

# *The Healthy Humboldt Coalition*

April 12, 2007

Planning Commission  
Community Development Department  
3015 H Street  
Eureka, CA 95503

## **Re: Chapter Group 3 Policies**

Dear Commissioners and Staff,

We are writing to provide comments and specific recommendations regarding the recently released draft policies for the Noise and Safety Elements for the General Plan Update. We have provided extensive comments below, as well as a full markup version of the Staff's draft document, which is likely the easiest way to note the specific changes which we are recommending. We have also attached some draft policies which we developed in 2003.

### **Noise Element**

If a tree falls in the forest but no one hears it, does it make a sound? Of course it does. Unfortunately the draft noise element seems to concern itself only with separating residential areas from noise sources, rather than reducing or eliminating the causes of noise. This approach does not reduce noise at all, thus failing to meet the County's obligations under the California Noise Control Act of 1973.

Section 46000(e) of the Noise Control Act states:

*"The State of California has a responsibility to protect the health and welfare of its citizens by the **control, prevention, and abatement** of noise."*

Clearly, mitigation is not the goal, nor is it sufficient. The County must seek to actively reduce the causes and sources of noise, not merely mitigate, insulate or segregate noise from residential areas.

The draft document also fails to define "noise." Fortunately, a definition exists in the Noise Control Act (Government Code Section 46022):

*"Noise" means and includes excessive undesirable sound, including that produced by persons, pets and livestock, industrial equipment, construction, motor vehicles, boats, aircraft, home appliances, electric motors, combustion engines, and any other noise-producing objects."*

This definition must be kept in mind in developing these policies. The charts in the draft document improperly identify only a selected handful of noise sources, taken from Code Section 65302(f). While this section is of course relevant, it is by no means authoritative or limiting. That section states that the Noise Element "*shall recognize the guidelines established by the Office of Noise Control.*" Those guidelines are established by the California Noise Control Act of 1973. Section 46001 of that act states:

*"No provision of this division or ruling of the Office of Noise Control is a limitation or expansion:*

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(a) *On the power of a city, county, or city and county to adopt and enforce additional regulations, not in conflict therewith, imposing further conditions, restrictions, or limitations.*

(b) *On the power of any city, county, or city and county to declare, prohibit, and abate nuisances...*

(e) *On the right of any person to maintain at any time any appropriate action for relief against any private nuisance as defined in the Civil Code or for relief against any noise pollution."*

### **Traffic Noise**

The primary focus of the Noise Element is on traffic noise, but the draft document seeks to deal with this noise only by separating traffic from residential areas. This completely ignores the fact that traffic and, thus, traffic noise are both generated by those same residential areas. It is the separation of residential areas from destinations such as stores, services, and workplaces that requires people to get in their cars and drive. That is where traffic comes from, and that is where traffic noise comes from.

Traffic is simply the volume of vehicles on the road at any given time. Traffic noise is a function of the volume of vehicles, the size and type of vehicles, the miles traveled, and the rate of speed. While it is possible to locate roads and vehicles further from residential areas, this ultimately results in more vehicles traveling more miles.

Disperse development patterns have fewer destinations within walkable distance. The greater the distance between destinations, the more people who will choose to drive rather than walk, and the longer it will take them to get from point A to point B. Arterials and highways typically have higher speed limits, too. It is also not a stretch to note that rural development is typically more populated by trucks, vans and SUVs than would be found in an urban setting. Disperse "rural" development patterns thus generate more traffic from bigger vehicles driving more miles at higher speeds. All of these things translate into much more noise than is generated by compact, walkable, urban development.

The draft also fails to consider the noise impact in those locations where large volumes of cars from across a disperse area collect and come together. These locations include collector roads, major intersections, schools, major retail stores or malls with large parking lots.

The goal and intent of the Noise Element must be to actively prevent, reduce, or eliminate noise from human activities. The only approach which actually reduces the amount of noise being generated is to reduce the number of vehicles on the road and the miles being driven. This means development patterns which do not require automobiles for routine day to day errands such as travel to and from work, school, stores, services, or restaurants. Again, the failure to provide needed stores, jobs and services within convenient walking distance of residential areas is the primary cause of traffic, and thus traffic noise.

Staff states: *"Based on historical development patterns, the 2004 Humboldt County Housing Element states that approximately 25% of the 3,100 units projected to be constructed over the next five years will be built in rural areas. These 800 units could potentially be dispersed across more than a million acres of land served by many different arterials, collectors, and major and minor roads."* This disperse development will require many more miles driven per-residence versus more compact development patterns, thus generating more noise. Though this noise would be spread across a wider area, the volume of noise would be far greater. Prevention of noise-causing activities such as increased driving should be the goal.

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### **Other Noise Sources**

The noise contour mapping appears to look only at a selected handful of noise sources, and does not look at the noise-generating aspects of rural or suburban development. Other noise sources listed by the Noise Control Act include noise from persons, pets and livestock, industrial equipment, construction, motor vehicles, boats, aircraft, home appliances, electric motors, combustion engines, and any other noise-producing objects. The noise contour mapping must consider all of these.

Efforts are currently underway to re-open the Northwestern Pacific Railway, with estimates of greatly-increased rail traffic from Samoa and Fairhaven, through Arcata, Eureka, and Fortuna to the Bay Area. Staff should look at the projections being made for significant rail traffic and consider the noise implications.

Policy NS2 states “*For noise-sensitive locations where noise contours do not exist, the environmental review process required by the California Environmental Quality Act shall be utilized...*” How can “noise sensitive” locations be determined in places where noise contours don’t exist? It cannot be assumed that all areas which are unmapped are thus not “noise-sensitive.” The only logical and meaningful approach is to require CEQA for any areas where noise contours have not been mapped. Because of this omission, the staff’s maps must not be considered absolute and authoritative, and should be used for general guidance only.

The principle noise sources listed on page 2 and 3 of the staff report are very limited. For example, because the County has no way of knowing where noncommercial quarries operate or may operate in the future, all the quarries in Bayside and Kneeland are omitted along with their crucial haul routes. This applies to many areas of the county. The Kneeland airport and related air traffic is omitted, which should also be cross referenced in the Safety Element along with naturally occurring asbestos, both of which are omitted in those reports.

### **Mitigations and Sound Walls**

The draft document encourages the construction of sound walls along major corridors in all Urban Study Areas. **THIS IS A TREMENDOUSLY HORRIBLE, BAD, UGLY AND AWFUL IDEA.**

Most of the reasons for which Healthy Humboldt (and, literally, every individual we have contacted about this issue) oppose the building of sound walls are social and aesthetic reasons. Sound walls enable and encourage higher speeds and thus more noise. They divide communities, create anonymity, and obscure the scenic view. Most significantly for the Noise Element, sound walls do absolutely nothing at all to reduce noise.

The ability to mitigate noise through methods such as sound walls does not relieve the County of its essential responsibility to control, prevent, or abate noise. Mitigations must be considered a last-choice approach which is only appropriate where the County has already failed to meet its primary responsibility. In other words, the ability to mitigate anticipated noise impacts from a project must not be substituted for the need to actually prevent those noise impacts in the first place.

Sound Walls are an admission of failure and poor planning, and should be allowed only in places where *all other available measures to prevent, reduce, or mitigate noise have failed*. Thus barriers must be seen as the least preferable option, and must be used only for existing and otherwise irreparable problems. In no case shall the ability to reduce noise by building sound walls be an allowable mitigation for a future project. In other words, if the anticipated noise conflicts from a

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project are such that it would require the construction of sound walls, then that project must not be allowable.

### **Resource areas and open space**

Land use/noise incompatibility is not reserved only for developed areas. The absence of people nearby shall not be seen as making noise a non-issue. Places that are not routinely inhabited by people should be reserved as places of respite, and should not be subjected to human-generated noise. Policies should also address incompatibility of human-generated noise with natural areas, open space, beaches, etc.

On the other hand, in active resource lands, noise generated by routine resource activities should be expected. Persons who choose to build homes in or near these resource lands should be made aware of the expectation that farming, ranching or logging activities may cause unpleasant noise. "Right to farm" and "right to log" policies should be considered.

A different approach must be taken for dealing with helicopter logging, as it has the potential to create incredibly loud and harmful sound over a very broad area. Helicopter logging must be restricted to the hours from 8 A.M. to 5 P.M. on weekdays only, with no helicopter logging permitted at any time on weekends, within 500 feet of a paved roadway, or within 1000 feet of a residence. Additionally, special advance notice must be provided to any and all neighbors within a half-mile radius of any helicopter logging, stating the specific days that the logging will occur.

Additionally, the County's policy regarding helicopter logging must reference and incorporate Section 46001 of the Noise Control Act, which states:

*"No provision of this division or ruling of the Office of Noise Control is a limitation or expansion:*

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*(b) On the power of any city, county, or city and county to declare, prohibit, and abate nuisances...*

*(e) On the right of any person to maintain at any time any appropriate action for relief against any private nuisance as defined in the Civil Code or for relief against any noise pollution."*

### **Safety**

The Staff Report reads:

*"The approach taken in this General Plan involves: 1) consideration of appropriate land use designations in order to limit the populace exposed to hazardous areas; 2) assessment and conditioning of development applications according to the hazards on a site; 3) policies tailored to specific hazardous conditions; and, 4) an action program to improve overall safety conditions within the County."*

This fails to recognize the impact that human land use activities have in causing or worsening some of these hazards. It has been well documented in Humboldt County's watersheds that forest canopy removal from logging increases peak flows from rainfall, thus increasing the amount of water flowing into our creeks and rivers during any given rainfall event. The impact of these

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increased peak flows can be considerable, as it effectively increases both the severity and frequency of flooding.

Other related studies have clearly shown the relationship between ground-disturbing activity and landsliding on our hillsides. Among timber harvest-related activities, the greatest cause of landsliding is not the logging itself but the road building. This is true even of today's engineered, armoured, and 'weather-proofed' roads. In Elk River, landslides caused by timber harvest-related activities have triggered landsliding volumes of over 750,000 cubic yards.

Of course, the best (or worst) example of the hazard posed by road building and the clearing of land on our sensitive hillsides is the Stafford landslide of January 1, 1997, which destroyed some 17 homes. The geologic hazards element must recognize that human activities in our upper watersheds, particularly clearing and road building, have a causal relationship with landsliding and geologic instability.

Along with posing a direct safety hazard, this human-caused landsliding also contributes vast amounts of sediment into our creeks, streams and rivers, and into Humboldt Bay. This sedimentation creates downstream safety hazards that can persist for many years. Freshwater and Elk River have both been shown to suffer from massive amounts of sediment deposits which have reduced their carrying capacity by 60% or more. The volume of storm water which could once be accommodated in these streams can no longer fit. Additionally, as pointed out above, there is now more water flowing off of the slopes due to the loss of canopy, meaning that there is more water flowing into a smaller channel.

The result is greatly increased flooding. It has been well-documented that routine rainfall events now cause greatly-increased flood levels. "50 year floods" now occur on an annual basis, and floods the magnitude of the 1955 "flood of record" for these watersheds now occurs every 2-3 years. The December 28<sup>th</sup> 2005 storm, which dropped 2.46 inches of rain over 3 days, created a flood level in Freshwater Creek that was fully 15 inches higher than the 1955 flood.

All of this history and documentation has shown the cumulative impact of too much road building and canopy removal in these watersheds. Studies by the North Coast Regional Water Quality Control Board have led them to only permit canopy removal of approximately 1.5% per year in these watersheds. However, this is only for the temporary canopy removal due to timber harvesting. That canopy grows back over time, leaving perhaps 5% or so of the watershed denuded at any given time.

Development in these erosive watersheds would bring permanent canopy removal and road building. The potentially disastrous cumulative effects of these activities must be considered fully in advance, and absolute limits on permanent canopy removal should be instigated. While Elk River and Freshwater provide the best information base for this issue, the concept should be applied broadly across Humboldt County to prevent the impacts that these watersheds now suffer from.

Additionally, the changes to the existing floodplains and the potential for future changes must be taken into account. By failing to limit canopy removal and road building upstream, the County could effectively be taking the property rights of those who live downstream. Those places where the floodplain and flooding regime has already been altered, the County must consider downzoning to accurately reflect these increased constraints.

The County should also be listening hard to the tremendous input it has received from HELP and the NCHB regarding constrained lands. If parcels are found to be more greatly constrained than is shown by current zoning, then the County must downzone those properties, as advocated by HELP.

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**Additional**

We have attached the work Healthy Humboldt submitted back in Sept 2003. Appendix D & E include Noise Element sections as follows:

App. D: starting on p. 23 of Mineral Resources, Noise (next to last page) modified 180-182

App. E: starting on p. 39 (next to last page) - 13. Noise, see Goal and Options 13.1 - 13.5.

Sincerely,

Mark Lovelace  
Healthy Humboldt Coalition