

TITLE II - ADMINISTRATION

DIVISION 17

DEVELOPMENT AGREEMENTS

Chapter 1 - Application and Administration

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**TITLE II - ADMINISTRATION**

**DIVISION 17**

**DEVELOPMENT AGREEMENTS**

**CHAPTER 1 - APPLICATION AND ADMINISTRATION**

**2171-1. PURPOSE.**

The purpose of this Chapter is to establish local procedures for the consideration, implementation and administration of Development Agreements as authorized by Title 7, Division 1, Chapter 4, Article 2.5, commencing with Section 65864 of the California Government Code. (Ord. 2399, § 1, 09/16/2008)

**2171-2. INTENT.**

Development agreements are contracts negotiated between project applicants and public agencies that govern allowable land uses for development consistent with zoning and land use policies. These agreements are intended to serve as a tool to strengthen a community's commitment to comprehensive land use planning. They allow a public agency greater flexibility to impose more conditions and requirements on development than would otherwise be allowed under applicable zoning and land use requirements. In exchange, the rules that govern the development are locked in for the life of the agreement providing the developer with reduced costs and greater assurance that the project if approved can be built. (Ord. 2399, § 1, 09/16/2008)

The appropriate use of development agreements can provide the County with public benefits by requiring the developer to provide certain public improvements and benefits that would not otherwise be obtained through applicable development approval processes. The development agreement provides a developer with greater certainty in the development approval process by vesting certain development rights. (Ord. 2399, § 1, 09/16/2008)

Among other benefits, development agreements have the potential to strengthen the planning process, encourage orderly development, use resources efficiently, reduce uncertainty in the development review process, reduce the economic costs of development, and facilitate the development and financing of infrastructure and other public improvements. (Ord. 2399, § 1, 09/16/2008)

**2171-3. DEFINITIONS.**

The following definitions shall apply for the purposes of this Chapter: (Ord. 2399, § 1, 09/16/2008)

1. "Appropriate authority" means that person, official, or body designated by the County Code to hear, grant, deny, modify, condition, revoke or otherwise act on land use permits and entitlement. (Ord. 2399, § 1, 09/16/2008)

2. "Development Agreement" means a binding agreement entered into between the County and a qualified applicant pursuant to the requirements and procedures of state law and this Chapter. (Ord. 2399, § 1, 09/16/2008)

3. "Developer" means a qualified applicant who has entered into a Development Agreement approved and executed by the County. The term "developer" includes any successors in interest to the qualified applicant and includes the plural in the case of a developer consisting of more than one party. (Ord. 2399, § 1, 09/16/2008)

4. "Director" means the Director of the Community Development Services Department of the County of Humboldt or his or her designee. (Ord. 2399, § 1, 09/16/2008)

5. "Pending application" means a proposal for a development agreement that has been submitted by a qualified applicant to the County and is under active negotiation with the County. ((Ord. 2399, § 1, 09/16/2008)

6. "Property" means real property, unless otherwise specified. (Ord. 2399, § 1, 09/16/2008)

7. "Applicant" means qualified applicant as described in this Chapter. (Ord. 2399, § 1, 09/16/2008)

8. "Qualified applicant" means a person who has a legal or equitable interest in the real property which is the subject of the development agreement and who is applying to enter into a development agreement with the County. The term "qualified applicant" shall include the plural in the case of an applicant consisting of more than one party. The term "person" as used herein includes any legal entity. (Ord. 2399, § 1, 09/16/2008)

Words not defined herein shall have the same meaning as provided elsewhere in the County Code or in applicable state law. (Ord. 2399, § 1, 09/16/2008)

**2171-4. AUTHORITY.**

This Chapter authorizes the County of Humboldt, at its sole discretion, to enter into a development agreement with any qualified applicant for the development of real property. The provisions of this Chapter are applicable throughout the unincorporated area of the County of Humboldt. ((Ord. 2399, § 1, 09/16/2008)

**2171-5. ELIGIBILITY FOR DEVELOPMENT AGREEMENT.**

1. Only a qualified applicant, as defined by this Chapter, may file an application to enter into a development agreement. An applicant shall submit written proof of interest in the real property and of the authority of any agent to act for the applicant. (Ord. 2399, § 1, 09/16/2008)

2. Development proposals which are eligible for consideration for such an agreement shall be limited to projects in which the developer makes a significant contribution to infrastructure, open space, affordable housing, or other public improvements and amenities of benefit to the County that would not otherwise be obtained through other applicable development approval processes. ((Ord. 2399, § 1, 09/16/2008)

3. An application for a development agreement shall be considered only under the following circumstances: ((Ord. 2399, § 1, 09/16/2008)

a. The application is submitted in conjunction with an application for rezoning, a specific plan, subdivision map, combined development permit, or other discretionary land use entitlement authorizing the development which is the subject of the proposed development agreement; or (Ord. 2399, § 1, 09/16/2008)

b. The application pertains to an area governed by a specific plan previously adopted by the County. (Ord. 2399, § 1, 09/16/2008)

**2171-6. LIMITATIONS.**

The use of a development agreement is solely at the discretion of the Humboldt County Board of Supervisors upon a finding that the use of a development agreement is appropriate under the stated intent of this Chapter and the circumstances of the project for which it is sought. (Ord. 2399, § 1, 09/16/2008)

**2171-7. REGULATIONS AFFECTING PROPERTY SUBJECT TO A DEVELOPMENT AGREEMENT.**

1. The development agreement may specify, consistent with State law, the development rights vested by the Agreement. Except as otherwise provided by the development agreement, the regulations which apply to the development of the property subject to the Agreement shall be as follows: (Ord. 2399, § 1, 09/16/2008)

a. Development of the property shall be subject to the rules, regulations, ordinances, and official policies applicable to such development on the effective date of the development agreement which is the date of recordation. To the extent any future changes in the County's general plan, certified local coastal programs, specific plans, zoning ordinances, or any future rules, ordinances, regulations or policies adopted by the County purport to be applicable to the property but are inconsistent with the terms and conditions of the development agreement, the terms of the development agreement shall prevail, unless the parties thereto mutually agree to amend or modify the development agreement. (Ord. 2399, § 1, 09/16/2008)

b. A development agreement shall not prevent the County, in subsequent actions applicable to the property, from applying new rules, regulations, and policies which do not conflict with the terms and conditions of the development agreement, nor shall a development agreement prevent the County from denying or conditionally approving any subsequent development application on the basis of such existing or new rules, regulations, and policies. (Ord. 2399, § 1, 09/16/2008)

c. In the event State or Federal laws or regulations enacted after the effective date of the development agreement prevent or preclude compliance with one or more provisions of the agreement, such provisions of the development agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations. Said modification or suspension shall be noticed and heard in accordance with the procedures set forth in Section 2171-12 of this Chapter. The development agreement shall not preclude the County from applying to the property which is the subject of the development agreement those changes in County plans, regulations and policies which are specifically mandated by changes in State or Federal laws or regulations. (Ord. 2399, § 1, 09/16/2008)

d. Nothing in this Chapter or in the development agreement shall be construed to limit the authority of the County to impose requirements and conditions on subsequent required approvals or permits if such requirements or conditions are necessary to protect

persons or property from situations which create a condition dangerous to health or safety, nor shall this Chapter or the development agreement be construed to limit the authority of the County to require compliance with building standards, building codes and such other codes, ordinances, and regulations as are necessary to protect against a condition dangerous to the public health or safety. (Ord. 2399, § 1, 09/16/2008)

2. Notwithstanding any other provision of this Chapter, subsequent applications for development of the property which is the subject of the development agreement shall be subject to the development and processing fees which are in force and effect at the time the subsequent applications are filed. (Ord. 2399, § 1, 09/16/2008)

3. Nothing in this Chapter shall be construed to limit the authority or obligation of the County to hold necessary public hearings or to limit the discretion of the County or any of its officers or officials with regard to the rules, regulations, ordinances, laws, and entitlements of use which require the exercise of discretion by the County or any of its officers or officials, provided that subsequent discretionary actions shall not conflict with those elements vested as a result of the development agreement. (Ord. 2399, § 1, 09/16/2008)

#### **2171-8. APPLICATION.**

All applications for development agreements shall be filed with the Director. A separate application for a development agreement shall be filed for each development project for which a development agreement is requested. The Director may require an applicant to submit proof of the applicant's legal or equitable interest in the real property which is the subject of the proposed development agreement. The Director may also require an agent acting on behalf of an applicant to submit documentation authorizing the agent to act on behalf of the applicant. (Ord. 2399, § 1, 09/16/2008)

The Director shall prescribe the form of such application and the type of information and data required to be set forth thereon. The application shall contain, without limitation, the following information and documentation: (Ord. 2399, § 1, 09/16/2008)

1. The name and address of the applicant and of all persons and entities having any legal or equitable interest in the property which is the subject of the proposed development agreement; (Ord. 2399, § 1, 09/16/2008)

2. Evidence demonstrating that the applicant has a legal or equitable interest in the property which is the subject of the proposed development agreement; (Ord. 2399, § 1, 09/16/2008)

3. Legal description of the real property and a listing of the Assessor's parcel numbers for the property, including an approximation of the total area of the property which is the subject of the proposed development agreement; ((Ord. 2399, § 1, 09/16/2008)

4. Information about the current use of the property proposed to be subject to the development agreement; (Ord. 2399, § 1, 09/16/2008)

5. Any explanatory text, plans, maps, drawings, pictures, and such other documentation, information and supporting data as the Director may need to process the application; (Ord. 2399, § 1, 09/16/2008)

6. Designation of an agent representing legal ownership of all property proposed to be subject to the development agreement; (Ord. 2399, § 1, 09/16/2008)

7. Any additional information requested by the Planning Department. (Ord. 2399, § 1, 09/16/2008)

8. The Director shall waive the filing of one or more of the application materials required above if the same information is filed with an application for a specific plan or land use entitlement to be considered concurrently. (Ord. 2399, § 1, 09/16/2008)

9. A separate development agreement application shall be filed for each development project for which a development agreement is requested. (Ord. 2399, § 1, 09/16/2008)

**2171-9. FEES.**

In order to defray the cost to the County of Humboldt of preparing, negotiating, adopting, and amending a development agreement, a fee shall be charged and collected in accord with the procedures described below: (Ord. 2399, § 1, 09/16/2008)

1. The County shall recover from the qualified applicant all of its costs for staff time, necessary consultant services, materials and administration costs associated with the preparation, negotiation, review, adoption and amendment of a development agreement, including but not limited to the costs associated with processing the application, negotiation of the terms and conditions of the development agreement, noticing of the public hearings, adoption of the development agreement and any amendments, and periodic review of the development agreement. (Ord. 2399, § 1, 09/16/2008)

2. The applicant shall be entitled to a reasonable estimate of the anticipated fees and costs to be incurred by the county to process the development agreement through to its adoption and the Director is authorized to establish a trust fund for the deposit of such fees as may be appropriate. The Director is authorized to require and accept a deposit of up to 50% of the amount of the estimated fee toward payment of these fees and costs, in order to enable the affected county departments and agencies to begin work on the application. (Ord. 2399, § 1, 09/16/2008)

3. The Director shall not set a date for the public hearing before the Planning Commission until the full fee for the development agreement is paid or deposited in the trust fund. (Ord. 2399, § 1, 09/16/2008)

4. Upon the execution of a development agreement, or withdrawal by an applicant of its application, any unexpended or unobligated portion of the fee paid by the applicant shall be returned to the applicant. (Ord. 2399, § 1, 09/16/2008)

5. Payment of fees charged under this section does not waive the fee requirements of other ordinances. (Ord. 2399, § 1, 09/16/2008)

**2171-10. APPLICATION REVIEW.**

1. The Director shall review the application for completeness and shall determine any additional requirements necessary to make the application complete. The Director may reject the application as incomplete if it does not contain the documentation required by the Director, other County Departments or other responsible agencies. (Ord. 2399, § 1, 09/16/2008)

2. The Director may reject the application as ineligible for consideration if it is not made by a qualified applicant or is not made for a development proposal which meets the eligibility standards set forth in previous sections of this Chapter. (Ord. 2399, § 1, 09/16/2008)

3. The Director shall process the development agreement and any associated proposed land use entitlements for environmental review in compliance with the California Environmental Quality Act. (Ord. 2399, § 1, 09/16/2008)

4. If the Director determines that an application is incomplete or ineligible, the Director must provide this determination in writing to the applicant. The applicant may appeal said written determination by the Director pursuant to the appeal procedures set forth in Chapter 2 of the Humboldt County Zoning Regulations for the appeal of an administrative determination. (Ord. 2399, § 1, 09/16/2008)

5. At such time that the Director has determined the application is complete and eligible for consideration, the applicant may enter into negotiations with the County regarding the terms of the development agreement. When the County and the applicant have reached tentative agreement on the terms of the development agreement, the development agreement may be considered by the Planning Commission in accordance with the procedures set forth in Section 2171-13 below. (Ord. 2399, § 1, 09/16/2008)

**2171-11. CONTENTS OF THE DEVELOPMENT AGREEMENT.**

Each proposed development agreement shall be submitted to the Director. Each development agreement shall include, without limitation, the following terms, conditions, restrictions, and requirements: (Ord. 2399, § 1, 09/16/2008)

1. Proposed duration of the agreement, including a specified termination date, if appropriate; (Ord. 2399, § 1, 09/16/2008)

2. Permitted uses of the property; (Ord. 2399, § 1, 09/16/2008)

3. The density or intensity of uses; (Ord. 2399, § 1, 09/16/2008)

4. The maximum height and size of proposed buildings; (Ord. 2399, § 1, 09/16/2008)

5. Provisions for contribution to infrastructure, open space, affordable housing, or other public improvements and amenities of benefit to the County, including reservation, dedication, and improvement of land for public purposes; (Ord. 2399, § 1, 09/16/2008)

6. Terms and conditions relating to applicant financing of required public facilities and subsequent reimbursement over time; (Ord. 2399, § 1, 09/16/2008)

7. Conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that such conditions, terms, restrictions, and requirements for subsequent discretionary actions shall not prevent development of the land for the uses and to the density or intensity of development set forth in the agreement; (Ord. 2399, § 1, 09/16/2008)

8. Provisions regulating the timing and schedule of development, for example, provisions providing that construction shall be commenced within a specified time, and that the project or project phase be completed within a specified time. (Ord. 2399, § 1, 09/16/2008)

9. Provisions that address the applicable environmental review for the project. (Ord. 2399, § 1, 09/16/2008)

10. Sufficient information to establish that the project is consistent with the County's general plan, certified local coastal program, community plan, specific plan, and/or area plan and with existing State and Federal laws and regulations. (Ord. 2399, § 1, 09/16/2008)

11. A faithful performance bond or other security where deemed necessary by the County in an amount County deems sufficient to guarantee the faithful performance of specified terms, conditions, restrictions, and requirements of the development agreement; (Ord. 2399, § 1, 09/16/2008)

12. An appeal process for resolution of disputes regarding the County's administrative interpretation of the development agreement that is acceptable to the County Risk Manager and County Counsel; (Ord. 2399, § 1, 09/16/2008)

13. A clause, in a form acceptable to the County Risk Manager and County Counsel, that requires the developer to defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action or proceeding against the County or its agents, officers, and employees arising from or in connection with the development agreement, including actions that require the County to defend any part of the development agreement and including a challenge based on an assertion that the California Environmental Quality Act has not been complied with; (Ord. 2399, § 1, 09/16/2008)

14. Provisions pertaining to the obligations of the developer and the status of land use entitlements approved with respect to the property which is the subject of the development agreement in the event of termination of the development agreement, whether the termination be based on mutual consent or a finding of noncompliance with the development agreement. (Ord. 2399, § 1, 09/16/2008)

15. Provisions that address the enforceability of the agreement including provisions for the payment of attorneys fees and costs and other remedies in the event that enforcement is necessary. (Ord. 2399, § 1, 09/16/2008)

16. A provision indicating that the obligations imposed by the agreement constitute "covenants running with the land" and that the burdens and benefits bind and inure to all estates and interests created in the subject property and to all "successors-in-interest" of the original parties. (Ord. 2399, § 1, 09/16/2008)

17. Standard contract clauses, such as, without limitation: (Ord. 2399, § 1, 09/16/2008)

- a. A clause describing the parties,
- b. A legal description of the property,
- c. Provisions relating to assignment,
- d. Provisions for amendment of the agreement,
- e. Provisions for termination of the agreement,
- f. Provisions relating to default,
- g. Clauses incorporating or implementing this Chapter and Government Code Section 65864 et seq., as may be periodically amended, which clauses may include, without limitation, subjects such as periodic compliance review and enforcement; (Ord. 2399, § 1, 09/16/2008)

18. Such other provisions as the Director may recommend and the Board of Supervisors may deem appropriate. (Ord. 2399, § 1, 09/16/2008)

**2171-12. NOTICES AND HEARING.**

1. A public hearing on an application for a development agreement shall be held by the Planning Commission and the Board of Supervisors. Notice of intention to consider adoption of a development agreement shall be given as provided in Section 312-8.3 of the Humboldt County Zoning Regulations and Sections 65090 and 65091 of the California Government Code in addition to any other notice required by law for other actions to be considered concurrently with the development agreement. (Ord. 2399, § 1, 09/16/2008)

2. The notice requirements referred to in paragraph 1 above, are declaratory of existing law. If state or local law prescribes a different notice requirement, notice shall be given in that manner. (Ord. 2399, § 1, 09/16/2008)

3. The failure of any person or entity to receive notice of a hearing shall not affect the authority of the County to enter into a development agreement. (Ord. 2399, § 1, 09/16/2008)

4. Any public hearing conducted under this Chapter may be continued from time to time. (Ord. 2399, § 1, 09/16/2008)

**2171-13. PLANNING COMMISSION REVIEW AND RECOMMENDATION.**

1. The Director shall cause a staff report and recommendation to be prepared and shall schedule a public hearing before the Planning Commission to consider the proposed development agreement and other proposed land use entitlements to be considered concurrently with the development agreement. Notice of the public hearing shall be provided in accordance with Section 2171-12 above and any other applicable requirement. The Planning Commission shall hold at least one noticed public hearing on any proposed development agreement. (Ord. 2399, § 1, 09/16/2008)

2. At the conclusion of the hearing, the Planning Commission shall by written resolution make its recommendation concerning the proposed development agreement to the Board of Supervisors. The Planning Commission shall not recommend that the County enter into the development agreement unless the Commission is able to make all of the findings set forth in Section 2171-14 below. The recommendation shall be forwarded to the Board of Supervisors within 60 days from the date of conclusion of the hearing. (Ord. 2399, § 1, 09/16/2008)

**2171-14. BOARD OF SUPERVISOR'S REVIEW AND DECISION.**

1. The Board of Supervisors shall hold at least one noticed public hearing to consider the proposed Development Agreement and Ordinance. The hearing shall be "de novo." (Ord. 2399, § 1, 09/16/2008)

2. The Board of Supervisors may approve, modify or disapprove the recommendation of the Planning Commission. The Board may refer matters not previously considered by the Planning Commission during its hearing back to the Planning Commission for report and recommendation within the time limit set by the Board of Supervisors. (Ord. 2399, § 1, 09/16/2008)

3. The Board of Supervisors, in its sole discretion, may determine whether to enter into a development agreement. The Board of Supervisors may add, modify, or delete any provision of the development agreement as a condition of approval. (Ord. 2399, § 1, 09/16/2008)

**4. Findings for Approval:**

The Board shall not approve a development agreement unless it finds that the development agreement: (Ord. 2399, § 1, 09/16/2008)

1) is consistent with the objectives, policies, general land uses and programs specified in the County's general plan, any certified local coastal program, any applicable area plan, any applicable specific plan or such general plan amendments or changes in rules, regulations, ordinances, and official policies as are to be adopted concurrently with the adoption of the development agreement; and, (Ord. 2399, § 1, 09/16/2008)

2) is compatible with the uses authorized in, and the regulations prescribed for, the zoning district in which the real property is located; and, (Ord. 2399, § 1, 09/16/2008)

3) is in conformity with the public interest, general welfare and county land use planning policies; and, (Ord. 2399, § 1, 09/16/2008)

4) will not be detrimental to the public health, safety and welfare of persons residing in the immediate area nor be detrimental or injurious to property or persons in the general neighborhood or to the general welfare of the residents of the County as a whole; and, (Ord. 2399, § 1, 09/16/2008)

5) will not adversely affect the orderly development of property; and, (Ord. 2399, § 1, 09/16/2008)

6) is consistent with the provisions of Government Code Sections 65864 through 65869.5, the State law governing development agreements. (Ord. 2399, § 1, 09/16/2008)

5. If the Board of Supervisors approves the development agreement, it shall do so by the adoption of an ordinance. Such approval is a legislative act and such ordinance is subject to referendum. After the ordinance approving the development agreement takes effect, the County will enter into the development agreement by signature of the Chairperson of the Board of Supervisors to said development agreement. (Ord. 2399, § 1, 09/16/2008)

**2171-15. RECORDATION AND EFFECTIVE DATE.**

1. No later than ten (10) days after the County enters into a development agreement, the Clerk to the Board of Supervisors shall record with the County Clerk/Recorder, at the expense of the qualified applicant, a fully executed copy of the development agreement, which shall include a legal description of the property subject thereto. (Ord. 2399, § 1, 09/16/2008)

2. The burdens and benefits of the development agreement shall be binding upon and shall inure to, all successors in interest to the parties to the Agreement. (Ord. 2399, § 1, 09/16/2008)

3. If the parties to the development agreement or their successors in interest amend or cancel the development agreement as hereinafter provided, the Director shall cause notice of such action to be recorded with the County Recorder, at the expense of the canceling party. (Ord. 2399, § 1, 09/16/2008)

4. A development agreement shall take effect upon the date of recordation with the County Clerk/Recorder following Board of Supervisor's approval. (Ord. 2399, § 1, 09/16/2008)

**2171-16. AMENDMENT OR CANCELLATION OF THE DEVELOPMENT AGREEMENT.**

1. Any development agreement may be amended, or canceled in whole or in part, by the mutual consent of the parties to the Agreement or their successors in interest. Any party to the agreement may initiate the amendment or cancellation of a development agreement. The procedure amending or canceling a development agreement shall be the same as the procedure for approval of the agreement, including notice of public hearings on the matter in accordance with Section 2171-12 above. Any amendment to or cancellation of the development agreement shall be approved by ordinance. The findings required for amendment shall be the findings specified in Section 2171-14 above. (Ord. 2399, § 1, 09/16/2008)

2. Planning staff and County Counsel are authorized to correct typographical errors, references to attachments and exhibits, statutes and ordinances, page and section numbers, and to correct maps and to make similar clerical non-substantive changes to the development agreement without processing an amendment. (Ord. 2399, § 1, 09/16/2008)

3. In the event that this enabling ordinance is repealed, any existing development agreements enacted by following the procedures herein shall remain in full force and effect for their specified term and only the provisions of state law shall govern those agreements. (Ord. 2399, § 1, 09/16/2008)

4. The issuance of any land use permit or entitlement which requires a change in any vested element of the development agreement shall require an amendment to the development agreement for such change to be vested. (Ord. 2399, § 1, 09/16/2008)

**2171-17. PERIODIC REVIEW.**

1. The Planning Commission shall review compliance with the development agreement at least once every twelve (12) months from the date the agreement is entered into, in order to determine whether the developer, or any successor in interest, is complying in good faith with the terms of the agreement. The minimum frequency of review for an individual project may be modified for cause by the Board of Supervisors acting by Resolution. (Ord. 2399, § 1, 09/16/2008)

2. The Director shall begin the review proceeding by giving notice to the developer that the Planning Commission intends to undertake a periodic review of the development agreement. The director shall give the notice at least sixty (60) days in advance of the time at which the matter will be considered by the Planning Commission. (Ord. 2399, § 1, 09/16/2008)

3. The Planning Commission shall conduct a public hearing and review evidence that the property owner is in compliance with the terms of the agreement. The property owner assumes the burden of proof and shall provide evidence at least thirty (30) days prior to the scheduled Planning Commission hearing. The Director will review submitted evidence and provide an independent assessment of compliance to the Planning Commission at the time of the public hearing. (Ord. 2399, § 1, 09/16/2008)

**2171-18. PERIODIC REVIEW FINDINGS.**

1. If the Planning Commission finds and determines on the basis of substantial evidence that the property owner has complied in good faith with the terms and conditions of the agreement during the period under review, the review for that period is concluded. (Ord. 2399, § 1, 09/16/2008)

2. If the Planning Commission finds and determines on the basis of substantial evidence that the property owner has not complied in good faith with the terms and conditions of the agreement during the period under review, the Commission may recommend that the Board of Supervisors modify or terminate the agreement. The written decision of the Planning Commission recommending modification or termination of the agreement shall be delivered to the Board of Supervisors not later than thirty (30) days after the final action of the Commission. (Ord. 2399, § 1, 09/16/2008)

3. Any person may appeal a determination made by the Planning Commission pursuant to this section to the Board of Supervisors in accordance with Section 312-8.3 of the Humboldt County Zoning Regulations. (Ord. 2399, § 1, 09/16/2008)

4. Within sixty (60) days of the Clerk of the Board's receipt of the Planning Commission's recommendation to modify or terminate the agreement due to the lack of the property owner's good faith compliance the Board shall hold a public hearing. At that hearing the Board shall determine on the basis of substantial evidence, whether or not the agreement should be modified or terminated. The property owner shall be given an opportunity to be heard at the hearing before the Board. The property owner shall bear the burden of proving compliance. The Board may act to modify or terminate the agreement, may continue the agreement, may impose additional conditions upon the continuance of the agreement or may refer the matter back to the Planning Commission for further proceedings or for a report and recommendation. The decision of the Board of Supervisors is final. (Ord. 2399, § 1, 09/16/2008)

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