

CALIFORNIA COASTAL COMMISSION

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DATE: April 24, 2020

TO: Coastal Commissioners and Interested Persons

FROM: John Ainsworth, Executive Director
Alison Dettmer, Deputy Director
Robert S. Merrill, North Coast District Manager
Cristin Kenyon, Supervising Analyst

**SUBJECT: De Minimis Amendment Determination for City of Eureka LCP
Amendment No. LCP-1-EUR-20-0009-1, PART A (Qualified Combining
District)
For the Commission meeting of May 13, 2020**

**IMPORTANT! PLEASE NOTE THAT THE MAY COMMISSION MEETING
WILL BE A VIRTUAL MEETING.**

As a result of the COVID-19 emergency and the Governor's Executive Orders N-29-20 and N-33-20, this Coastal Commission meeting will occur virtually through video and teleconference. Please see the Coastal Commission's Virtual Hearing Procedures posted on the Coastal Commission's webpage at www.coastal.ca.gov for details on the procedures of this hearing. If you would like to receive a paper copy of the Coastal Commission's Virtual Hearing Procedures, please call 415-904-5202.

EUREKA'S PROPOSED AMENDMENT

The City of Eureka proposes to amend the Implementation Plan (IP) portion of the City's certified Local Coastal Program (LCP) to add a Qualified (Q) Combining District. The proposed Q Combining District is intended to be combined with any base zone to apply site-specific limitations on the types of development allowed, and the conditions under which projects may be developed and operated. Under the proposed Q Combining District, principal uses of the base zone can be made conditional uses, principal or conditional uses can be disallowed, and additional standards or limitations can be placed on allowable uses. The proposed combining district cannot be used to expand what is allowed by the existing certified base zoning districts (e.g., the combining district cannot be used to add allowable uses, make conditional uses principal uses, or make development standards more lenient).

An application for combining a base district with a Q Combining District at a specific site would be required to include, among other application materials, draft language of the special qualification to the base zone, and a discussion of the site-specific need for the special qualification. The allowed uses or limitations for each property zoned with a Q Combining District would be specified in the ordinance applying the Q Combining District to the specific property. Once a zoning reclassification adding the combining district to a property is approved by the City Council and certified by the Coastal Commission, all regulations for the base district would apply except as specified in the ordinance applying the Q Combining District to the specific property.

DE MINIMIS LCP AMENDMENT DETERMINATION

Pursuant to Coastal Act Section 30514(d), the Executive Director of the Coastal Commission may determine that a proposed LCP amendment is “de minimis.” In order to qualify as a de minimis amendment, the amendment must meet the following three criteria:

1. The Executive Director determines that the proposed amendment would have no impact either individually or cumulatively, on coastal resources, and that it is consistent with the policies of Chapter 3;
2. The local government provides public notice of the proposed amendment at least 21 days prior to submitting the amendment to the Commission, by one of the following methods: posting on-site and offsite in the affected area, newspaper publication, or direct mailing to owners and occupants of contiguous property; and
3. The amendment does not propose any change in use of land or water or allowable use of property.

If the Executive Director determines that an amendment is de minimis, that determination must be reported to the Commission. If three or more commissioners object to the de minimis determination, the amendment shall be set for public hearing. If three or more commissioners do not object to the de minimis determination, the amendment will be deemed approved, and will become part of the certified LCP 10 days after the date of the Commission meeting (in this case, the effective date would be May 23, 2020).

The purpose of this notice is to advise interested parties of the Executive Director’s determination that the proposed LCP amendment is de minimis. Each of the de minimis criteria is discussed briefly below:

- 1. No impact to coastal resources and consistency with Coastal Act Chapter 3**
No change in the land use designation or zoning district of any land within the City is proposed by this IP amendment. The proposed amendment merely establishes the process whereby a Q Combining District could be applied to a property; the ordinance does not actually apply the Q District to any site.

The proposed Q District provides a new tool for addressing site-specific coastal resource issues and hazard constraints by allowing restrictions to be imposed on the

future use of a property through a zoning district reclassification process. The proposed combining district only allows for the imposition of tighter restrictions and cannot be used to expand what is allowed by the existing certified base zoning districts. Therefore, the proposed amendment will not have an impact either individually or cumulatively on coastal resources and is consistent with the policies of Chapter 3 of the Coastal Act.

2. Provision of public notice

Newspaper publication notice was printed in the Eureka Times Standard on November 3, 2019 for the Planning Commission hearing (held on November 13, 2020) and on December 27, 2019 for the City Council hearing (held on January 7, 2020). The amendment was subsequently received by Commission staff on February 3, 2020, thus satisfying the 21-day noticing requirement under Coastal Act §30514(d)(1)(A).

3. No change in use of land or allowable use of property

The amendment adds a combining district to the City's IP, but does not apply the combining district to any property. Thus the amendment itself does not result in a change in use of land or allowable use of property.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Though no specific environmental review document or notice of exemption was adopted by the City, the Commission's review process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. This report has discussed the relevant coastal resource issues of the proposal and has concluded that the proposed LCP amendment is not expected to result in any significant adverse impact on the environment. Thus, it is unnecessary for the Commission to suggest modifications to the proposed amendment to address adverse environmental impacts, because the proposed amendment, as submitted, will not result in any significant environmental effects for which feasible mitigation measures would be required.

DEADLINE FOR COMMISSION ACTION

On February 3, 2020, the City of Eureka transmitted LCP Amendment Application No. LCP-1-EUR-20-0009-1 to the Commission consisting of three parts: (1) Part A (the subject of this staff report) proposes to amend the IP to add a Q Combining District; (2) Part B proposes to amend the IP to increase the maximum building height within the CS Zoning District from 35 feet to 55 feet; and (3) Part C proposes to amend the certified IP zoning map and LUP land use map to change the land use designation and zoning on a single parcel in South Eureka (APN 019-271-04). The subject amendment is not yet filed as complete; however, for LCP amendments with multiple components, 14 CCR §13518 allows the Executive Director to combine or separate individual components as necessary to facilitate the Commission's review of the submittal. The Executive Director has chosen to separate out the Part A (Q Combining District) portion from the broader amendment for review at the May 2020 Commission hearing. Because the entire LCP Amendment No. LCP-1-EUR-20-0009-1 has not yet been filed as complete, there is currently no deadline for Commission action.

SUBMITTAL OF COMMENTS

The Executive Director will report this de minimis LCP amendment determination, and any comments received on it, to the Commission at its May 13, 2020 virtual meeting. Please make sure that you send a copy of all correspondence electronically to NorthCoast@coastal.ca.gov. Written correspondence may also be mailed to the Commission at the letterhead address. Written comments on the proposed de minimis amendment determination should be submitted by May 8, 2020 to ensure they can be transmitted to the Commission meeting.

For questions and additional information about the LCP amendment, please contact Robert Merrill in the North Coast District Office at Bob.Merrill@coastal.ca.gov.

EXHIBITS

EXHIBIT 1 – REGIONAL LOCATION

EXHIBIT 2 – RESOLUTION OF TRANSMITTAL OF IP AMENDMENT

EXHIBIT 3 – ORDINANCE OF ADOPTION OF IP AMENDMENT