



AGENDA ITEM NO.

COUNTY OF HUMBOLDT

For the meeting of October 23, 2017

Date: October 16, 2017

To: Board of Supervisors

From: John H. Ford, Director of the Planning and Building Department 

Subject: Certification of the Humboldt County General Plan Update Final Environmental Impact Report (SCH #2007012089) and Adoption of the Humboldt County General Update

RECOMMENDATIONS

That the Board of Supervisors:

- Open the public hearing, receive and consider the staff report, and accept public comment; and
- Close the public hearing and deliberate; and
- Adopt Resolution No. _____ (Attachment 1), A Resolution of the Board of Supervisors of the County of Humboldt Certifying the Final Environmental Impact Report for the 2017 Humboldt County General Plan, making the Findings of Fact and adopting a Statement of Overriding Considerations; and

Prepared by Michael Richardson
 Michael Richardson, Supervising Planner

CAO Approval 

REVIEW: Auditor _____ County Counsel JSR Personnel _____ Risk Manager _____ Other _____

TYPE OF ITEM:
 Consent
 Departmental
 Public Hearing
 Other _____

PREVIOUS ACTION/REFERRAL:

Board Resolution No.
 Ordinance No.

Meetings of: June 12, 2012 - March 1, 2016

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor
 Seconded by Supervisor

Ayes
 Nays
 Abstain
 Absent

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: _____
 By: _____

Kathy Hayes, Clerk of the Board

- Adopt Resolution No. _____ (Attachment 2), A Resolution of the Board of Supervisors of the County of Humboldt Adopting Findings in Support of the 2017 Humboldt County General Plan, adopting the 2017 Humboldt County General Plan applicable to the Inland Areas, and adopting the Mitigation Monitoring and Reporting Program, which will all become effective 30 days from the date of adoption; and
- Adopt Resolution No. _____ (Attachment 3), A Resolution of the Board of Supervisors of the County of Humboldt Adopting Amendments to the Eureka Community Plan (1995); Avenue of the Giants Community Plan (2000); and McKinleyville Community Plan (2002) to maintain consistency with the text and land use maps of the 2017 Humboldt County General Plan, which will all become effective 30 days from the date of adoption; and
- Direct Planning and Building to file a Notice of Determination with the Humboldt County Clerk for a period of at least 30 days, after which the Notice will be returned to the Planning Division where it will be retained for not less than 12 months.
- Direct Planning and Building to prepare for adoption at a subsequent public hearing a version of the 2017 Humboldt County General Plan that will apply in the coastal zone.
- Direct Planning and Building as appropriate to address the public comments in Attachment 6.

SOURCE OF FUNDING

The cost of preparing this staff report was borne by the General Fund through the Planning and Building Department – Advance Planning Division's FY 2017-2018 budget and the General Plan user fees.

DISCUSSION

The project to be considered by the Board is the adoption of the 2017 Humboldt County General Plan. The Board will also be considering and certifying the Final Environmental Impact Report (FEIR) prepared for the GPU. There are several actions the Board is required to take to certify the EIR and adopt the GPU, as described in this report.

Background

California state law requires that each city and county adopt a general plan “for the physical development of the county or city and any land outside its boundaries which bears relation to its planning” (California Government Code, Section 65300). In a larger sense a county general plan is a “constitution for future development,” which is how the California Supreme Court has described it. The general plan establishes the kinds, locations, and intensities of land uses as well as applicable resource protection and development policies. Land use maps are used to show land use plan designations, constraints, and public facilities.

The GPU represents a multi-year effort on the part of the County Planning and Building Department in collaboration with the Humboldt County community at large, the Board of Supervisors, the Planning Commission, various County departments and numerous state and federal agencies. This process has benefited from an abundance of public discourse, and through the years of meetings many of those involved in the process gained a better understanding of and respect for the many diverse views on land use planning issues in the County.

The Board of Supervisors held 66 public hearings on individual chapters of the GPU to take straw votes and refine the Planning Commission Recommended Draft GPU between June, 2012 and March, 2016. On January 13, 2014, the Board of Supervisors directed the Planning Commission to review and provide recommendations on the Conservation and Open Space Element. The Planning Commission provided those recommendations on February 25, 2014. On December 18, 2015 the Board directed the Planning Commission to review and provide recommendations on various specific text changes and changes to the land use maps that had previously had not been considered by the Planning Commission. The Planning Commission provided recommendations on those items on January 7 and April 7, 2016.

This process resulted in the Board of Supervisors 2016 Draft GPU, which was reviewed in a Revised Draft EIR, published on April 19th, 2017. On September 5, 2017 the Airport Land Use Commission (ALUC) reviewed the proposed GPU to determine its consistency with the Airport Land Use Compatibility Plan (ALUCP) as required by Public Utilities Code sections 21676(b) and 21675.1 and Section 1.3 of the ALUCP.

In adopting Resolution 17-71, the ALUC determined that the GPU is consistent with the ALUCP, subject to the following revisions which have been incorporated into the GPU in Attachment 5:

- a. Add the Shelter Cove Airport as a prominent noise source in Shelter Cove to Table 13- A, Inventory of Prominent Sources of Noise within Community of Humboldt County.
- b. Add the most current future aircraft noise exposure maps showing noise contours to the Map Book Appendix (Appendix F).
- c. Add the following standard to the Safety Element:
S-SX, Airport Land Use Compatibility Zone Overlay. An Airport Land Use Compatibility Zone for all public use airports shall be established that matches the Recommended Compatibility Zones contained in the March 1993 Airport Land Use Compatibility Plan, as amended, for Humboldt County Airports, and that limits the maximum allowable residential density and building occupancy for each land use designation subject to such zones, to the Airport/Land Use Safety Compatibility Criteria of the Airport Land Use Compatibility Plan (Table 14-A)."
- d. Implement Mitigation Measure 3.7.4.2b of the Revised DEIR for the GPU by adding the following Implementation Measures to the GPU:
"S-IMx4. Update Airport/Land Use Safety Compatibility Criteria. The County shall update Airport/Land Use Safety Compatibility Criteria (Table 14-A), consistent with amendments to the ALUCP."
"S-IMx5. Airport Safety Review Combining Zone. Amend the Zoning Maps to apply an Airport Safety Review Combining Zone, indicated by "AP," that matches the outer boundaries of the Recommended Compatibility Zones contained in the March 1993 Airport Land Use Compatibility Plan, as amended, for Humboldt County Airports. Until such time as the Zoning Maps are amended, places a note on the record for each parcel in Humboldt County's online permit management system that lies within the outer boundaries of the Recommended Compatibility Zone."

General Plan Update Adoption

Compliance with the California Environmental Quality Act

The 2012 DEIR prepared for the Planning Commission-recommended GPU was revised to address comments and changes the GPU by the Board of Supervisors through March 2016, and to reflect changes in General Plan and CEQA law. There are no significant policy issues raised by the revised DEIR (RDEIR), which adds significant new information, including updated data and analysis of traffic, noise, and greenhouse gas emissions, and an assessment of the energy impacts of the GPU. The RDEIR analysis reflects there are no substantial changes to the overall development pattern proposed in the GPU except that residences are allowed in more places. A key feature of the RDEIR is the low growth rate of the County's population projected into the future. Countywide, only 3,134 more persons are projected in 2040 than in 2016.

While the land use maps allow for substantial growth, the RDEIR assumes the growth during the timeframe of this GPU (2017 - 2040) will follow the projections of the Department of Finance, which is substantially less than what is allowed. The environmental impacts of the GPU discussed in the RDEIR are commensurate with the modest growth projections from the Department of Finance.

As with the 2012 DEIR, the RDEIR concludes there are 19 significant, unavoidable impacts from the GPU that cannot be mitigated to less than significant levels:

- the loss of agricultural lands and timberlands
- impacts to water supply and availability from public water systems
- impacts associated with increases in vehicle miles traveled
- potential to exceed level of service standards for certain roads and highways
- impacts related to the future capacity of U.S. 101 between S.R. 255 in Arcata and 6th Street in Eureka
- impacts related to the future capacity of U.S. 101/Broadway in the City of Eureka
- a reduction in the Level of Service (LOS) of the segments of Main Street between 7th Street and 13th Street and Kenmar Road between U.S. 101 North Bound Ramps and S. Fortuna Blvd in Fortuna, to LOS D
- increased traffic volumes on roads within the County that could conflict with an applicable regional level of service standard
- increase potential exposure of people or structures to a significant risk of loss, injury or death involving wildland fires
- exposure of people and structures to the effects of severe surface fault rupture events
- water quality impacts of future land uses
- increases in particulate matter (PM10) emissions above state and federal standards
- greenhouse gas (GHG) emissions associated with new construction that may exceed state requirements
- loss of historic structures that may be removed or substantially altered when building sites are prepared for new construction
- changes to views of scenic vistas from new development
- community character impacts resulting from additional planned urban development
- adverse changes to scenic resources and ecological impacts to wildlife resulting from additional sources of lighting

- adverse physical effects on the environment from wasteful, inefficient, or unnecessary consumption of energy

Responses to comments received on the RDEIR have been prepared to be incorporated in a Final EIR (FEIR) for the GPU (Attachment 4). In developing the County's responses, Planning staff worked collaboratively with the organizations providing the most substantial comments - the Humboldt Coalition for Property Rights and the Green Diamond Resource Company. Two of the responses to comments resulted in recommended changes to the policies and standards of the GPU. In response to the comments from Mercer Fraser and the Humboldt Coalition for Property Rights and to clarify the definition of wetlands in the GPU, Biological Resources Standard BR-S11 is recommended to be changed as follows:

***“BR-S11. Wetlands Defined.** The County considers wetlands as lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. ~~Wetlands must have all of the following three attributes: (1) at least periodically, the land supports hydrophytes, (2) the substrate is predominantly undrained hydric soil, and (3) the substrate is non-soil and is saturated with water or covered by shallow water at some time during the growing season of each year.~~ An area is wetland if, under normal circumstances, (1) the area has continuous or recurrent saturation of the upper substrate caused by groundwater, or shallow surface water, or both; (2) the duration of such saturation is sufficient to cause anaerobic conditions in the upper substrate; and (3) the area's vegetation is dominated by hydrophytes or the area lacks vegetation.”*

And in response to comments from the Green Diamond Resource Company, Water Resources Element Implementation Measure WR-IMx is recommended to be modified as shown below:

“WR-IMx. Water Supply Evaluation and Monitoring. Conduct watershed level evaluations within two years after the adoption of the General Plan Update to ~~determine the~~ ensure sufficient long term surface and groundwater supply, including seasonal, average, dry year, and multiple dry year supplies, and beneficial uses of water ~~to determine an estimate of the quantity of water will be available for the level of future development described in the Revised Draft EIR for the GPU.~~ Work with water and wastewater related special districts, regulators, and other appropriate organizations to monitor watershed conditions.”

Prior to adopting the GPU, the Board must certify the GPU FEIR in accordance with Section 15090 of the CEQA Guidelines, make the required findings pursuant to Section 15091 of the CEQA Guidelines with respect to each of the significant environmental effects identified in the FEIR; adopt the mitigation measures in the EIR, adopt a Mitigation Monitoring and Reporting Program; and adopt a Statement of Overriding Considerations explaining why the project may be approved even though it will have significant unavoidable impacts on the environment. These actions are all included in the attached resolutions.

County and State Planning Law Findings for Approval

Pursuant to California Planning and Zoning Law (Government Code Section 65000 et seq.) a general plan amendment may be approved upon making the following findings:

1. The amendment is in the public interest, and one or more of the following findings can be made:

- 2.a. Base information or physical conditions have changed; or
- 2.b. Community values and assumptions have changed; or
- 2.c. There is an error in the plan; or
- 2.d. To maintain established uses otherwise consistent with a comprehensive view of the plan.

The resolution of approval for the GPU (Attachment 2) identifies the evidence that supports making these required findings.

The GPU for the Coastal Zone

Title 14, Section 13551 of the Coastal Commission's Administrative Regulations, Public Resources Code Section 30200, and Section 312-50.3.3 HCC, the portion of the GPU that applies in the coastal zone require amendments to the Local Coastal Program to conform to the policies contained in Chapter 3 of the Coastal Act, which sets forth policies regarding access, recreation, marine resources, land resources, development, and industrial development.

Staff is concerned that it will be impossible to reconcile some of the policies in the GPU with the policies of the coastal plans. For example the definition of wetlands described above in BR-S11 is different than the Wetland Buffer standards of the County's six Coastal Plans. Accordingly, staff recommends the Board direct Planning and Building to return with a version of the 2017 Humboldt County General Plan for the coastal zone with language compatible with the Coastal Plans, including its treatment of wetlands, environmentally sensitive habitat areas and scenic resource protection.

Implementation Action Plan

Appendix A of the GPU in Attachment 5 is the proposed Implementation Action Plan, which has the implementation measures presented in a table that identifies the method of implementation, responsibility for implementation, timing of implementation, cost of implementation as well as the policies in the corresponding General Plan element. This Appendix is part of the GPU staff recommends the Board adopt.

Public Comment

Attachment 6 contains the correspondence received on the GPU from the City of Arcata (two letters), the Redwoods Rural Health Center, the Redway Community Services District, the Humboldt Association of Realtors, and Uri Driscoll. Also, comments received on the GPU RDEIR in Attachment 4 from the Green Diamond Resource Company and Sungnome Madrone include comments on the GPU. The following paragraphs summarize the comments and staff's responses to those letters.

- The City of Arcata requests the Board reconsider the Planning Commission recommended land use designation for several properties. **Response:** Board discretion.
- The Redwoods Rural Health Center requests a Mixed Use designation for the property they've owned since the 1980's (Assessor's Parcel Number - APN 077-312-016 which is developed with a Health Center. The GPU land use map designates this property and the neighboring property owned by the State of California (APN 077-312-018) developed with a Department of Motor Vehicles office as RL - Residential Low Density. **Response:** Clearly the RL - Residential Low Density land use designation is not appropriate for these properties developed with commercial uses. Given the concerns expressed by the Redway Community Services District (CSD) regarding the Mixed Use designation, staff recommends these parcels be considered for a CG -

Commercial General land use designation. Staff recommends this land use change be brought back for review by the Planning Commission and Board of Supervisors at a subsequent hearing.

- The Redway CSD has concerns about the mixed use land use designation that was applied to the center of the community of Redway. In particular, they are concerned that Distract may not be able to provide water services to support the density of 16 dwelling units per acre allowed in that designation. **Response:** Board discretion.
- The Humboldt Association of Realtors expresses concern for those persons that have submitted applications for development permits under the existing General Plan that have not received approval. They anticipate holding these applicants to the requirements of the GPU could cause problems in the review of their permits. **Response:** Planning staff understand that the state's land use and development laws require conformance with the General Plan when they are approved except for subdivisions, which require conformance with the General Plan when they are deemed complete. The following paragraphs describe the effect of adoption of the GPU on the applications submitted since January 1, 2014, which represent nearly all of the active applications under review by the County.

Agricultural Preserves: applications relating agricultural preserves are related to standard contract terms or parties to the agreement. The General Plan Update would not affect these permits.

Certificates of Compliance or Determinations of Status. These applications relate compliance or noncompliance with the Subdivision Map Act. It is the County's practice to evaluate the lot in relation to the General Plan in effect at the time the lot was created. Determinations of status find that evidence available or provided by an application show that a parcel has been legally created. The General Plan is not used in making a determination of status

General Plan Amendment. There are a number of GPAs in process. For GPA17-001/ZR17-001 (Grandfather Tree) and GPP17-001/ZRP17-001/GPA17-005/ZR17-009 (Titlow Hill), the proposed General Plan Update land use designation is consistent with what is being sought by the applicant. The others are County initiated and not affected by the General Plan Update.

General Plan Petition. There is one GPP (GPP17-002/ZRP17-007) that proposed to change 40 acres in the Willow Creek area from T to AR40 and rezone through a 10- year slide-out from TPZ to AG-B-5(40). The proposed GPU is identical to the current General Plan. The applicant would need to make findings similar to those required by the current General Plan in order for the GPA to be approved. The proposed General Plan Update would not significantly affect this petition.

Subdivisions (PMS or FMS). Subdivisions that are currently in process involve extensions or have complete applications. Therefore, the review of the application would continue to use the current General Plan (Volume I or Volume II) and not the General Plan Update as the basis for General Plan conformity.

Lot Line Adjustments. Proposed land use map changes would not affect lot line adjustment application. For one application, the land use designation is changed from Public/Agricultural Land 160 to Residential Agriculture 160 for the all parcels affected by the application. All parcels are already non-conforming as to lot size and the LLA makes one parcel slightly more conforming and one parcel slightly less conforming. Therefore, the proposed General Plan Update would not significantly affect this application.

Cannabis Applications. The Cannabis Regulations contained in the Zoning Regulations contain standards for project review. The General Plan Update is an important factor in the review of

outdoor and mixed-light proposals that are zoned "U." The Zoning Regulations require that the underlying General Plan land use designation allow "General Agriculture." For zoning clearance applications, the General Plan Update land use designations would allow General Agriculture or the General Plan Update land use designation is the same as the current General Plan and the application cannot be permitted. For other cannabis applications, a review of applications indicates that the proposed General Plan Update allows the use that is proposed or the GPU land use designation is the same as the current General Plan and the application cannot be permitted.

Conditional Use Permits. For non-cannabis CUPs, changes to the GP land use map could only affect two applications. CUP 16-004 (APPS # 10145), Robert Mock, is a Code Enforcement related after the fact CUP to permit an outdoor shipping container sales business in a C-2 Zone. The parcel is currently planned Commercial Services and is proposed to be changed to Mixed Use along with the Willow Creek downtown core area. The MU designation is intended for lands in central areas of urban communities that allows commercial (other than heavy commercial), office, (max FAR of 3 for commercial and office) and residential (up to 16 units per acre) development. The zoning consistency matrix indicates that the C-2 zone is compatible with the MU plan designation; however it may be necessary to use Q - Qualified combining zones to limit certain use types that are less compatible, which could include outdoor shipping container sales business.

CUP 17-035, Mattole Valley Nursery in Petrolia is also a Code Enforcement related after the fact CUP to permit a nursery/hardware commercial establishment. The parcels is zoned U and the land use designation is AG. The proposed land use designation is Residential Estates (1-5 dwelling units per acre), which allows Neighborhood Commercial uses as well as a range of agricultural uses. The compatible zones with the RE land use designation would not allow nursery/hardware commercial establishment, except for possibly Forestry Recreation, which allows wrecking and salvage yards. This application will be adversely impacted by adoption of the GPU because it is inconsistent with the land use designation of the GPU.

Special Permits. Conclusion: The proposed General Plan Update land use map changes do not appear to affect non-cannabis special permits that are currently being processed.

- Uri Driscoll expresses support for the implementation measure that requires Conditional Use Permits for invasive plant removal in the coastal zone. **Response:** This policy will be considered in the GPU for the Coastal Zone, which will be brought to the Board at a subsequent public hearing.
- Green Diamond Resource Company states that the GPU land use map for several of their properties do not show the land use designation tentatively approved by the Board of Supervisors. **Response:** The land use maps were modified to reflect the land use designations tentatively approved by the Board of Supervisors.
- Sungnome Madrone states the County acted illegally when it tentatively approved a change in the land use designation for four parcels in the Westhaven/Trinidad area from T - Timber to RA - Agriculture Residential with a five to 20 acre minimum. **Response:** Board discretion.

FINANCIAL IMPACT

Awarded grants, General Plan user fees, and the General Fund contribution to the Advanced Planning Division has paid for the costs of the General Plan Update Program to date. The cost of preparing this staff report is less than \$10,000 and is borne by the General Fund through the Planning and Building

Department, Advance Planning Division's FY 2017-18 budget and the General Plan User Fees Trust Fund 3698. The General Fund User Fee Trust currently has \$482,278, which is sufficient to cover the cost of preparing this report. Appendix A of the GPU (Attachment 5) includes an "Implementation Action Plan", which identifies the estimated costs of implementing the GPU.

This project fits into the County's Strategic Framework in several ways.

- The project is consistent with the Mission Statement; the General Plan Update will meet the needs and addressing the concerns of the community, and enhance their quality of life. It provides a framework for strategically pursuing a broad range of services provided by the County and other agencies, and guiding new development toward the goals presented in the Plan.
- The General Plan Update matches service availability with residents' needs.
- The General Plan Update will safeguard the public trust by establishing clear County policy and regulations guiding new development.
- The General Plan Update increases the transparency, accessibility, and accountability of the services provided by the County by establishing clear roles and procedures, using language that is easy to understand and available on the internet. The General Plan Update promotes interjurisdictional and regional cooperation.
- The General Plan Update is intended to be "an effective and influential voice for our community at the regional, state and federal levels". The General Plan Update includes provisions for public involvement that extend far beyond the requirements of state law. Public involvement encouraged by the General Plan Update will include discussions of natural resource and the County's economic future. The General Plan Update also intends to facilitate public/private partnerships to solve problems through its implementation measures.

OTHER AGENCY INVOLVEMENT

The General Plan Update program has been a multi-year project. Multiple agencies have been involved in the review and preparation of the Planning Commission approved Draft General Plan. The County has been in communication with the Planning Commissioners, County Counsel and the County Administrator's office on the transmittal of these draft documents.

ALTERNATIVES TO STAFF RECOMMENDATIONS

The Board could continue the item to a future date and direct staff to modify the resolutions and text of the GPU to incorporate the coastal portion into Appendix E - Coastal Plans, adding those portions of the GPU that apply specifically to coastal areas. This action should be taken if the Board prefers a general plan that applies in the inland and coastal areas similar to the existing Framework Plan.

The resolutions in the staff report use a model more reflective of the zoning ordinance where separate zoning ordinances apply to inland and coastal areas. The coastal version of the GPU would include policies and standards modified for consistency with the coastal plans and the Coastal Act. For example, the wetland buffer standards of the coastal plans would be used instead of the wetland buffers identified in *BR-S10 - Development Standards for Wetlands* because the coastal wetland buffers are more protective of wetlands than those for the inland areas. Staff recommends this approach because it is more clear and consistent than the Framework Plan approach.

With either approach, there are minor advantages and disadvantages in terms of staff usability, public accessibility, and implementation cost. There will be an initial staff learning curve associated with implementation of the GPU regardless of how it interacts with the coastal plans. Once the implementation process is understood by staff, there is not likely to be a significant difference in implementation time or difficulty. Similarly, given that planning staff typically works closely with applicants to help them understand how planning documents apply within the planning area, the interaction of the GPU and coastal plans is not likely to be a major factor in the public's ability to access and understand the document.

ATTACHMENTS

- Attachment 1: A Resolution of the Board of Supervisors of the County of Humboldt Certifying the Final Environmental Impact Report for the 2017 Humboldt County General Plan, making the Findings of Fact and adopting a Statement of Overriding Considerations.
- Attachment 2: A Resolution of the Board of Supervisors of the County of Humboldt Adopting Findings in Support of the 2017 Humboldt County General Plan, adopting the 2017 Humboldt County General Plan applicable to the Inland Areas, and adopting the Mitigation Monitoring and Reporting Program, which will all become effective 30 days from the date of adoption.
- Attachment 3: Adopt Resolution No. _____ (Attachment 3), A Resolution of the Board of Supervisors of the County of Humboldt Adopting Amendments to the Eureka Community Plan (1995); Avenue of the Giants Community Plan (2000); and McKinleyville Community Plan (2002) to maintain consistency with the text and land use maps of the 2017 Humboldt County General Plan, which will all become effective 30 days from the date of adoption.
- Attachment 4: The Final Environmental Impact Report for the GPU (SCH # 2007012089).
- Attachment 5: The 2017 Humboldt County General Plan for the Areas Outside the Coastal Zone.
- Attachment 6: Public Comment