly along the Southeasterly line of the County Road to Port Kenyon 20 feet, more or less, to the most Westerly corner of Lot B, Block One, of Arlynda; thence Southeasterly along the Southwesterly line of said Lot B, and the Southeasterly prolongation thereof, 220 feet to the most Southerly corner of a parcel of land described as Parcel Two in Deed from Robert H. Smith, et al, to Katie A. Staples, recorded March 15, 1926 in Book 176, Page 476 of Deeds, in the Office of the County Recorder of said County; thence Northeasterly at right angles along the Southeasterly line of said Parcel Two, 60 feet to the most Easterly corner of said Parcel Two; thence Northwesterly at right angles along the Northeasterly line of said Parcel Two and the Northeasterly line of said Lot B, 220 feet to the Southeasterly line of said County Road to Port Kenyon; thence Northeasterly along said last mentioned line 500 feet, more or less, to the Northwest corner of Lot 1, Block Two of Arlynda; thence South along the East line of the alley running North and South through the center of said Block Two, 305 feet, more or less, to the Northwest corner of Lot 7 of said Block Two;

thence Easterly along the Northerly line of said Lot 7, 110 feet to the West line of said Market Street, as shown on said Map of Arlynda;
thence Southerly along said last mentioned line 163 feet to the Northeast corner of the parcel of land described in Deed from Robert H. Smith, et al, to George Clark Varian, recorded November 6, 1931, in Book 200, Page 470 of Deeds, in the Office of the County Recorder of said County;
thence West along the North line of land described in said last mentioned Deed, 110 feet to the Northwest corner thereof;
thence South along the West line of said last described property, 80 feet to the Southwest corner thereof;
thence East along the South line of said Varian property, 110 feet to the West line of said Market Street;
thence South along said last mentioned line, 95 feet, more or less, to the point of beginning.

EXCEPTING THEREFROM those portions therefore conveyed to Francis L. Hawkins, Jr. and Victoria L. Hawkins, husband and wife, as joint tenants, by Deed recorded March 29, 1977, Book 1404, Page 101 of the Official Records in the Office of the County Recorder of Humboldt County.

EXCEPTING THEREFROM those portions thereof conveyed to Donald W. Richardson and Dianne Richardson, husband and wife, as joint tenants, by Deed recorded October 5, 1982, in Book 1682, Page 1079 of the Official Records in the Office of the County Recorder of Humboldt County.