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**1-90-113-A2**

**(BRENNAN)**

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## **EXHIBITS**

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## **APPENDIX A**

### **SUBSTANTIVE FILE DOCUMENTS**

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CDP Amendment Application File No. 1-90-113-A2

CDP Amendment Application File No. 1-90-113-A1

CDP Application File No. 1-90-113

County of Mendocino Certified LCP

## **APPENDIX B**

### **RELEVANT POLICIES AND STANDARDS FROM THE MENDOCINO COUNTY LCP**

(Organized by Coastal Resource Policy Issue)

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#### **Visual Resources Policies and Standards**

##### **(emphasis added)**

Section 30251 of the Coastal Act is incorporated into the certified LCP as Land Use Plan (LUP) policy 3.5-1 and states in applicable part the following:

...The scenic and visual qualities of Mendocino County coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas designated by the County of Mendocino Coastal Element shall be subordinate to the character of its setting.

LUP policy 3.5-3 states in applicable part:

The visual resource areas listed below are those which have been identified on the land use maps and shall be designated as "highly scenic areas," within which new development shall be subordinate to the character of its setting. Any development permitted in these areas shall provide for the protection of ocean and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.

- The entire coastal zone from the Ten Mile River estuary (including its wooded slopes, wetlands, dunes, and ocean vistas visible from Highway 1) north to the Hardy Creek Bridge,...

In addition to other visual policy requirements, new development west of Highway one in designated "highly scenic areas" is limited to one-story (above natural grade) unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. Variances from this standard may be allowed for planned unit development that provides clustering and other forms of meaningful visual mitigation. New development should be subordinate to natural setting and minimize reflective surfaces. All proposed divisions of land and boundary line adjustments within "highly scenic areas" will be analyzed for

consistency of potential future development with visual resource policies and shall not be allowed if development of resulting parcel(s) could not be consistent with visual policies.

LUP policy 3.5-4 states in applicable part:

Buildings and building groups that must be sited within the highly scenic area shall be sited near the toe of a slope, below rather than on a ridge, or in or near the edge of a wooded area. Except for farm buildings, development in the middle of large open areas shall be avoided if an alternative site exists...

...Minimize visual impacts of development on terraces by (1) avoiding development in large open areas if alternative site exists; (2) minimize the number of structures and cluster them near existing vegetation, natural landforms, or artificial berms; (3) provide bluff setbacks for development adjacent to or near public areas along the shoreline; (4) design development to be in scale with rural character of the area... Nothing in this policy shall preclude the development of a legally existing parcel.

Coastal Zoning Code (CZC) Chapter 20.504 (Visual Resource and Special Treatment Areas) sec. 20.504.015 (Highly Scenic Areas) mirrors many of the policies cited above and states in applicable part:

(A) The visual resource areas listed below are those which have been designated highly scenic and in which development shall be subordinate to the character of its setting:

(1) The entire Coastal Zone from the Ten Mile River estuary (including its wooded slopes, wetlands, dunes and ocean vistas visible from Highway 1) north to the Hardy Creek Bridge,...

...

(C) Development Criteria.

(1) Any development permitted in highly scenic areas shall provide for the protection of coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.

(2) In highly scenic areas west of Highway 1 as identified on the Coastal Element land use plan maps, new development shall be limited to eighteen (18) feet above natural grade, unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures.

(3) New development shall be subordinate to the natural setting and minimize reflective surfaces. In highly scenic areas, building materials including siding and roof materials shall be selected to blend in hue and brightness with their surroundings.

...

- (5) Buildings and building groups that must be sited in highly scenic areas shall be sited: (a) Near the toe of a slope; (b) Below rather than on a ridge; and (c) In or near a wooded area

...

- (7) Minimize visual impacts of development on terraces by the following criteria: (a) avoiding development, other than farm buildings, in large open areas if alternative site exists; (b) minimize the number of structures and cluster them near existing vegetation, natural landforms, or artificial berms; (c) Provide bluff setbacks for development adjacent to or near public areas along the shoreline; and (d) design development to be in scale with rural character of the area.

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### **ESHA Policies and Standards (emphasis added)**

LUP policy 3.1-7 states in applicable part:

A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from significant degradation resulting from future developments. The width of the buffer area shall be a minimum of 100 feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning Staff, that 100 feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the environmentally sensitive habitat areas and shall not be less than 50 feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent environmentally sensitive habitat area and must comply at a minimum with each of the following standards:

1. It shall be sited and designed to prevent impacts which would significantly degrade such areas;
2. It shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity; and
3. Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian vegetation, shall be required to replace the

protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution.”

LUP policy 3.1-10 states in applicable part:

Areas where riparian vegetation exists, such as riparian corridors, are environmentally sensitive habitat areas and development within such areas shall be limited to only those uses which are dependent on the riparian resources. All such areas shall be protected against any significant disruption of habitat values by requiring mitigation for those uses which are permitted. No structure or development, including dredging, filling, vegetation removal and grading, which could degrade the riparian area or diminish its value as a natural resource shall be permitted in the Riparian Corridor except for:

- Channelizations, dams, or other substantial alterations of rivers and streams as permitted in Policy 3.1-9;
- pipelines, utility lines and road crossings, when no less environmentally damaging alternative route is feasible;
- existing agricultural operations;
- removal of trees for disease control, public safety purposes, or for firewood for the personal use of the property owner at his or her residence. Such activities shall be subject to restrictions to protect the habitat values.”

Section 20.496.010 of the Coastal Zoning Code (CZC) states in applicable part:

The purpose of this Chapter is to ensure that environmentally sensitive habitat and other designated resource areas listed on Pages 39, 40 and 41 of the Coastal Element dated November 5, 1985, which constitute significant public resources are protected for both the wildlife inhabiting them as well as the enjoyment of present and future populations.

Environmentally Sensitive Habitat Areas (ESHA's) include: anadromous fish streams, sand dunes, rookeries and marine mammal haul-out areas, wetlands, riparian areas, areas of pygmy vegetation which contain species of rare or endangered plants and habitats of rare and endangered plants and animals.”

CZC sec. 20.496.015 (ESHA – Development Application Procedures) states in applicable part:

- (A) **Determining Extent of ESHA.** The Coastal Permit Administrator shall review, with the assistance of land use maps, all permit applications for coastal developments to determine whether the project has the potential to impact an ESHA. A project has the potential to impact an ESHA if

- (1) The development is proposed to be located on a parcel or proximate to a parcel identified on the land use plan map with a rare and/or endangered species symbol;
- (2) The development is proposed to be located within an ESHA, according to an on-site investigation, or documented resource information;
- (3) The development is proposed to be located within one hundred (100) feet of an environmentally sensitive habitat and/or has potential to negatively impact the long-term maintenance of the habitat, as determined through the project review.

Development proposals in ESHA's including but not limited to those shown on the coastal land use maps, or which have the potential to impact an ESHA, shall be subject to a biological survey, prepared by a qualified biologist, to determine the extent of the sensitive resource, to document potential negative impacts, and to recommend appropriate mitigation measures. The biological survey shall be submitted for the review and approval of the Coastal Permit Administrator prior to a determination that the project application is complete. The biological survey shall be prepared as described in Section 20.532.060, 'Environmental Sensitive Habitat Area – Supplemental Application Procedures.'

CZC sec. 20.496.020 (ESHA Development Criteria) states in applicable part:

- (A) **Buffer areas.** A buffer shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from degradation resulting from future developments and shall be compatible with the continuance of such habitat areas.
  - (1) **Width.** The width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation with the California Department of Fish and Game, and County Planning staff, that one hundred feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width....

Standards for determining the appropriate width of the buffer area are as follows:

- (a) **Biological Significance of Adjacent Lands.** Lands adjacent to a wetland, stream, or riparian habitat area vary in the degree to which they are functionally related to these habitat areas. Functional relationships may exist if species associated with such areas spend a significant portion of

their life cycle on adjacent lands. The degree of significance depends upon the habitat requirements of the species in the habitat area (e.g., nesting, feeding, breeding, or resting).

Where a significant functional relationship exists, the land supporting this relationship shall also be considered to be part of the ESHA, and the buffer zone shall be measured from the edge of these lands and be sufficiently wide to protect these functional relationships. Where no significant functional relationships exist, the buffer shall be measured from the edge of the wetland, stream, or riparian habitat that is adjacent to the proposed development.

- (b) **Sensitivity of Species to Disturbance.** The width of the buffer zone shall be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development. Such a determination shall be based on the following after consultation with the Department of Fish and Game or others with similar expertise:
  - (i) Nesting, feeding, breeding, resting, or other habitat requirements of both resident and migratory fish and wildlife species;
  - (ii) An assessment of the short-term and long-term adaptability of various species to human disturbance;
  - (iii) An assessment of the impact and activity levels of the proposed development on the resource.
- (c) **Susceptibility of Parcel to Erosion.** The width of the buffer zone shall be based, in part, on an assessment of the slope, soils, impervious surface coverage, runoff characteristics, and vegetative cover of the parcel and to what degree the development will change the potential for erosion. A sufficient buffer to allow for the interception of any additional material eroded as a result of the proposed development should be provided.
- (d) **Use of Natural Topographic Features to Locate Development.** Hills and bluffs adjacent to ESHA's shall be used, where feasible, to buffer habitat areas. Where otherwise permitted, development should be located on the sides of hills away from ESHA's. Similarly, bluff faces should not be developed, but shall be included in the buffer zone.
- (e) **Use of Existing Cultural Features to Locate Buffer Zones.** Cultural features (e.g., roads and dikes) shall be

used, where feasible, to buffer habitat areas. Where feasible, development shall be located on the side of roads, dikes, irrigation canals, flood control channels, etc., away from the ESHA.

- (f) **Lot Configuration and Location of Existing Development.** Where an existing subdivision or other development is largely built-out and the buildings are a uniform distance from a habitat area, at least that same distance shall be required as a buffer zone for any new development permitted. However, if that distance is less than one hundred (100) feet, additional mitigation measures (e.g., planting of native vegetation) shall be provided to ensure additional protection. Where development is proposed in an area that is largely undeveloped, the widest and most protective buffer zone feasible shall be required.
- (g) **Type and Scale of Development Proposed.** The type and scale of the proposed development will, to a large degree, determine the size of the buffer zone necessary to protect the ESHA. Such evaluations shall be made on a case-by-case basis depending upon the resources involved, the degree to which adjacent lands are already developed, and the type of development already existing in the area.
- (2) **Configuration.** The buffer area shall be measured from the nearest outside edge of the ESHA (e.g., for a wetland from the landward edge of the wetland; for a stream from the landward edge of riparian vegetation or the top of the bluff).
- (3) **Land Division.** New Subdivisions or boundary line adjustments shall not be allowed which will create or provide for new parcels entirely within a buffer area.
- (4) **Permitted Development.** Development permitted within the buffer area shall comply at a minimum with the following standards:
  - (a) Development shall be compatible with the continuance of the adjacent habitat area by maintaining the functional capacity, their ability to be self-sustaining and maintain natural species diversity.
  - (b) Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel.
  - (c) Development shall be sited and designed to prevent impacts which would degrade adjacent habitat areas...

- (d) Development shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity.
- (e) Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian vegetation, shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution...

CZC sec. 20.496.035 (Riparian Corridors and other Riparian Resource Areas) states in applicable part:

- (A) No development or activity which could degrade the riparian area or diminish its value as a natural resource shall be permitted in the riparian corridor or in any area of riparian vegetation except for the following:
    - (1) Channelizations, dams or other alterations of rivers and streams as permitted in Section 20.496.030(C);
    - (2) Pipelines, utility lines and road and trail crossings when no less environmentally damaging alternative route is feasible;
    - (3) Existing agricultural operations;
    - (4) Removal of trees for disease control, public safety purposes or personal use for firewood by property owner.
  - (B) Requirements for development in riparian habitat areas are as follows:
    - (1) The development shall not significantly disrupt the habitat the habitat area and shall minimize potential development impacts or changes to natural stream flow such as increased runoff, sedimentation, biochemical degradation, increased stream temperatures and loss of shade created by development;
    - (2) No other feasible, less environmentally sensitive alternative exists;
    - (3) Mitigation measures have been incorporated into the project to minimize adverse impacts upon the habitat;
    - (4) Where development activities caused the disruption or removal of riparian vegetation, replanting with appropriate native plants shall be required at a minimum ratio of one to one (1:1) and replaced if the survival rate is less than seventy-five (75) percent.”
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## **Hazards Policies and Standards** **(emphasis added)**

LUP policy 3.4-1 [and similar standards in CZC sec. 20.500.015] require the following:

The County shall review all applications for Coastal Development permits to determine threats from and impacts on geologic hazards arising from seismic events, tsunami runup, landslides, beach erosion, expansive soils and subsidence and shall require appropriate mitigation measures to minimize such threats. In areas of known or potential geologic hazards, such as shoreline and bluff top lots and areas delineated on the hazards maps the County shall require a geologic investigation and report, prior to development, to be prepared by a licensed engineering geologist or registered civil engineer with expertise in soils analysis to determine if mitigation measures could stabilize the site. Where mitigation measures are determined to be necessary, by the geologist, or registered civil engineer the County shall require that the foundation construction and earthwork be supervised and certified by a licensed engineering geologist, or a registered civil engineer with soil analysis expertise to ensure that the mitigation measures are properly incorporated into the development.

LUP policy 3.4-7 [and similar standards in CZC sec. 20.500.020(B)] require the following:

The County shall require that new structures be set back a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (75 years). Setbacks shall be of sufficient distance to eliminate the need for shoreline protective works. Adequate setback distances will be determined from information derived from the required geologic investigation and from the following setback formula:

Setback (meters) = Structure life (years) x Retreat rate (meters/year)

The retreat rate shall be determined from historical observation (e.g., aerial photographs) and/or from a complete geotechnical investigation...

CZC sec. 20.500.010 states that development shall:

- (1) Minimize risk to life and property in areas of high geologic, flood and fire hazard;
- (2) Assure structural integrity and stability; and
- (3) Neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs

**Archaeological Resources Policies and Standards**  
**(emphasis added)**

LUP policy 3.5-10 states in applicable part:

The County shall review all development permits to ensure that proposed projects will not adversely affect existing archaeological and paleontological resources. Prior to approval of any proposed development within an area of known or probable archaeological or paleontological significance, a limited field survey by a qualified professional shall be required at the applicant's expense to determine the extent of the resource. Results of the field survey shall be transmitted to the State Historical Preservation Officer and Cultural Resource Facility at Sonoma State University for comment. The County shall review all coastal development permits to ensure that proposed projects incorporate reasonable mitigation measures so the development will not adversely affect existing archaeological/paleontological resources. Development in these areas are subject to any additional requirements of the Mendocino County Archaeological Ordinance.

CZC sec. 20.532.095 states in applicable part:

(A) The granting or modification of any coastal development permit by the approving authority shall be supported by findings which establish that:

- (1) The proposed development is in conformity with the certified local coastal program; and
- (2) The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and
- (3) The proposed development is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of this Division and preserves the integrity of the zoning district; and
- (4) The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.
- (5) The proposed development will not have any adverse impacts on any known archaeological or paleontological resource.
- (6) Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.

...