Appendix 4.

California Coastal Commission Adopted Categorical Exclusion Order E-96-1 November 14, 1996

and

California Coastal Act, Chapter 7, Development Controls Article 1 Section 30610

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STATE OF CALIFORNIA—THE RESOURCES AGENCY PETE WILSON, *Governor*

CALIFORNIA COASTAL COMMISSION
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November 12, 1996

TO: Commissioners and Interested Parties

FROM: Peter Douglas, Executive Director
Steven Scholl, Deputy Director
Jo Ginsberg, North Coast District Manager

SUBJECT: Addendum to Proposed **Categorical Exclusion Order No. E-96-1 for County of Mendocino, Town Segment**
(For Commission consideration at the meeting of November 14, 1996 in San Diego)

Following discussion with the Mendocino County Planning Director, Commission staff is making some minor revisions to the recommended conditions of Mendocino County Town Categorical Exclusion Order No. E-96-1. The changes primarily affect proposed Condition No. 1, which requires the County to submit revised categorical exclusion order maps for review and approval prior to the order becoming effective. The changes allow the County to display certain limitations on the areas where the exclusion order applies as map notes rather than as mapped boundaries. The changes will speed revision of the map and implementation of the order while still providing sufficient clarity for those interpreting the revised map to understand the limitations of the categorical exclusion order. In addition, to be clearer about the contents of the proposed order, staff has integrated the categories of development proposed by the County to be covered by the exclusion order with the recommended conditions, as revised, into one final document that comprises the proposed Categorical Exclusion Order. The proposed order is attached.

If the Commission adopts the proposed categorical exclusion order, the County will need to make the necessary map revisions and adopt a resolution accepting the order. Once the County adopts such a resolution, the Executive Director will determine whether the resolution and revised map are legally adequate and report his determination to the Commission for its consideration at a subsequent meeting. By that time, Commission staff will also prepare revised findings for the Commission to review and approve to reflect the changes to the order. Once the Commission concurs with the Executive Director's determination of adequacy, and the requisite notice has been filed with the Secretary of Resources, the categorical exclusion order will become effective.

COUNTY OF MENDOCINO
TOWN OF MENDOCINO
CATEGORICAL EXCLUSION ORDER NO. E-96-1

A. CATEGORY OF EXCLUDED DEVELOPMENT.

The Commission by a two-thirds vote of its appointed members hereby adopts an order, pursuant to Public Resources Code Section 30610(e) and 30610.5(b), which excludes the following categories of development in the designated areas of the coastal zone of the Town of Mendocino (Mendocino County) from the permit requirements of the California Coastal Act of 1976. However, no development located on tidelands or submerged lands, beaches, lots immediately adjacent to the inland extent of any beach, or the mean high tide line of the sea where there is no beach and all land and water subject or potentially subject to the public trust is excluded by this order. The Commission hereby orders that the following developments within the excludable areas shall not require a coastal development permit:

SINGLE-FAMILY RESIDENCES

A. The construction of a single-family residence will be excluded from coastal development permit requirements in Historic Zone A where:

   1. a single-family residence is a principal permitted use; and

   2. the Mendocino City Community Services District has granted a groundwater extraction permit or an exemption to groundwater extraction permit requirements for the residence; and

   3. the single-family residence will be the only residence to be located on a legally created parcel; and

   4. the Mendocino Historical Review Board has approved the residence; and

   5. the residence will not be located within 100 feet of an environmentally sensitive habitat area.

B. Improvements to a single-family residence, in locations not otherwise exempted from requiring a coastal development permit under Section 13250 of the California Code of Regulations, will be excluded from coastal development permit requirements in Historic Zone A where:

   1. a single-family residence is a principal permitted use; and

   2. the Mendocino City Community Services District has granted a groundwater extraction permit or an exemption to groundwater extraction permit requirements for the improvements; and

3. the improvements would be made to a legal, conforming single-family residence; and

4. the Mendocino Historical Review Board has approved the improvements, or the improvements are exempt from Review Board approval; and

5. the improvements will not be located within 100 feet of an environmentally sensitive area.

C. The construction of a single-family residence will be excluded from coastal development permit requirements in mapped exclusion areas of Historic Zone B where:

1. a single-family residence is a principal permitted use; and

2. the Mendocino City Community Services District has granted a groundwater extraction permit or an exemption to groundwater extraction permit requirements for the residence; and

3. the single-family residence will be the only residence to be located on a legally created parcel; and

4. the residence will not be located within 100 feet of an environmentally sensitive habitat area; and

5. the improvements will not be located on an area that contains pygmy vegetation.

D. Where a parcel contains only one single-family residence, a coastal development permit shall not be required for the removal of the existing residence and replacement with a new residence where:

1. a single-family residence is a principal permitted use; and

2. the parcel is in Historic Zone A, or in a mapped single-family residence exclusion area; and

3. the Mendocino City Community Services District has granted a groundwater extraction permit or an exemption to groundwater extraction permit requirements for the replacement residence; and

4. the Mendocino Historical Review Board has approved the removal of the existing residence and the replacement residence, or the removal and replacement of the residence is exempt from Review Board approval; and

5. the replacement residence will not be located within 100 feet of an environmentally sensitive habitat area; and

6. the replacement residence will not be located on an area that contains pygmy vegetation.

WATER WELLS

When the Mendocino City Community Services District has granted a groundwater extraction permit or an exemption to groundwater extraction permit requirements, water wells shall be excluded in three cases:

a. where there are no permanent facilities for production (e.g., test wells); or

b. replacement or supplemental wells to serve an existing legal use on the property; or

c. production wells in association with single-family residences exempt under this exclusion order.

The well shall not be located within 100 feet of an environmentally sensitive habitat area.

SEPTIC SYSTEMS

The repair or replacement of existing septic systems will be excluded from coastal development permit requirements where:

a. there is an existing, legal use on the parcel; and

b. the replacement or repair will not increase septic capacity; and

c. the replacement or repair will not be located on a parcel that contains pygmy vegetation in the area of replacement or repair; and

d. the replacement or repair will not be located within 100 feet of an environmentally sensitive habitat area.

The expansion of an existing septic system is excluded from coastal development requirements where:

a. the expansion is associated with the addition to an existing single-family residence that is statutorily exempt from coastal development permit requirements, and the expansion meets all of the criteria cited above for replacement and repair except (b).

The installation of a septic system will be excluded from coastal development permit requirements where:

a. the installation is associated with the construction of a single-family residence subject to this categorical exclusion; and

b. the septic system will not be located within 100 feet of an environmentally sensitive habitat area.

BOUNDARY LINE ADJUSTMENTS

The adjustment of a lot line or boundary line as defined in Section 66412(d) of the California Government Code (Subdivision Map Act) will be excluded from coastal development permit requirements, provided that ~~the resulting parcels each have an adequate site outside any environmentally sensitive habitat area and 100-foot buffer for the eventual development of the parcels including appurtenant roads, parking, wells, septic systems, etc.~~ no portion of the adjusted boundary line or lot line is within 200 feet of the outward extent of an Environmentally Sensitive Habitat Area (ESHA), as defined above and in the County's LCP and the Town Zoning Code, or within 200 feet of the outward extent of an area of pygmy vegetation.

B. SPECIAL CONDITIONS.

LIMITATIONS OF EXCLUSION.

Pursuant to Section 30610.5, tide and submerged land, beaches, and lots immediately adjacent to the inland extent of any beach or of the mean high tide line and all lands and waters subject to the public trust shall not be excluded. Also, this exclusion shall not apply to any areas of deferred certification or to uncertified segments where the County does not have coastal permit-issuing responsibility.

1. Revised Categorical Exclusion Maps.

This Categorical Exclusion Order shall not become effective until Mendocino County has submitted, for the review and approval of the Executive Director, revised Categorical Exclusion Order maps that contain a note stating that (a) the categorical exclusion for single-family residences applies to those areas so designated on the map (the shaded Historic Zones A and B); (b) the categorical exclusion for wells, septic systems, and boundary line adjustments applies throughout the Town of Mendocino; (c) all of the categorical exclusions are subject to the critera and limitations described in the categorical exclusion order as conditioned by the Commission; and (d) none of the categorical exclusions apply in the following areas:

a. those areas that are statutorily prohibited from being exempted; i.e., tidelands, submerged lands, public trust lands/waters, beaches and lots immediately adjacent to the inland extent of any beach or mean high tide line where there is no beach;

b. those areas within 100 feet of the upland limit of any stream, wetland, marsh, or estuary, regardless of whether such coastal waters are mapped or unmapped; and

c. any areas that contain both pygmy vegetation and pygmy soils and therefore are within the Pygmy Forest Segment of the Mendocino County LCP.

2. Definition of ESHA.

The term Environmentally Sensitive Habitat Area (ESHA), as it is used in criteria governing the proposed exclusion, shall be defined consistent with the definition in Section 3.1 of the County's LUP and Section 20.308.040(F) of the County's Zoning Code, and with Section 20.608.024(C) of the Town Zoning Code, as follows:

> Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities or developments. In Mendocino County, environmentally sensitive habitat areas include, but are not limited to: anadromous fish streams, sand dunes, rookeries and marine mammal haul-out areas, wetlands, riparian areas, areas of pygmy vegetation that contain species of rare or endangered plants, and habitats or rare and endangered plants and animals.

3. Streams and Wetlands.

This order shall not apply to any development within 100 feet of the upland limit of any stream, wetland, marsh, or estuary, regardless of whether such coastal waters are mapped or unmapped.

4. Determination by the Executive Director.

This order granting a categorical exclusion for these categories of development in the Town of Mendocino shall not become effective until the Executive Director of the Commission has certified, in writing, that the local government has taken the necessary action to carry out the exclusion order pursuant to Section 13244 of the Coastal Commission regulations.

5. Exclusion Limited to Coastal Permits.

This exclusion shall apply to the permit requirements of the Coastal Act of 1976, pursuant to Public Resources Code 30610(e) and 30610.5(b), and shall not be construed to exempt any person from the permit requirements of any other federal, state, or local government agency.

6. Records.

Mendocino County shall maintain a record of any other permits which may be required for categorically exempt development which shall be made available to the Commission or any other interested person upon request.

7. Notice.

Within five working days of local approval of a development covered by this exclusion, the Coastal Commission area office and any person who has requested such notice shall receive notification of development exempted under this order on a form containing the following information:

a. the developer's name;
b. street address and parcel number of the subject property;
c. description of the development;
d. date of application for other permits; and
e. all terms and conditions of approval imposed by the local government in granting other permits.

8. Conformity with the LCP.

Development under this exclusion shall conform with the Mendocino County LCP in effect on the date of this exclusion as adopted by the Commission or to the terms and conditions of this exclusion where such terms and conditions specify more restrictive development criteria.

9. Amendment of LCP.

In the event an amendment of the Mendocino County LCP is certified by the Coastal Commission pursuant to Section 30514 of the Coastal Act, development under this order shall comply with the amended LCP except where the terms and conditions of this order specify a more restrictive criteria. However, such amendment shall not authorize the exclusion of any category of development not excluded herein, nor shall such amendment alter the geographic areas of the exclusion.

RECISSION AND REVOCATION.

Pursuant to Title 14 of the California Code of Regulations Section 13243(e), the Commission hereby declares that the order granting this exclusion amendment may be rescinded at any time, in whole or in part, if the Commission finds by a majority vote of its appointed membership, after public hearing, that the terms and conditions of the exclusion order no longer support the findings specified in Public Resources Code Section 30610(e). Further, the Commission declares that this order may be revoked at any time that the terms and conditions are violated.

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PUBLIC RESOURCES CODE - PRC. DIVISION 20. CALIFORNIA COASTAL ACT. CHAPTER 7. DEVELOPMENT CONTROLS. ARTICLE 1. SECTION 30610.

30610. Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas:

(a) Improvements to existing single-family residences; provided, however, that the commission shall specify, by regulation, those classes of development which involve a risk of adverse environmental effect and shall require that a coastal development permit be obtained pursuant to this chapter.

(b) Improvements to any structure other than a single-family residence or a public works facility; provided, however, that the commission shall specify, by regulation, those types of improvements which (1) involve a risk of adverse environmental effect, (2) adversely affect public access, or (3) involve a change in use contrary to any policy of this division. Any improvement so specified by the commission shall require a coastal development permit.

(c) Maintenance dredging of existing navigation channels or moving dredged material from those channels to a disposal area outside the coastal zone, pursuant to a permit from the United States Army Corps of Engineers.

(d) Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; provided, however, that if the commission determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained pursuant to this chapter.

(e) Any category of development, or any category of development within a specifically defined geographic area, that the commission, after public hearing, and by two-thirds vote of its appointed members, has described or identified and with respect to which the commission has found that there is no potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along, the coast and, where the exclusion precedes certification of the applicable local coastal program, that the exclusion will not impair the ability of local government to prepare a local coastal program.

(f) The installation, testing, and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to this division; provided, however, that the commission may, where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources, including scenic resources.

(g) (1) The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure.

(2) As used in this subdivision:

(A) “Disaster” means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.

(B) “Bulk” means total interior cubic volume as measured from the exterior surface of the structure.

(C) “Structure” includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

(h) Any activity anywhere in the coastal zone that involves the conversion of any existing multiple-unit residential structure to a time-share project, estate, or use, as defined in Section 11212 of the Business and Professions Code. If any improvement to an existing structure is otherwise exempt from the permit requirements of this division, no coastal development permit shall be required for that improvement on the basis that it is to be made in connection with any conversion exempt pursuant to this subdivision. The division of a multiple-unit residential structure into condominiums, as defined in Section 783 of the Civil Code, shall not be considered a time-share project, estate, or use for purposes of this subdivision.

(i) (1) Any proposed development which the executive director finds to be a temporary event which does not have any significant adverse impact upon coastal resources within the meaning of guidelines adopted pursuant to this subdivision by the commission. The commission shall, after public hearing, adopt guidelines to implement this subdivision to assist local governments and persons planning temporary events in complying with this division by specifying the standards which the executive director shall use in determining whether a temporary event is excluded from permit requirements pursuant to this subdivision. The guidelines adopted pursuant to this subdivision shall be exempt from the review of the Office of Administrative Law and from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) Exclusion or waiver from the coastal development permit requirements of this division pursuant to this subdivision does not diminish, waive, or otherwise prevent the commission from asserting and exercising its coastal development permit jurisdiction over any temporary event at any time if the commission determines that the exercise of its jurisdiction is necessary to implement the coastal resource protection policies of Chapter 3 (commencing with Section 30200).

(Amended by Stats. 2004, Ch. 697, Sec. 18. Effective January 1, 2005.)

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