



HUMBOLDT BAY MUNICIPAL WATER DISTRICT

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JOHN FRIEDENBACH

June 13, 2019

Board of Supervisors
Humboldt County
825 5th Street, Room 111
Eureka, CA 95501

RE: Humboldt County General Plan Update, Zoning Text Amendments – AE and TPZ

Dear Board of Supervisors,

We previously submitted a comment letter dated June 6, 2019 regarding the proposed zoning text amendments for Streamside Management Areas and Wetlands, AE – Agriculture Exclusive Zones, and TPZ – Timberland Production Zones (attached) that was included in your June 11, 2019 Board Packet. Since only the text amendments for the Streamside Management Areas and Wetlands were considered at your June 11th meeting, and the text amendments for the AE and TPZ will be considered at your June 18th meeting, we would like to have this June 6, 2019 letter included in the public comment for your June 18th meeting.

In general, the Humboldt Bay Municipal Water District (the District) is concerned about the cumulative effects of increased industrial activities within the Mad River watershed and the potential impacts to our water quality that the District provides to approximately 88,000 residents of Humboldt County. Zoning text amendments that expand and broaden the principally permitted industrial uses should be weighed against the environmental and health threats inherent in those activities and whether it is in the public's interest and welfare to expand those activities in environmentally sensitive areas. Further, some of the proposed amendments are inconsistent with the General Plan and their impacts may not have been studied in the EIR. Table 4-G shows that surface mining is an incompatible use under AE or TPZ. It is unclear whether the impacts of allowing oil and gas drilling and processing, mineral mining, and surface mining in TPZ were studied in the EIR.

The District believes that protecting water quality, which is one of the stated primary purpose of establishing standards within the County's General Plan, should receive a higher priority during your deliberations regarding the proposed zoning text amendments.

Respectfully,

A handwritten signature in blue ink, appearing to read "John Friedenbach".

John Friedenbach
General Manager

Cc: John Ford, Director Planning and Building
Anne L. Baptiste, Thomas Law Group



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JOHN FRIEDENBACH

June 6, 2019

Board of Supervisors
Humboldt County
825 5th Street, Room 111
Eureka, CA 95501

RE: Humboldt County General Plan Update, Zoning Text Amendments

Dear Board of Supervisors,

This letter addresses the Humboldt Bay Municipal Water District's (District's) ongoing concerns with the General Plan Update, Zoning Text Amendments to be discussed at your June 11 and June 18, 2019 Board of Supervisors' Meetings. The District has raised concerns regarding the zoning text amendments in multiple prior correspondence with the Planning Department and/or Planning Commission, including comments submitted by email on March 21, 2019 and a comment letter on April 3, 2019. Nether correspondence was included in any of the three Planning Commission agendas for the zoning text amendments. Our April 3, 2019 letter is attached for reference as **Attachment A**.

The District operates four intake wells along the Mad River where it collects groundwater to provide drinking water to over 88,000 customers in Humboldt County. Immediately adjacent to the wells is APN 504-161-010-000, also known as the Mercer Fraser property, wherein mining, and other unpermitted activities such as processing and storage occur. These activities pose a continuing threat to our community's health and water security, and the District continues to be concerned that the zoning ordinance will be revised to summarily permit previously unpermitted activities or prior potentially illegal activities rather than be used as a forward-looking tool to adequately protect the health, safety, and welfare of your constituents.

The District understands that the Board will only be considering zoning text amendments at this point. However, to the extent that the zoning text amendments will affect the Mercer Fraser property and other properties along the Mad River watershed, the District continues to object to the proposed revisions for Sections 314-61.1 "Streamside Management Areas and Wetlands," 314-7.1 "AE – Agriculture Exclusive Zone," and 314.7.4 "TPZ – Timberland Production Zones," as discussed in further detail below.

1. The District Opposes Amendments to Section 314-61.1 “Streamside Management Areas and Wetlands,” Scheduled to be Reviewed at the June 11, 2019 Board of Supervisors’ Meeting

On April 4, 2019, the Planning Commission recommended that the Board of Supervisors adopt the zoning text amendments for Group 2. These include the proposed revisions to Section 314-61.1 “Streamside Management Areas and Wetlands.” For the reasons discussed below, the District continues to oppose the revisions to section 314-61.1.

As stated in the second bullet point under Section 314-61.2, the Purpose of establishing the standards are to:

- Implement portions of the County’s General Plan policies and standards pertaining to open space, conservation, housing, **water resources**, biological resources and public facilities. (Emphasis added)

Per the revisions, development and use limitations applicable to streamside management areas in 314-61.1 do not apply to mining operations. Added Section 61.1.9.2.5 provides “Development within Streamside Management Areas shall be limited to the following: ... Normal, usual and historical agricultural and surface mining practices and uses which are principally permitted within the SMA *shall not be considered development for the purposes of this standard.*” (Emphasis added.) There is no reason not to apply the streamside management protections to mining operations where, as a preliminary matter, the zone is established to abate erosion, runoff, and debris and encourage vegetation. These goals are at odds with this carte blanche permission to allow mining operations in the zone. Further, the term “historical” is vague; a plain reading shows that it would allow mining operations that operated at any time in the past on the site, whether permitted or not. Finally, there is no limitation on the size of such an operation, so any current or historic use could be expanded without any review. If mining operations are to be permitted in the zone at all, such use should be appropriately analyzed and permitted by the County via individual application. The District therefore opposes this change as currently drafted.

2. The District Opposes Amendments to Sections 314-7.1 “AE – Agriculture Exclusive Zone” and 314.7.4 “TPZ – Timberland Production Zones,” Scheduled to be Reviewed at the June 18, 2019 Board of Supervisors’ Meeting

Based on the District’s review of the Planning Commission’s recommendations during the March 21, April 4, and April 18, 2019 meetings, it appears no recommendation was made with respect to the proposed amendments to Sections 314-7.1 “AE – Agriculture Exclusive Zone” and 314.7.4 “TPZ – Timberland Production Zones.” The District requests that Planning Staff clarify what was actually considered and approved by the Planning Commission and, therefore, is under consideration for approval by the Board of Supervisors in the agendas for the June 11 and June 18, 2019 Board of Supervisors’ Meetings. The District continues to oppose the proposed revisions to Sections 314-7.1 “AE – Agriculture Exclusive Zone” and 314.7.4 “TPZ – Timberland Production Zones,” as discussed below, to the extent that the amendments are still being considered by either the Planning Commission or the Board of Supervisors.

Section 314-7.1 “AE – Agriculture Exclusive Zone” adds surface mining as a use permitted with a use permit in the AE zone. This is inconsistent with the Humboldt County General Plan Table 4-G. In approving the General Plan, the County determined that surface mining is not a use compatible with the

County's vision or interests and, thus, made the decision not to permit surface mining in AE. To approve the proposed zoning text amendment would be directly contrary to the County's General Plan. The District therefore opposes this change.

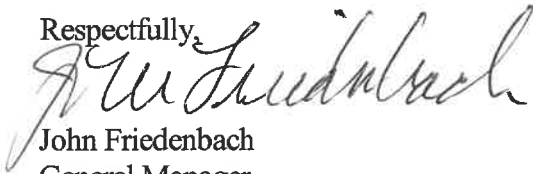
Section 314-7.4 "TPZ – Timberland Production Zones" adds oil and gas drilling and processing, mineral mining, and surface mining as uses permitted with a use permit in TPZ-Timberland Production Zones. It is unclear whether the impacts of allowing these uses were studied in the EIR. The District is concerned that the potential environmental impacts of oil and gas drilling in the Mad River watershed could negatively impact water quality and that those potential impacts have not been adequately analyzed or mitigated. The District therefore opposes this change as currently drafted.

3. The Zoning Text Amendments are not in the Public Interest

The zoning text amendments must be in the public interest to be adopted. (Humboldt County Code, § 312-50.3.1.) The finding that the proposed amendments are in the public interest is solely premised on the need to make the zoning ordinance consistent with the General Plan. However, to the extent the proposed revisions allow changes in uses that may detrimentally impact drinking water quality, they are not in the public interest. Accordingly, adopting revisions to the abovementioned sections would neither be in the public interest nor support a finding that the amendments are in the public interest.

We look forward to working with you on addressing these concerns before the zoning text amendments as currently drafted are approved. Thank you for considering our comments and concerns.

Respectfully,



John Friedenbach
General Manager

Cc: Anne L. Baptiste, Thomas Law Group
John Ford, Director, Humboldt County Planning & Building

Attachment A



HUMBOLDT BAY MUNICIPAL WATER DISTRICT

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MICHELLE FULLER, DIRECTOR

GENERAL MANAGER

JOHN FRIEDENBACH

April 3, 2019

Humboldt County Planning Department

John Ford Director

Via Email: JFord@co.humboldt.ca.us

Re: Humboldt County Zoning Language Updates

Dear Mr. Ford,

This letter addresses the Humboldt Bay Municipal Water District's renewed concerns with the General Plan Update, Zoning Text Amendments to be discussed at your April 4, 2019 Planning Commission meeting. We operate four intake wells along the Mad River where we collect groundwater to provide drinking water to over 88,000 customers in Humboldt County. Immediately adjacent to the wells is APN 504-161-010-000, also known as the Mercer Fraser property, wherein mining, and other unpermitted activities such as processing and storage occur. This poses a continuing threat to our community's health and water security and the District continues to be concerned that the zoning ordinance will be used to summarily permit previously unpermitted activities or prior potentially illegal activities rather than being a forward-looking tool to adequately protect the health, safety, and welfare of your constituents.

We understand that you are only considering text amendments at this point. However, to the extent that the text amendments will affect the Mercer Fraser property and other properties along the Mad River watershed, we have the following objections and concerns.

1. Section 314-7.1 adds surface mining as a use permitted with a use permit in the AE zone. This is inconsistent with the Humboldt County General Plan Table 4-G. In approving the General Plan, the County determined that surface mining is not a use compatible with the County's vision or interests and, thus, made the decision not to permit surface mining in AE. To approve the proposed zoning text would be directly contrary to the County's General Plan. We oppose this change.
2. Section 314-7.4 adds oil and gas drilling and processing, mineral mining, and surface mining as uses permitted with a use permit in TPZ-Timberland Production Zones. It is unclear whether the impacts of allowing these uses were studied in the EIR. The District is concerned that the potential environmental impacts of oil and gas drilling in the Mad River watershed could negatively impact water quality. We oppose this change.
3. The limitations applicable to streamside management areas in 314-61.1 do not apply to mining operations. Section 61.1.9.2.5 provides "Development within Streamside Management Areas shall be limited to the following: ... Normal, usual and historical agricultural and surface mining practices and uses which are principally permitted within the SMA shall not be considered development for the purposes of this standard." There is no reason not to apply the streamside management protections to mining operations where, as a preliminary matter, the zone is established to abate erosion, runoff, and debris and encourage vegetation. These goals are at odds with the carte blanche permission to allow mining operations in the zone. Further, the term "historical" is vague; a plain reading shows that it would allow mining operations that operated at any time in the past on the site, whether permitted or not.

Finally, there is no limitation on the size of such an operation so any current or historic use could be expanded without any review. If mining operations are to be permitted in the zone at all, such use would be appropriately analyzed and permitted by the County via individual application. We oppose this change.

We have raised these concerns multiple times in previous correspondence with the Planning Department and/or Planning Commission. We specifically submitted written comments via email March 21, 2019, albeit the day of the meeting, comments that were excluded from the staff report prepared for your April 4th meeting on these issues.

We look forward to working with you on addressing these concerns before the text amendments are approved. Thank you for considering our comments and concerns.

Respectfully,



John Friedenbach
General Manager

Cc: Leslie Walker, Thomas Law Group
John Miller, Senior Planner, Humboldt County Planning & Building