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<http://www.healthyhumboldt.org>

October 6, 2009

Humboldt County Planning Department  
Community Development Services  
Attn: Martha Spencer  
3015 H Street  
Eureka, CA 95501

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HUMBOLDT COUNTY  
PLANNING COMMISSION

**Re: Comments on the Forest Resources**

Dear Planning Commissioners,

Thank you for the opportunity to comment on Section 4.5, Forest Resources, in the Land Use Element of the Humboldt County General Plan Update. Healthy Humboldt is a coalition of public interest organizations working for a County General Plan that provides healthy transportation and housing choices while protecting resource lands and watersheds by focusing future growth in existing communities.

Protecting timberlands is essential to maintain the jobs they support along with environmental qualities they preserve, such as clean water, clean air, fish and wildlife habitat, and scenic values. Continuing the conversion of timberlands to residential uses threatens an industry that has historically formed the backbone of Humboldt County's economy.

Over the past two decades, residential value has begun to eclipse timber value on even the largest and most productive industrial and non-industrial ownerships. Unless we implement measures to protect working timberlands, we stand to lose our timber base and our vital forested landscape. Once developed, we would never get it back.

This General Plan Update should adopt policies, standards, and implementation measures to address the lack of enforcement of state law regarding TPZ minimum parcel sizes; the county code's allowance of residences on TPZ parcels with ministerial permits, regardless of whether the land is being managed for timber or forest ecosystem values; and the lack of discretionary or environmental review for conversion of timberlands to residential uses. The current policies have encouraged the use of TPZ lands for residential purposes by increasing the value of TPZ-zoned real estate while retaining the TPZ tax status that was instituted to keep forest land valued primarily for timber management.

The current regulatory system has resulted in expensive requirements that do little to improve the environment or forest management practices. The result is often that smaller landowners are left to navigate an unwieldy regulatory system that was enacted to regulate the large

industrial owners. Adopting county zoning and land use regulations that regulate large and small landowners differently would allow small landowners to live on the land they manage, and to retain TPZ tax status in exchange for managing for ecosystem health that benefits society as a whole, such as clean air and water, salmonid and wildlife habitat, and scenic values.

The overarching goal of the Forest Resources chapter should be to protect the county's forest resources for sustainable, long-term economic and environmental health of the society as a whole, and to prevent the unnecessary conversion of timberlands to other uses. Protection of imperiled salmon and steelhead populations should form the cornerstone of this chapter, as stated in the Guiding Principles for the General Plan Update as adopted by the Board of Supervisors in 2004:

- The plan must include unambiguous natural resource protections; especially for open space, water resources, water quality, scenic beauty and salmonids.
- The plan must contain long-term agriculture and timber land protections such as increased restrictions on resource land subdivisions and patent parcel development.

The following are Healthy Humboldt's specific recommendations on the Forest resources chapter of the Land Use Element for the County General Plan Update.

### **1. FR-S4: Industrial vs. Non-Industrial TPZ Zoning**

Industrial versus Non-Industrial timberlands are two categories of TPZ land that are regulated separately by the Dept. of Forestry. We support the adoption of policies that will prevent subdivision of and residential development on industrial timber lands while allowing small landowners to live on the land they manage.

Healthy Humboldt supports the **Alternative A version of FR-S4**, which would establish zoning for Industrial and Non-Industrial timberlands. **Non-Industrial Timberlands (ownership of less than 5000 acres)** would allow for one house per 160 acres for all future subdivision, with several options for smaller existing parcels being actively managed for timber or forest ecosystem values continuing as TPZ. Others would be eligible for immediate rezoning for residential use (see below). **Industrial Timberlands (ownership of more than 5000 acres)** would allow for one house per 600 acres. Fewer than 20 landowners own more than 5,000 acres zoned TPZ in the County, and these lands are threatened by conversion to residential use unless the two-tiered zoning for TPZ is adopted.

According to Ginevra Chandler, tools that other counties have used to protect the long-term timber base is to **raise the size of the minimum parcel for TPZ land**:

[T]hat is the best way to avoid the parcelization of your rural lands. The smaller your unit of TPZ, since almost all ordinances that I've seen allow a house as a compatible use for TPZ, the more impact that house is going to have on the viability of your timberland. So probably

one of the first tools that a county wants to look at, I think, is the size of your minimum parcel.<sup>1</sup>

Pacific Lumber's 2007 proposal to sell 22,000 acres of TPZ in 160-acre parcels for residential use highlighted the fact that such conversion would be legal under current county policies without any discretionary or environmental review. Though this conversion was thwarted by the temporary moratorium on building permits on TPZ zoned lands, this situation highlighted the threat to the County's timberlands. Humboldt County produces more timber than any other county in the state. Timber production—both Industrial and Non-Industrial—has long been the cornerstone of the region's economy, and with proper management is arguably the county's greatest long-term economic asset. Policies that ensure long-term forest ecosystem health and timber production must be adopted if these economic and ecological assets are to be maintained.

The **Timber Production Zone (TPZ)** was established to provide a property tax reduction in exchange for limiting the use of the land to timber production and compatible uses that protect forest resources. Policies that have allowed residential development on TPZ lands have led to increased fragmentation of timberlands, increased road networks and related sedimentation and erosion to streams listed as Threatened and Impaired under the Clean Water Act, increased impacts to air quality due to PM<sub>10</sub> (particulates from dirt roads), and increased conflict between residents and timberland owners and managers. It has also increased the cost of state and local fire and police protection, costs of county road maintenance. This is unfair to other taxpayers; TPZ owners receive a tax break in exchange for giving up certain development rights, and yet residential use of TPZ increases the burdens on public infrastructure and expenditures.

## 2. **FR-S3 State Clearance.**

This standard should be replaced with a **County Timberland Conversion Permit ordinance** for major subdivisions and other non-timber uses. The policy as written is exactly backwards; it would require a timber conversion permit from the state lead agency (CALFIRE) prior to issuance of a building permit. The state lead agency requires that a building permit be issued first, and the state timberland conversion permit does not currently consist of discretionary or environmental review. According to Ginevra Chandler, Chief Legal Counsel for CalFIRE, the Forest Practices Act "says that if a local agency requires a permit, the landowner must obtain that permit before they can convert under our permit."<sup>2</sup> FR-S3 would put landowners in a regulatory limbo that requires the first step to be obtaining a permit that is not possible to obtain prior to the second step.

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<sup>1</sup> THE TENSION BETWEEN STATE AND LOCAL REGULATORY SYSTEMS. North Coast Environmental Law Conference, Eureka, CA. May 7, 2009.

<sup>2</sup> Ibid.

Chandler also said that

Where you as a local agency have the ability to impact to conversions is by having a local conversion permit before the conversion can take place. Absent that local permit, the analysis and permitting of conversion falls on the state. Once you have that local permit, as Sonoma County has now done, you have created a situation where you the locals take the first big look at the impacts of taking land out of timber production and putting it into some other use.

**The problem is under the current regulatory system, there is no environmental review of that initial rollout of that Timber Production Zone.** So I'm throwing out to you, the local entities, the challenge that if you don't step up and do an environmental analysis of that early stage of zoning change, what you may be faced with is a path that you can't reverse, because by the time that 10-year rollout period is over, that land can be rezoned again, and the baseline for that land is not going to be Timber Production Zone. It may be other permitted uses that go along with forestland, and that may make your environmental review more difficult and it may be reversing the process from timberland conversion and other uses more difficult for you as a local agency.

Regarding the lack of environmental review of <3 acre conversions, Chandler said that

Less than 3 acre conversions are an exemption from the requirements of the Forest Practice Act. So a less than 3 acre conversion exemption is essentially a notice, you file a notice of application with the Department, **it is a ministerial permit.** We basically grant it, as long as you've dotted all of the I's and crossed the T's, we grant it. We would personally like to be out of the entire <3 acre conversion business, because it is a workload issue for us **without any meaningful ability for us to be able to impact what actually happens on the land.** We have really struggled with conversions, they are really difficult for us...[I]t would definitely be our preference that a local agency have a permit and they set up a system where they look at the impacts, the land use impacts, because after all, those local land use impacts are primarily on the local agency. They are cumulative across the landscape but they start with the local agency and the local jurisdiction...So the <3 acre conversion is totally and completely a problem for us as a department, because we're just out of the game. Once it's determined that we have no jurisdiction because it's no longer subject to the Forest Practice Rules, and the Act, it's up to you as locals to take up the cudgel and analyze that as a project.

Regarding the Pacific Lumber proposal to sell 22,000 acres of TPZ lands for residential "kingdoms," Chandler has this to say:

The issue that you dealt with here in Humboldt County was a particularly difficult issue, because it was not a conversion from one kind of zoning to another—it basically was a land use scheme that would have technically under the zoning might have allowed the building of houses because houses are considered a compatible use under TPZ zoning. So the issue

was, was that project truly compatible with the objectives of TPZ, and in that perspective the local zoning really helps, because you zone it TPZ, you determine what are the permitted uses within your zones. And CDF/CalFIRE really doesn't play a role in that zoning decision.

3. Timberlands serve not only to produce commercial timber but also as wildlife habitat, groundwater recharge systems, and carbon sinks. **Forest Ecosystem Values and Salmonid Habitat** should be added throughout the Forest Resources chapter wherever the term "timber production" is used (e.g. **FR-G4, FR-P9, FR-P12, FR-IM12**).

**The TPZ Tax Status should continue to apply to lands managed for EITHER timber production or forest ecosystem values.** Management practices that improve forest health and wildlife habitat include thinning, habitat restoration, road decommissioning, erosion and sediment source reduction, etc. These management activities are considered compatible with TPZ zoning according the CGC 51104 (h) which states that

a "compatible use," is "any use which does not significantly detract from the use of the property for, or inhibit, growing and harvesting timber, and shall include, but not be limited to, any of the following, unless in a specific instance such a use would be contrary to the preceding definition of compatible use:

1. Management for watershed.
2. Management for fish and wildlife habitat or hunting and fishing..."

Many smaller landowners are restoring severely damaged TPZ lands for forest ecosystem values and will not have trees large enough for commercial timber production for decades. These landowners should be allowed to remain in TPZ tax status if they have a management plan other than a Timber Harvest Plan or Non-Industrial Timber Management Plan. Such evidence of managing the land for forest ecosystem values could include management plans written by a professional forester or restorationist, along with evidence of active management such as fuels reduction, thinning, riparian restoration, controlled burning, invasive species management, road decommissioning, sediment reduction, and erosion control.

#### **4. Forest Improvement Programs**

The County should not add requirements above and beyond state and federal grant program requirements for forest improvement projects. We support Alternative B for FR-P5, because forest improvement programs such as EQIP and CalFIP should not be limited to ranches and forest land owners with an approved Non-Industrial Timber Management Plan.

#### **5. Rollout of TPZ for "Substandard" Parcels**

For lands zoned TPZ, immediate rollout is proposed for smaller parcels that are no longer being managed primarily for timber production. The County should bear the administrative costs of TPZ rollout.

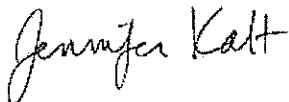
6. **Establish a Community Forest Acquisition and Management Program** to provide recreational opportunities, protection for fish and wildlife habitat, community income from sustainable timber harvest, and can function as a buffer zone between residential areas and industrial timber production zones.

The California Timberlands Productivity Act of 1982<sup>3</sup> was enacted to ensure **long-term economic viability** of the forest products industry by reducing pressures to divert timberlands to other uses. The redwood forest is a particularly limited natural resource that should be managed for timber production and ecosystem values. The “highest and best use” of these forests should be protected by promoting well-planned development in areas served by public infrastructure while discouraging residential development of rural resource lands.

Forests and timberlands provide important ecosystem functions, and conversion of such areas to other uses cannot be reversed. The policies that are chosen should be those that minimize the significant environmental effects of future development, and would have the least impacts on native flora, wildlife, and their habitats. Focusing most future development into existing communities already served by public infrastructure will preserve resource lands, reduce public expenditures on roads, fire and police protection, and other services, and will reduce greenhouse gas emissions from single-occupancy vehicles commuting in to school and work from rural areas. These factors are especially important when considering potential development of resource lands in and near population centers, which are most threatened by poorly-planned, automobile-dependent development.

Thank you for your work and for your careful consideration of these policies.

Sincerely,



Jennifer Kalt  
Healthy Humboldt Coalition

cc  
Humboldt County Board of Supervisors  
Humboldt County Planning Staff

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<sup>3</sup> The California Timberlands Productivity Act of 1982 (CGC§ 51102) states that (a) The Legislature further declares that to fully realize the productive potential of the forest resources and timberlands of the state, and to provide a favorable climate for long-term investment in forest resources, it is the policy of this state to do all of the following:

- (1) Maintain the optimum amount of the limited supply of timberland to ensure its current and continued availability for the growing and harvesting of timber and compatible uses.
- (2) Discourage premature or unnecessary conversion of timberland to urban and other uses.
- (3) Discourage expansion of urban services into timberland.
- (4) Encourage investment in timberlands based on reasonable expectation of harvest.