

**HUMBOLDT COUNTY PLANNING COMMISSION  
GENERAL PLAN UPDATE**

**MEETING OF MAY 26, 2011**

## **Recommended Commission Agenda**

At the May 19, 2011 meeting, the Commission continued the review and straw voting for Chapter 10, Open Space and Conservation Combined Elements (deliberating on Section 10.6 - Cultural Resources). For tonight's meeting staff recommends that the Commission:

1. Continue review Section 10.6 - Cultural Resources, and 10.7 – Scenic Resources.
2. Allow time for public comments.
3. Continue review and straw voting on Chapter 10, Open Space and Conservation Combined Elements.
4. Continue the hearing to June 16<sup>th</sup> or other suitable date.

## **Outstanding Items: Revisions to CU-P2 and CU-S3**

The Commission discussed numerous options for editing **CU-P2 – Consultation**, and the companion standard **CU-S3**. The term “consultation” was of concern because of its specific meaning under SB 18, a tribal consultation statute. CU-P2 has its origins in the current general plan policy 3531.1:

**3531.2 Consultation.** Concerned citizens, historical organizations, and applicable agencies shall be consulted during project review for the identification and protection of cultural resources.

The replacement wording proposed in the GPU for this policy is:

**CU-P2. Consultation.** Tribal organizations, historical organizations, and applicable agencies shall be consulted during discretionary project review, zone reclassifications, and Plan amendments for the identification and protection of cultural resources. Consultation on ministerial permits shall be initiated if it has been determined the project may create a substantial adverse change in the significance of a historical resource.

The Working Group on Cultural Resources suggested edits to the above language:

**CU-P2. Consultation.** *Humboldt County Federally recognized and non-recognized Tribes, tribal governments* Tribal organizations, historical organizations *and historic preservation professionals, other interested citizens-parties* and applicable agencies shall be consulted during discretionary project review, zone reclassifications, and Plan amendments for the identification, (and) protection *and mitigation of adverse impacts to* (of) cultural resources. Consultation on ministerial permits shall be initiated if *when* it has been determined the project may create a substantial adverse change in the significance of a historical resource. *At their request, Tribes shall be afforded the opportunity to review and provide comments*

*to the County early in project review and planning (screening) about known or potential significant Native American cultural resources located in project areas within their respective tribal geographical area of concern.*

Based on the Commission's discussion of CU-P2, **staff recommends** the following version of CU-P2. It primarily follows the Working Group's version, but leaves the definition of Tribes to the standard CU-S3. It adds "designation of open space lands" to the list to comply with Gov. Code Section 65562.5 (quoted below).

**CU-P2. Consultation.** Native American Tribes (as defined), historical organizations, other interested parties, and applicable agencies shall be consulted during discretionary project review, zone reclassifications, designation of open space lands, and Plan amendments for the identification, ~~and~~ protection and mitigation of adverse impacts to ~~of~~ cultural resources. Consultation on ministerial permits shall be initiated if it has been determined the project may create a substantial adverse change in the significance of a ~~historical~~ cultural resource. At their request, Tribes shall be afforded the opportunity to review and provide comments to the County early in project review and planning (screening) about known or potential significant Native American cultural resources located in project areas within their respective tribal geographical area of concern.

Staff recommends **CU-S3** be revised to be re-titled as the definition for "cultural resources community"

**CU-S3. Cultural Resources Community.** The cultural resources community includes:

a) Native American Tribes, defined as federally recognized and non recognized tribes and tribal organizations that have ancestral lands in Humboldt County that are on the contact list maintained by the Native American Heritage Commission; and, the appointed Tribal Historic Preservation Officers (THPOs) of such tribes.

b) Applicable agencies and organizations, including the Native American Heritage Commission, the California State Office of Historic Preservation, the North Coastal Information Center, the Northwest Information Center, Humboldt County Public Works Department and the Planning and Building Divisions, and local historical societies and museums.

c) Other interested parties who have requested in writing to be notified of such matters.

As a point of information, the Governance Chapter of the GPU, which the Commission has yet to review, includes a policy and standard regarding tribal government relations:

**GP-P22. Tribal Government Coordination.** The County shall coordinate with affected tribal governments during General Plan updates and amendments.

**GP-S2. Tribal Government Coordination.** The County shall coordinate land use actions with tribal governments pursuant to Government Code Sections 65092: Public Notice to California Native American Indian Tribes; Sections 65351–65352.5: General Plan Consultation; and Sections 65560–65562.5: Consultation on Open Space.

The referenced Government Code Section 65560 describes “open space land”, including:

(6) Open space for the protection of places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code.

Gov. Code Section 65562.5 provides:

**65562.5.** On and after March 1, 2005, if land designated, or proposed to be designated as open space, contains a place, feature, or object described in Sections 5097.9 and 5097.993 of the Public Resources Code, the city or county in which the place, feature, or object is located shall conduct consultations with the California Native American tribe, if any, that has given notice pursuant to Section 65092 for the purpose of determining the level of confidentiality required to protect the specific identity, location, character, or use of the place, feature, or object and for the purpose of developing treatment with appropriate dignity of the place, feature, or object in any corresponding management plan.

**65092.** (a) When a provision of this title requires notice of a public hearing to be given pursuant to Section 65090 or 65091, the notice shall also be mailed or delivered at least 10 days prior to the hearing to any person who has filed a written request for notice with either the clerk of the governing body or with any other person designated by the governing body to receive these requests. The local agency may charge a fee which is reasonably related to the costs of providing this service and the local agency may require each request to be annually renewed.

(b) As used in this chapter, "person" includes a California Native American tribe that is on the contact list maintained by the Native American Heritage Commission.

See Attachment A for the balance of the wording recommendations worked out with the Cultural Resources Working Group for the remaining standards and implementation measures in the section.

**Attachment A: Recommendations for the remaining standards and implementation measures.**