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January 22, 2009

Humboldt County Planning Commission
Attn: Jeff Smith, Chairman
3015 H Street
Eureka, CA 95501

RE: Humboldt County General Plan Update

Dear Commission Members,

I am a Professional Employee in the County of Humboldt. I hold a California Real Estate License and hold an Advanced Certificate of Appraisal for Property Taxes, issued by the California State Board of Equalization. I have a vast amount of experience working with both private and public land use committees with administrators throughout local and state agencies.

Approximately 10 years ago I discovered liability in processing public records regarding land uses, legal descriptions, legal compliance, etc. In 2003, I was confronted with a total disregard for administrative roles and responsibilities. I have been addressing these issues throughout the Chain of Command through Personnel Grievances.

I am writing you with specific and urgent concerns regarding knowledge that I have regarding the accuracy and legality of public records used for housing needs and land use in the General Plan Update. Specifically, the records from the Humboldt County Assessor do not reflect a legal accounting of splits (shaded parcels). Further the Appraisers assign use codes, without review or reconciliation, based on actual use or highest and best use. I am extremely concerned regarding the actual liability and use of these records as a legal inventory list. In addition I am also aware that in the mid to late 1990's there was an incredible amount of new legislation for land use, environmental use without the knowledge of public administrators, businesses, or private owners.

In August and September I reported some of the land use confusion to the Code Enforcement Committee. Many people both professionally and in the private sector came forth regarding legal, social, personal and professional economic problems came forward with many different emotional hardships involving their freedom to function.

The Code Enforcement CETF Subcommittee made many findings and recommendations regarding land use on pages 129-132 which need to be resolved prior to using any Assessor or CDS records for "official use". It is also necessary to review any correspondence to Public Officers to show Misconduct of Officials concealing knowledge of negligence or unconstitutional practices.

I have attached PART FIVE of the CETF Subcommittee Report, pages 129-132, findings and recommendations regarding Land Use Confusion and Clarification. I hope that in your official duties that this will help you to understand that we cannot proceed in the General Plan Update unless you have legal and accurate records. I ask that you call for these Administrative Hearings, including my Personnel documents, to resolve these matters which hold all of us hostage to properly processing our business.

I thank you so much for your consideration and I can be reached at the above numbers if you have any questions.

Sincerely,

Elena Susmilch

Cc: Board of Supervisors
Chief Administrative Officer
Risk Management Office
Planning Department
State Board of Equalization

PART FIVE
CETF Subcommittee

LAND USE CONFUSION CLARIFICATION

Robert Vogt, Bonnie Blackberry, Dan Taranto

FINDINGS:

- 1. Finding:** There is a reasonable public misperception that if one is receiving a tax bill from the County Tax Collector for a property which one presumes to have purchased, that the fact of being taxed for the subject parcel is defacto evidence of official government recognition of the legitimacy of that ownership.

- 2. Finding:** There is a reasonable public misperception that if a Title Company insures the chain of title and that a transfer of property has been legally recorded by the County Recorder is defacto evidence that the transaction is in legal conformance.

- 3. Finding:** Grand Jury Report (#2006-PW-02), Finding 1, Recommendation 1
Grand Jury urges B.O.S. to assist, approve, expedite the recommendations of the Permit Reform Committee (PRC) and closely monitor the effectiveness of reforms implemented.

- 4. Finding:** Grand Jury Report (#2006-PW-02), Finding 2, Recommendation 2
"Suspect" legality of parcels in County, CDS must proactively manage these parcels by contacting landowners. Permits not issued until Determination of Status made or Certificate of Compliance issued if necessary.
CDS Response: "...will work with the Assessor to establish the appropriate notification"

- 5. Finding:** Grand Jury Report (Final Report 2005-2006) information from 6/6/08 meeting, pg. 28: "Whenever a local agency has knowledge that real property has been divided in violation of California Code or local ordinances, it shall cause to be mailed by certified mail to the then current owner of record of the property a notice of intention to record a notice of violation..."(GC 66499.36)
CDS does not comply with this code because parcels are considered "suspect" not illegal.

- 6. Finding:** Grand Jury Report (Final Report 2005-2006) information from 6/ 6/ 08 meeting, pg. 29 Finding 2, Recommendation 2.] The Grand Jury strongly recommends that CDS begin sending form letters to the taxpayers of all newly assigned APN's that are not recognized on an approved subdivision map.

- 7. Finding:** Department of Conservation Williamson Act Audit July 2005 Finding 1., pg. 2 of 11, Recommendations B. 28 cases of the contract not being valid, the County should resolve all 28 cases and keep the Department informed of all progress.

8. Finding: The 2005-06 Grand Jury Report states that "Community Development Services does not comply with this code [Ca. Gov. Code 66499.36] because the parcels in question are considered "suspect" but not necessarily illegal." ... "CDS officials admit this is a big problem." ... "The county does not notify owners of "suspect" properties that they have a problem, because CDS officials claim the man-hours necessary to accomplish this feat are not included in the budget."... "Additionally, the responses to such notice would obviously cause an overwhelming increase in work load for the existing CDS staff."

9. Finding: The 2005-06 Grand Jury Report states: "Although no one has actually counted the number of "suspect" parcels in the county, an official estimated it is at least 2,000. This number continues to increase whenever the County Assessor assigns an Assessor's Parcel Number (APN) to a newly recorded piece of property when entering it onto the tax roll. This information is passed on to CDS, who then notes the new parcel in the appropriate map book and shades it as "suspect" if it doesn't correspond to an existing approved subdivision map." *(note: The CETF interprets that the grand jury intended to say that newly recorded parcels may increase the number not in legal conformance)*

10. Finding: The 2005-06 Grand Jury found that: "Many parcels of land in Humboldt county are of "suspect" legality under the CA Subdivision Map Act. CDS does not proactively attempt to rectify this problem by contacting the owners of these "suspect" properties.

11. Finding: Many "suspect parcels" have been in existence for decades, and have been bought and sold many times.

12. Finding: Enforcement without GC§ 66499.36 notice causes unnecessary hardship for the uninformed owner's of "suspect" parcels.

13. Finding: There appears to be no statute of limitations on how long a "suspect" parcel can go unnoticed by the county before enforcement is promulgated as a consequence to the county's failure to comply with its duty under GC § 66499.36 to provide notice.

14. Finding: The County is complicit in the exacerbation of this problem by dodging its responsibility to provide notice to consumers of illegal parcels.

15. Finding: The County Assessor's Office is complicit in the exacerbation of this problem by assigning APN numbers to illegal or "suspect" parcels.

16. Finding: The County is complicit in the exacerbation of this problem by assigning and collecting taxes on illegal or "suspect" parcels.

17. Finding: Unwitting owner's of "suspect" properties are subject to punitive enforcement abatement actions of the CEU in lieu of fair treatment to be notified at the time of transaction that there may be a technical problem with the parcel.

18. Finding: The County Recorder, County Assessor, and County Planning do not appear to coordinate sufficiently to avoid the unwitting transfer of properties that may be in violation of the Map Act, Williamson Act, and other Zoning restrictions which conflict with the new owner's reasonable expectation to be able to use the property for the purpose for which it was represented at the time of purchase.

19. Private professional portfolios involved in property, sales such as Title Companies, Realtors and Financial Institutions, may have an important role to play in helping to resolve this growing problems with "illegal" or "suspect" parcels.

20. Finding: The County is attempting to correct the problems consequent to the above mentioned findings through a code enforcing mechanism that threatens punishment by a system which has failed to provide the notice required by Govt. Code 66499.36.

RECOMMENDATIONS:

Action Items

Recommend other committees be formed to deal with updating items such as the County regulations dealing with greywater systems, coordination with Child Welfare Services when warrants served on families, etc. Those items that are necessary for review but outside the scope of work for the Code Enforcement Task Force.

ONE: The BoS should appoint a blue ribbon committee made up of a broad base of licensed professionals and officials with relevant portfolio to meet identify, evaluate, and make findings and recommendations directed toward the most practical solution of the many problems revealed by the findings stated above.

A broad based blue ribbon committee should include, but not be limited to, the following professional, community, and governmental interests: Real Estate Industry; Title Companies; Banking Industry; Appraisal Industry; Insurance Industry; Farming; Ranching; Forestry Interests; "Suspect" parcel owners; Property Rights Organization; Civil Liberties Organization; Representative of County Departments of Planning, Recorder, Assessor.

TWO: CDS Department needs to address the status of the "illegal" versus "suspect" parcels in the County. They also need to be proactive in the management of these parcels sending out notices to get back to a baseline condition so the County can get into compliance with the Williamson Act and Subdivision Map Act but also to address the situation of landowners currently out of compliance. Can not continue to ignore the estimated 2,000 parcels that are "illegal".

THREE: Coordination has to take place between the CDS Department and the County Assessor's office to determine legal versus illegal parcels prior to assigning APN's

FOUR: Follow-up with additional public outreach campaign with title companies, real estate companies, assessor office, and CDS Department for understanding issues relating to selling and developing rural properties.

FIVE: County Departments must exhaust their internal processes and maintain more connection with the rural community through various outreach projects. Suggestions would include pamphlets for each Department that can be handed out at community events. Also, these should be handed out at time of all property transactions, coordinated through real estate and Title companies. Fairs, farmer's markets, neighborhood watch meetings, County Grange Associations, Homeowners Associations, etc. can all be used to get the "compliance message" out to the rural communities.

SIX: When rural land (possibly defined by a combination of location, acreage, and whether it is serviced by a municipality or similar) is sold in the County there needs to be paperwork notifying the new landowner of development, and corresponding permitting requirements of the parcel, as well as environmental compliance with State regulations and County codes. Also, though it would be assumed this already occurs but apparently not, the Title needs to disclose if the parcel has been considered "illegal", "suspect" or "shaded" under the purview of the CDS Department.

SEVEN: GC§66499.36 notification is a critical step in the process between assigning assessor parcel numbers (APN), and taxing those parcels. The lack of knowing which parcels are "suspect" or not "suspect" until after the process has been completed and submitted to the CDS is an ongoing problem. Notification needs to happen prior to assigning an APN. Also, there is a need to deal with the current parcels noted as "suspect" so that a true new starting point can be established, this problem is not going away and doing nothing proactively about it is only compounding the situation.