

rec'd 7/26/07
GPU

W99

BEAR RIVER BAND of ROHNERVILLE RANCHERIA
27 BEAR RIVER DR. LOLETA, CA 95551 707.733.1900, fax 733.1972



Bear River Band of the Rohnerville Rancheria
Comments on Chapter 15 Cultural and Scenic Resources
Humboldt County General Plan Update

Submitted to the Humboldt County Planning Commission

7/26/2007

Plan Alternatives Comparison Chart

The "Vote" column is provided for the user to indicate a policy preference. Enter a Retain, Delete or Modify.

Plan Alternatives Comparison Chart

[Note: the underlined text below indicates modifications of existing Framework text.]

Table 15-1. Plan Alternatives Comparison Chart: Goals and Policies, Standards and Implementation Measures							
<i>Plan Alternative</i>				<i>Goals & Policies</i>	<i>Staff Remarks</i>	<i>Vote: R, D, M</i>	
A	B	C	D	CU-G1 Protection and Enhancement of Cultural Resources. To provide for the protection and enhancement of cultural resources for the historic, scientific, educational, and social contributions they render to the present generation and to generations that follow.	(FRWK 3530)	R	
A	B	C		CU-P1 Identification and Protection. <u>Cultural resources, as defined</u> , shall be identified where feasible, assessed as to significance, and, if found to be significant, protected from loss or destruction.	(FRWK 3531.1, <u>modified</u>)	M	
A	B	C		CU-P2 Consultation. <u>Tribal organizations</u> , historical organizations and applicable agencies shall be consulted during project review <u>and plan amendments</u> for the identification and protection of cultural resources.	(FRWK 3531.2, <u>modified</u>) to reflect current law.	M	
A	B	C	D	CU-P3 Avoid Loss or Degradation. Projects located in areas found to have cultural resources shall be conditioned and designed to avoid loss or degradation of these resources.	(FRWK 3531.3)	M	
A	B	C	D	CU-P4 Assessment of Impacts. Expert opinions and field reconnaissance at the applicant's expense may be required during environmental assessment to determine the presence, extent, and condition of cultural resources and the likely impact upon such resources.	(FRWK 3531.4)	M	
A	B	C		CU-P5 Findings. <u>Cultural resources</u> shall not be knowingly destroyed or lost through a discretionary action unless: A. The site or resource has been found to be of insignificant value by <u>representatives of the cultural resources community and relevant experts</u> ; or B. There is an overriding public benefit from the project, and compensating mitigation to offset the loss is made part of the project. (FRWK 3531.5, <u>modified</u>)	(FRWK 3531.5, <u>modified</u>)	M	
A	B	C		CU-P6 Mitigation. Mitigation measures shall be required where new development would adversely impact cultural resources, as defined. (FRWK 3531.6, <u>modified</u>)	(FRWK 3531.6, <u>modified</u>)	M	

**Table 15-1. Plan Alternatives Comparison Chart:
Goals and Policies, Standards and Implementation Measures**

				<i>Alternative</i>	<i>Standards</i>	<i>Staff Remarks</i>	<i>Vote: R, D, M</i>
A					CU-P7 County Historical Resource Commission. Establish a Historical Resource Commission to review projects related to historical resources. Require a Historic Resource Assessment Report for discretionary projects which may impact historic resources. The report shall be reviewed by the Historical Resource Commission, which will provide recommendations regarding preservation of historic resources to the Planning Commission.		R
A					CU-P8 CEQA Review. As part of the review of discretionary projects under the California Environmental Quality Act (CEQA), a determination must be made as to whether a project will have a significant impact on historical resources. Historical resources as provided in Section 15064.5 of the State CEQA Guidelines include: 1) a resource listed in, or determined to be eligible for listing in, the California Register of Historical Resources; 2) a resource listed in a local register of historical resources; or 3) any object, building structure, site, area or place which the County Planning Division determines to be historically significant.		R
A					CU-P9 Historic Assessment Study. Projects with a potential to impact a historic resource will require a preliminary assessment report (Historic Assessment Study), consisting of a visual examination of the property and literature review conducted by a professional historic resource consultant who then prepares a written report that contains findings and recommendations. The report will also describe any further actions that might be needed to avoid or lessen development related impacts to any historical resources encountered.		M
A	B	C			CU-S1 Cultural Resources. "Cultural Resources" include, but are not limited to, any object, building, structure, site, area, or place which is <u>culturally</u> , historically or archeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, education, social, political, military, or cultural annals of Humboldt County. Sites, resources, or structures placed in Federal, State, or local historic registration programs shall also be recognized as historical resources. <u>Cultural resources also include cultural places as defined by PRC 5097.9 and 5097.993, including any</u>	(FRWK 3532.1, modified)	R

**Table 15-1. Plan Alternatives Comparison Chart:
Goals and Policies, Standards and Implementation Measures**

				Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine; or any Native American historic, cultural, or sacred site, that is listed or may be eligible for listing in the California Register of Historic Resources, including any historic or prehistoric ruins, any burial ground, and any archeological or historic site.		
A	B	C	D	CU-S2 Confidentiality. The exact location of archeological, paleontological, and grave sites shall not be publicly identified in order to prevent the possibility of theft or vandalism.	(FRWK 3532.2)	R
A	B	C		CU-S3 Tribal Organizations, Historical Organizations and Applicable Agencies. " <u>Tribal organizations</u> , historical organizations, and applicable agencies" should include, but <u>are</u> not be limited to, <u>tribal governments</u> , the Humboldt County Historical Society, <u>North Coastal Information Center, California Archeological Site Survey</u> , at Sonoma State University, Humboldt County Public Works and Planning Departments, the California State Office of Historic Preservation, and other Native American groups and affected citizens.	(FRWK 3532.3, modified)	M
A	B	C	D	CU-S4 Conditioning, Designing or Mitigating Projects to Avoid Loss. Conditioning, designing, or mitigating projects to avoid loss of cultural resources in general, but archeological or paleontological resources in particular, shall include, where applicable: A. Changing building and construction sites and/or road locations to avoid sensitive areas; or B. Providing protective cover for sites that cannot be avoided; or C. Where appropriate and with the approval of all parties concerned, providing for the removal or transfer of culturally significant material by a cultural heritage specialist, professional archeologist, or geologist.	(FRWK 3532.4)	M
A				CU-S5 Historic Assessment Study Contents. The historic assessment study should, at the minimum, contain: (1) Evidence of a full background literature search through the depository at the Humboldt County Historical Society. Whether the resource is on any federal, State or local list of designated historic resources. Whether the resource is identified in any information in the historical archives; (2) A brief description of the project parcel(s) and the		R

**Table 15-1. Plan Alternatives Comparison Chart:
Goals and Policies, Standards and Implementation Measures**

			<p>expectations of the consultant at the onset of the inventory report;</p> <p>(3) A clear description of the methods and results of the field inventory including rationale for surface coverage and a brief discussion of any historic resources encountered. This treatment should be patterned after the <i>Secretary of the Interior's Standards and Guidelines for ARCHEOLOGY AND HISTORIC PRESERVATION</i> [As Amended and Annotated] - http://www.cr.nps.gov/local-law/arch_stnds_0.htm ;</p> <p>(4) A generally accurate map (7.5' USGS topographic, parcel map or engineers map) in a scale sufficient to show the intensity and coverage of the field inventory as well as the location of any resources encountered;</p> <p>(5) A description and evaluation of any structures and a determination of whether or not they qualify as historical resources. This evaluation should answer the following questions with respect to possible historic significance:</p> <p>a) Is it associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California, or the United States;</p> <p>b) Is it associated with the lives of persons important to local, California, or national history;</p> <p>c) Does it embody the distinctive characteristics of a type, period, region, or method of construction, or represent the work of a master or possess high artistic values;</p> <p>d) Has it yielded, or does it have the potential to yield, information important to the prehistory or history of the local area, California, or the nation.</p> <p>(6) a) Given the answers to 5. a. through d., Does the resource qualify as an historic resource? If the answer to 6a is no, and any of the answers to 5a through 5d is yes, explain why, in your assessment, the resource does not qualify as historic.</p> <p>b) Does the resource have integrity for the period of significance? The period of significance is the date or span of time within which significant events transpired, or significant individuals made their important contributions. Integrity is the authenticity of a historical resource's physical identity as evidenced by the survival of characteristics or historic fabric that existed during the resource's period of significance.</p>		
--	--	--	--	--	--

**Table 15-1. Plan Alternatives Comparison Chart:
Goals and Policies, Standards and Implementation Measures**

				<p>c) Identify whether or not the resource retains enough of its historic character of appearance to be recognizable as an historical resource and able to convey the reasons for significance. If it is determined that a resource has lost its historic character or appearance, does it still have the potential to yield significant scientific or historical information or specific data?</p> <p>d) Is the historic resource located within a historic district or a concentration of historic buildings, structures, objects, or sites with precise boundaries that share a common historical, cultural or architectural background? If so, and if it is determined that the resource lacks individual significance as an historic resource, could the resource be considered a contributor to the significance of the historic district or concentration of historic structures?</p> <p>(7) If the resource is historic, provide recommended means to avoid or lessen development related impacts to any historical resources encountered on the parcel(s);</p> <p>(8) The names of any local persons consulted during the preparation of the report;</p> <p>(9) Statement of Qualifications (education, employment, field experience, previous reports and publications in historic resources).</p>		
A				<p>CU-S6. Historic Resource Commission Recommendations & Mitigation. The conclusions, findings and recommendations of the historic assessment study will be evaluated during the environmental review process, and will be referred to the Historic Resource Commission. The Historic Resource Commission will make recommendations on historic resources to the Planning Commission. Applicants should be encouraged to avoid impacts to historical resources where feasible. When this is not feasible, mitigation measures shall be incorporated into the project to lessen the impact of the project on these resources. Mitigation shall be in accordance with Appendix K of the State CEQA Guidelines.</p>		R
<i>Alternative</i>				<i>Implementation Measures</i>	<i>Staff Remarks</i>	<i>Vote: R, D, M</i>
A	B	C	D	<p>CU-IM1 Review Existing Protections. Review existing ordinances and guidelines and make necessary amendments to assure the protection of cultural</p>	(FRWK 3530.1)	5- M

**Table 15-1. Plan Alternatives Comparison Chart:
Goals and Policies, Standards and Implementation Measures**

				resources.		
A	B	C		CU-IM2 Implementation Guidelines. Adopt <u>implementation guidelines for cultural heritage, archeological, or paleontological resources and for historic resources.</u>	(FRWK 5-3530.2 modified)	M
A	B	C		CU-IM3 Historical Registration. Encourage and actively support federal, state, <u>and local</u> historical registration programs.	(FRWK 5-3530.3 modified)	R
A	B	C	D	CU-IM4 Historic Building Code. Promote the use of the Historic Building Code of the State of California for historical sites.	(FRWK 5-3530.4)	R
	B			CU-IM5 Historic Building Identification. Establish and maintain a system for identifying historic properties.		R
A				CU-IM6 Historical Resource Protection Regulations. Historical resources and sites shall be protected through zoning (e.g. Design Review combining zone for historic resources in historic communities such as Samoa or Scotia) and other suitable regulatory means to ensure that new development shall be compatible with existing historical resources and to maintain the special values and unique character of the historic properties. Repair or rehabilitation of historic structures may be permitted upon determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure or that appropriate mitigation measures have been taken to minimize impact of the repair or rehabilitation.		R
A				CU-IM7 Certified Local Government Program. Pursue County certification under the Certified Local Government Program through the State Office of Historic Preservation (SHPO). Requirements of the program include: <ul style="list-style-type: none"> -Enforce appropriate legislation for the designation and protection of historic properties. * -Establish and maintain a qualified historic preservation commission. -Maintain a system for identifying historic properties. -Provide for public participation and perform other agreed functions delegated by SHPO. 		R

BEAR RIVER BAND of ROHNERVILLE RANCHERIA
27 BEAR RIVER DR. LOLETA, CA 95551 707.733.1900, fax 733.1972



Bear River Band of the Rohnerville Rancheria supports General Plan Update Alternative A in the Cultural and Scenic Resources (Ch. 15) section with the following modifications:

GENERAL COMMENT:

The overall draft cultural resources goals and policies section should be further defined to avoid misinterpretations and misrepresentations.

Government to government consultation between the County and Federally Recognized Tribes makes the process much more efficient as two organized government entities are interacting. Federally recognized Tribes have earned their status as sovereign governments through much hard work and have proven their cohesive nature through rigorous federal requirements. Limiting formal consultation to these entities will ease the burden on the County and allow for relationships to be developed, further streamlining the process. Additionally, the formal recognition of government to government consultation with Federally Recognized Tribes provides planners, developers and project proponents with a clear understanding of the Tribal government with whom they will be working.

A clear statement that the County will comply with and work under the auspices of both the National Historic Preservation Act of 1966 (as amended) and the California Environmental Quality Act will provide planners, developers and project proponents a resource to which they can refer to clarify their requirements up front. The draft document follows the requirements and process set forth in both these laws, state this clearly and up front. The key here is to limit the number of unknowns for any given project; allowing project proponents to evaluate costs at an early stage. The most damaging costs are those that are unknown and unplanned, it is most efficient for all involved to clearly state the process and requirements that will be followed during any project. Finally, the recognition that the County will operate under these laws in the general plan, will provide for future opportunities with respect to federal and state grant monies and ease the requirements of proof that the County is in

compliance with these laws and regulations with respect to existing grants and other federal and state monies. As you are well aware, any project funded or partially funded by federal or state money requires compliance with these laws; recognize that you do so in the Humboldt County General Plan.

The Bear River Band of the Rohnerville Rancheria highly recommends that Humboldt County pursue status as a Certified Local Government for the benefits that this status provides for the County government, its citizens and their irreplaceable cultural resources.

The establishment of a Historic Resource Commission will not only provide a resource for clear and efficient direction to planners, project proponents and developers but will serve to promote the preservation of resources that in turn provide for opportunities in Heritage Tourism, creative green space alternatives with the potential to increase a developments property values, educational opportunities for our children and a community that respects its past while planning its future.

SPECIFIC COMMENTS

CU-P1 Identification and Protection

This policy needs clarification as significant resources are to be protected from loss or destruction, CU-P5 B states that an exception is made for overriding public benefit and CU-P6 Mitigation does not clearly state that mitigation measures can be applied to significant resources.

Suggestion:

Cultural Resources, as defined, shall be identified, assessed as to significance, and, where feasible as defined under CU-P5 B, significant resources shall be protected from loss or destruction.

CU-P2 Consultation

This policy needs to define Tribal organizations.

Suggestion:

Federally Recognized Tribal Governments, historical organizations, and applicable agencies shall be consulted during project review and plan amendments for the identification and protection of cultural resources.

CU-P3 Avoid Loss or Degradation

This policy needs clarification. Again it does not address the mitigation allowances outlined in CU-P5 and CU-P6 nor the identification, assessment of significance required by CU-P1 or the ramifications of a determination of significance.

Suggestion:

Projects located in areas found to have cultural resources shall be treated under the guidelines of CU-P1 and conditioned and designed to avoid loss or degradation of these resources. Unavoidable impacts are to be treated under project specific mitigation measures as defined under CU-P6.

CU-P4 Assessment of Impacts

If an environmental assessment is required it should include a cultural resource assessment.

In lieu of an all inclusive requirement, please describe the conditions under which background research, a field reconnaissance or preliminary reports will be required. E.G. when the county GIS cultural resources predictive model indicates a greater than 25% chance of encountering cultural resources and the parameters of this model are slope, proximity to water and the presence of recorded cultural resources within a one mile radius.

Suggestion:

Line 2 ...field reconnaissance and preliminary assessment report as defined under CU-P9 at the applicant's expense shall be...

CU-P5 Findings

The Federally Recognized Tribes need to be included in this process through consultation.

Suggestion:

- A. The site or resource has been found to be of insignificant value be representatives of the cultural resources community, HRC and relevant experts in consultation with the associated federally Recognized Tribal Government(s).

- B. There is an overriding public benefit from the project, and compensating mitigation to offset the loss is made part of the project as defined under CU-P6.

CU-P6 Mitigation

Why specific to development? If any project has an unavoidable adverse impact to cultural resources, mitigation measures should be required. Mitigation measures will vary on a case by case basis; the participants and a process should be defined. Refer to Appendix K of CEQA for a more detailed description.

Suggestions:

Mitigation measures shall be required where any project would adversely impact cultural resources, as defined. The mitigation measures shall be designed by CASHPO*, the project proponent, the relevant entity assessing the resource's significance, the relevant County Planner and the Historic Resource Commission (HRC) in consultation with the relevant Federally Recognized Tribal Government(s). When projects are located within the aboriginal territory of Federally Recognized Tribes with representatives serving on the HRC, the Tribal representative will have the option of abstaining from making comment and contributions through the HRC in lieu of formal consultation with the Federally Recognized Tribal Government or vice versa.

*if a programmatic agreement has not been entered into between the CASHPO and the County (highly suggested).

CU-P9 Historic Assessment Study

Line 9 development related should be changed to project related.

Suggestion:

...to avoid or lessen project related impacts to any historical resources encountered.

CU-S3 Tribal Organizations, Historical Organizations and Applicable Agencies

Lines 4 and 5

"..., tribal governments" should be changed to "..., federally Recognized Tribal Governments," if not change the heading to reflect this and then define by name the Federally Recognized Tribes in the county.

CU-S4 Conditioning, Designing or Mitigating Projects to Avoid Loss

The parties involved should be identified by referring to CU-P6.

Suggestions:

Line 11

- C. ...approval of all parties concerned as defined under CU-P6 and appendix K of CEQA,

CU-IM1 Review Existing Protections

This should be done in consultation with the local Federally Recognized Tribal governments.

Suggestions:

Add: In consultation with interested Federally Recognized Tribal governments whose aboriginal territory lies within the exterior boundaries of Humboldt County.

CU-IM2 Implementation Guidelines

The Federally Recognized Tribes should be consulted here as well, as should professionals within the field.

Suggestions:

Add: In consultation with interested Federally Recognized Tribal governments and historic preservation professionals.

Thank you for the opportunity to provide input into this plan.

-Bear River Band of the Rohnerville Rancheria