



“ Jobs, Homes & Individual Rights ”

April 22, 2008

Ms. Jill Geist, Chairperson
Board of Supervisors
Humboldt County
825 Fifth Street
Eureka, California 95501

Subject: General Plan Update

Dear Chairperson Geist and Members of the Board:

We appreciated the opportunity to comment during your April 15, 2008 Board meeting regarding the update of the General Plan. In the limited amount of time available, we were unable to communicate the entire message we wanted to share with you.

During last week’s meeting, the Supervisors noted that they had approved the addition of the twelve (12) new elements be included in the General Plan update. However, the record actually shows this was not the case. During past years of public meetings, it was only the Water Resources Element, which Supervisor Neely proposed, that was approved by the Board to be added to the seven (7) State-mandated elements.

With that in mind, we urge you to reconsider:

- I Framework Plan vs Proposed New General Plan
- II Mandated vs Optional Elements
- III Infrastructure Analysis
- IV Housing Element
- V Economic Sustainability
- VI Conclusion

I Framework Plan vs Proposed New General Plan

The current work on the general plan is supposed to be an update to the existing framework General Plan which was adopted in 1984. The Planning Commissioners requested the Planning Department to bring to them (the Commissioners) the existing General Plan so they could compare what staff is proposing versus what the existing adopted General Plan includes. This was not done. Instead staff is writing an entirely new General Plan which includes massive revisions and additions to the current governing General Plan.

We see this as being a major burden on the public and on the County’s ability to incur the costs to implement and monitor an expanded General Plan.

II Mandated vs Optional Elements

A. Mandated Elements

The State mandates seven elements be included in General Plans:

Land Use	Open Space
Circulation	Noise
Housing	Safety
Conservation	

Attachment "A" to this letter includes excerpts from the State OPR (Office of Planning and Research) website which outlines the requirements for each of the mandated elements.

B. Optional Elements

County staff is proposing twelve (12) additional elements to the new General Plan:

1. Managing Growth

The goal and policies stated in the draft Managing Growth element will without question make housing more expensive and jobs more scarce.

The stated goal: "To accommodate expected population growth and the resulting urban development, while achieving maximum efficiency in the provision of orderly and economic services with the least adverse effect on the environment."

This element proposes such policies as:

- (1) "The Planning Department shall record and review information related to the adequacy of the development timing policies of the General Plan",
- (2) "To determine whether it is feasible to extend urban level development into the urban expansion area, the following criteria shall be used. A. The Planning Commission finds that the amount of land available within the urban development area for urban uses is insufficient to maintain an open and competitive development market; and, B. Public services systems have current capacity to serve the proposed addition, if other systems are not available."

HELP strongly opposes this policy. To give staff this policy-making authority would constitute "Unlawful Delegation".

2. Community infrastructure & services

This is one of the elements HELP recommended be added to the general plan. We were pleased to see it included, however the Winzler & Kelly report does not identify what the infrastructure capacity is or where it could be extended. Even within the Urban Study Areas they don't know where or how much development could occur within the planning period (20-25 years for the General Plan and 5 years for the Housing Element).

This element proposes policy IS-P27:

New Development within District Boundaries. “No new discretionary development resulting in structures intended for occupancy shall be approved unless the County finds that the proposed project is located within the boundaries of a fire related district, or the project approval is conditioned upon one of the following:

A. If the project site is not located within the boundaries of a fire related district, approval shall be conditioned upon the annexation to an existing adjacent fire related district or annexation to a county service area established to provide fire protection services, and the establishment of an appropriate funding mechanisms to ensure that the district has adequate capacity to provide services,

B. If the project site is not located within the boundaries of a fire related district and condition A is not feasible, approval shall be conditioned upon the establishment of an adequate ongoing funding source and the execution of a fire protection agreement with a local fire service provider, subject to approval by LAFCO.”

This policy, if adopted, would: (1) Deny landowners their existing property rights which must not be “taken” from them, and (2) Propose a role for LAFCO which goes beyond its legal authority.

At the very beginning of the planning process, the County planners drew arbitrary boundaries around six (6) areas in the county (referred to as Urban Study Areas) and recommended there would be no development beyond those boundaries. This was done without knowing what the existing infrastructure capacity was / is, or where it could be extended. And they still don't have that information.

We recommend the County keep an open mind regarding where growth can and should go. That decision is best made when the infrastructure capacity is fully assessed and when it is known where it can economically be extended.

3. Community Design Element

This entire chapter is an exercise in social engineering....identifying where people can live – their lifestyles, etc. It goes into detail about how the streetscapes will be designed, etc. This approach could be appropriate in some cases for a Specific Plan but is certainly much more detailed than should be incorporated in a General Plan. It prescribes a “cookie cutter” approach to land planning which does not take into account site-specific conditions. A general plan is supposed to be “general” and should incorporate current community plans where they exist, but there should not be an attempt to enforce a “community design” county-wide.....it simply does not fit the varied geographic, economic, or environmental conditions of the entire County of Humboldt.

4. Economic Development Element

This is an element HELP recommended be added to the General Plan. There is wording in this element which would be appropriate if the programs were implemented, such as streamlining the permitting process. The permit reform effort to identify how to streamline the permitting process was initiated over 2½ years ago during October 2005 and is still a work-in-progress.

Twenty-year projections in the current update of the draft Element states: “...in the unincorporated areas of the county, a total of 244 acres would be required to meet anticipated future development. Of this total acreage, 15 acres would be required to meet the demand for retail space, 181 acres needed for office/business park space, and 48 acres needed for industrial purposes.”

This limited acreage devoted to various types of businesses over the coming 20 years is, in our opinion, a formula for economic decline, not development. If implemented, this restraint on economic development will result in fewer jobs and a further weakening of the County’s economic situation.

The draft element states: “Permit processes for big box retail should consider impact on the existing retail economy, as well as design, location, and economic standards to mitigate the potential impacts.” “For example, reliance on the automobile for these developments can have a tremendous impact on the capacity of transportation facilities and contribute to air pollution.” The draft element states: “Global Warming and climate change has the potential to significantly impact Humboldt County.”

We see numerous constraints on economic development in this draft element and little which would support future economic vitality.

We encourage the County to implement the administrative recommendations included in Plan "H" submitted by HELP to the County in June 2004.

5. Water Resources Element

While we agree water is a critical resource and we respect the fact the Supervisors approved the addition of the Water Resources Element, there is no need to have a separate element on water. CEQA requires water resources be analyzed when the Environmental Impact Report for the General Plan is conducted. And certainly Water Quality is already stringently regulated by the Feds and the State Water Quality Control Board. The State is expected to place more restrictions on development than any other issue in the near term.

This new county element is one more attempt to place yet more restrictions on development than the EIR or Water Quality Control Board would other-wise impose. There are many references in the Water Resources element to protection of the watersheds which go beyond what the typical EIR would address.

Examples of concerning statements and policies include:
"Due to its critical importance, water is legally considered a public resource." It makes no mention of riparian rights, appropriative rights, or prescriptive rights, all which are landowners' legal rights to water.

Goal: "WR-G5: "Assure that there are no surface water or groundwater imports into or exports out of Humboldt County unless the proponent establishes by clear and convincing evidence that said import or export is consistent with Humboldt County's ability to sustain an adequate and quality water supply for its water users and dependent natural resources."

This goal has the potential to devastate any efforts to support economic development and affordable housing.

6. Biological Element

There is no need to have a separate element on Biological resources. They are required to be addressed when the Environmental Impact

Report for the general plan is conducted. This element is one more attempt to place more restrictions on development than CEQA or the EIR would other-wise impose.

7. Cultural & Scenic Element

There is no need to have a separate element for cultural and scenic resources. These issues will be addressed through the Environmental Impact Report for the general plan. This element is one more attempt to place more restrictions on development than CEQA or the EIR would other-wise impose.

8. Mineral Element

There are 53,049 individual Federal Government websites identifying regulations on mineral resources. In addition, the State has 5 pages listing Public Resources Code Sections 6890 – 6900 regs. This new County element in the general plan is not needed as no new regulations on mineral resources are appropriate.

9. Energy Element

This element advances a “sustainable” policy, which is the no-growthers’ way of limiting growth. The policy restricts importing energy from outside the County. There is no annual growth rate addressed in this element which would anticipate a certain population growth over the next 20-25 years as it should.

There are 52,482 Federal Government websites identifying energy regulations. In addition to those existing Federal regulations, there are 29 books totaling 3,082 pages describing each of the 29 California codes addressing energy regulations. Plus, the California PUC (Public Utility Commission) code contains 240,323 sections -- each section consisting of multiple pages.

This proposed new Energy element as written would provide additional opportunities beyond the Federal and State regulations for staff to recommend denial of applications. There is no need for this element as energy issues would rightfully be evaluated during the conduct of the General Plan EIR.

10. Waste Management Element

There are 2,393 Federal websites identifying regulations on waste management. In addition to those regulations, the State has 11 pages identifying the various listings of Title 14 regulations - 5 pages identifying the various listing Title 27 regulations.

Waste management sites can be identified in the County's Land Use element without adding a separate element which places additional regulations and costs on development.

11. Air Quality Element

There are 89,036 individual Federal Government websites identifying air quality regulations. In addition to those regulations, the State air quality laws have been updated on an annual basis since 1995. There are 85 different program components to State air quality regulations -- each program component having multiple regulations

Air quality is required to be addressed when the Environmental Impact Report for the general plan is conducted. This element is one more attempt to place more restrictions on development than the EIR would other-wise impose. There is no need for this added element.

12. Forest Resources Element

Members of the Forest Resources Committee have worked for several years at the Boards' request to make recommendations on the General Plan update. FRC's final recommendations to the Planning Commission and Board of Supervisors have not yet been submitted. Staff presented a draft Forest Resources Element to the Planning Commission without the FRC's final recommendations. We believe the County should have the benefit of FRC's input prior to addressing Forest Resources.

Forest resources are best addressed in the Land Use Element.

III Infrastructure Analysis

We are told there is additional work to be done on the infrastructure analysis. Infrastructure is the backbone of the entire General Plan. It is imperative that that added work be completed before proceeding with the General Plan update.

All elements of the General Plan must be consistent.

Case in point....The Housing Element land inventory must include, according to State statute, sufficient detail to determine whether water delivery systems and sewer treatment capacity is or will be (i.e., within the 20-year planning period for the General Plan and 5-year planning period for the Housing Element) available to the identified sites.

IV Housing Element

The Housing Element land inventory must include, according to State statute:

- Land suitable for residential development and available for residential use within the planning period (5-year timeframe).
- Characteristics include physical features (flooding, seismic hazards, chemical contamination, other environmental constraints, and slope instability or erosion) and location (proximity to transit, job centers, and public and community services).
- The element must include sufficient detail to determine whether water delivery systems and sewer treatment capacity is or will be (i.e., within the 5-year planning period) available to the identified sites.
- Reference State Housing and Community Development website: <http://www.hcd.ca.gov/hpd/hrc/plan/he/qa1106.pdf>

The current Housing Element adopted by your Board in November 2004 received a “conditional” approval from the State HCD (Housing and Community Development) Department in a letter dated June 5, 2006. The letter outlines several actions the County was required to take to come into compliance with State housing law. Those conditions have not yet been met.

In that same Housing Element, the County committed to complete and implement over 20 new programs by the end of 2005. Few of these programs have been implemented to date.

One of those programs dealt with the permitting process. A Permit Reform Committee was established 2 ½ years ago in October 2005, and after holding a few meetings, was dissolved. The recent resurrection of the Permit Reform Committee is encouraging. We look forward to contributing to this effort in a constructive manner.

We also look forward to participating in a “grounds truthing” effort with County staff and other interested members of the public ASAP. By working together to determine exactly what land is adequate for all types of housing development, a land inventory can be developed in the new Housing Element that meets State law and satisfies the County’s RHNA (Regional Housing Needs Analysis) requirements.

V Economic Sustainability

Much is said about sustainability. We believe our future is dependent on the County’s ability to be self-supporting both in the private arena as well as the public sector. As Federal and State debts continue to mount, there will be fewer and fewer tax dollars from outside the area available to do the things we would all like to do within the County.

It is apparent the County's ability to implement new programs is currently non-existent until the old ones already committed to have been accomplished. Why not put on hold any new programs until the existing problems have been successfully resolved. It appears County staff is stretched too thin. Those in the private sector trying to provide housing, are already being over-burdened with fees and entitlement costs which only serve to increase the cost of housing.

VI Conclusion

Let's go back to the basics and address those seven (7) elements in the General Plan which are mandated and forgo the 12 additional elements being proposed. More regulations will only exacerbate the current dependency on State and Federal dollars, serve to overburden County staff further, and pile more regulations on housing which is counter-productive to the goal of providing affordable housing.

Thank you for your patience in hearing us out on these very important issues.

We wish you every success in addressing the General Plan update and would welcome the opportunity to work with you in any way possible to assure a revitalized economy, quality jobs and affordable housing for families while protecting the unique characteristics of Humboldt County.

Sincerely,

Kay Backer, representing
Members of HELP

Attachment

cc: Supervisor Jimmy Smith, District 1
Supervisor Roger Rodoni, District 2
Supervisor John Woolley, District 3
Supervisor Bonnie Neely, District 4
Commissioner Bruce Emad
Commissioner Mary Gearheart
Commissioner Richard Hansis
Commissioner Thomas Herman, Chair
Commissioner Scott Kelly
Commissioner Sef Murguia
Commissioner Jeff Smith
Loretta Nickolaus, CAO
Kirk Girard, Community Development Services Director
Kathy Hayes, Clerk of the Board
Betty Webb, Planning Commission Clerk

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ATTACHMENT “ A “

(State of California Office of Planning & Research)

General Plan- Seven Mandated Elements

The following information is provided for the purposes of a reminder as to what a General Plan (pursuant to State Law) must address and to provide a checklist for use during the preparation of the alternative plan proposal.

Government code Section 65302. Seven Mandated elements in a general plan is summarized as follows:

The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting for the objectives, principles, standards and plan proposals. The plan shall include the following elements:

Land Use-

The element must designate the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land.

The element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. It shall identify areas covered by the plan, which are subject to flooding and shall be reviewed annually with respect to those areas.

The plan shall also do both of the following:

- 1) Designate in a land use category that provides for timber production those parcels of real property zoned for timberland production...
- 2) Consider the impact of new growth on military readiness activities...

Circulation-

This element consists of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, any military airports and ports, and other local public utilities and facilities, all correlated with the land use element of the plan. Side note: This is often the element in which the subject of drainage is addressed due its correlation with the street system of the community.

Housing-

The requirements of the content of this element are found within Article 10.6 (commencing with Section 65580) are very extensive and not repeated here.

Conservation-

Description provided in our other GP Update notes. In addition to the prior notes, the following is provided:

The conservation element may also cover the following:

- 1) The reclamation of land and waters.
- 2) Prevention and control of the pollution of streams and other waters.
- 3) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.
- 4) Prevention, control, and correction of the erosion of soils, beaches, and shores.
- 5) Protection of watersheds.
- 6) The location, quantity and quality of the rock, sand and gravel resources.
- 7) Flood control.

Open Space-

Description provided in our other GP Update notes. (See also Article 10.5 commencing with Section 65560)

Noise-

The element shall identify and appraise noise problems in the community. It shall recognize the guidelines established by the State and shall analyze and quantify to the extent practicable, as determined by the legislative body, current and projected levels for all of the following sources:

Highways and freeways.

Primary arterials and major local streets.

Passenger and freight on-line railroad operations.

Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, and all other ground facilities and maintenance functions related to airport operation.

Local industrial plants, including, but not limited to, railroad classification yards.

Other ground stationary noise sources, including but not limited to military installations, identified by local agencies as contributing to the community noise levels.

Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average level (Ldn). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified above.

The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

The element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any.

Safety-

The safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence, liquefaction and other seismic hazards; flooding; and wild land and urban fires.

The element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, military installations, peak load water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards.