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Humboldt County Board of Supervisors
825 5th Street
Eureka, CA 95502

RE: Proposed Land Use Changes

Dear Humboldt County Supervisors,

Humboldt Coalition for Property Rights would like to submit our concerns regarding the proposed land use changes up for the Board's consideration on Monday, June 22nd.

We understand that the County and the Board have made many efforts to recognize and consider the opinions and input of concerned stakeholders. We sincerely applaud those efforts and thank the County for its endeavors to appropriately notice and inform landowners and the general public.

Unfortunately, our independent research into the effects of the proposed changes to land use designations have led us to the conclusion that many landowners in Humboldt will be significantly impacted by said changes. We have heard from both community members with small land holdings as well as industry members with numerous large holdings who express the same concern: that an inadequate amount of time was provided in which to assess the effects of land use changes and to respond to the county appropriately. This is particularly true for residents of Northern Humboldt County, who received significantly less time to react to the County's notice ahead of the June 22nd Public Hearing.

Moreover, we believe that the effects of the proposed land use changes as described to landowners by the County provided an incomplete and inaccurate picture of precisely how the changes can potentially harm landowners. Many members of the public are under the impression, as communicated by the County's official notice and information received at community workshops focusing on the proposed changes, that the land use changes are "changes in name only." HumCPR does not feel this to be the case.

There are multiple instances in which the proposed changes will cause properties to become nonconforming. Certain Humboldt County ordinances and zoning regulations will cause significant conflict for landowners, as detailed in an attachment to this letter. Potential impacts include inability to maintain and repair structures and properties that are considered nonconforming, in addition to decreases in overall value of affected parcels.

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It is HumCPR's understanding that landowners will have the capability to apply for changes to their land use and zoning for a period of up to 2 years following the adoption of the General Plan Update; however, that process will be highly time consuming for all parties, and come at a great personal cost to the landowners themselves. The cost of that process, coupled with potential loss of value for afflicted parcels, would be highly damaging to landowners.

The overarching concern is that the proposed land use changes, rather than bringing parcels and structures into compliance – as is the supposed goal of the changes and a primary aim of the General Plan Update itself – would instead create further complications and greater conflicts between a parcel's designated use and zoning.

As such, we implore the Board and the County to allow landowners better opportunities to fully understand the effects of proposed changes on their holdings and to take the appropriate actions to rectify their individual situations, in cooperation with the county. Providing an opportunity for Humboldt residents to better protect themselves and their livelihoods must be a paramount goal for the County and the Board in the land use change process; to do less would be an egregious oversight that will have significant negative impacts on the Humboldt County populace.

Sincerely,

Alec Ziegler
Executive Director
Humboldt Coalition for Property Rights

Enclosures (2): Nonconforming Structures ordinances; HumCPR comments on Nonconforming ordinances

Cc: Robert Wall, Kevin Hamblin

SECTION B: REGULATIONS THAT APPLY IN ALL OR SEVERAL ZONES

(PART 4: SECTION RESERVED FOR FUTURE USE)

PART 5: NONCONFORMING USES AND STRUCTURES

314-131 NONCONFORMING USES

131.1 QUALIFICATION OF NONCONFORMING USE

Notwithstanding any other provision, a building or use shall not be deemed a nonconforming use if: (Former Section INL#317-61; Ord. 1104, Sec. 3, 10/5/76; Amended by Ord. 1876, Sec. 12, 9/26/89)

131.1.1 Such use would otherwise be a conforming use under the current provisions of this Code section except that it does not meet the lot size or yard requirements of the zone in which it is located. Such a use may be continued, altered, added to, or enlarged provided that any addition or enlargement shall comply with all of the regulations of the zone in which it is located; or (Former Section INL#317-61(a); Ord. 1104 Sec. 3, 10/5/76; Amended by Ord. 1876, Sec. 12, 9/26/89)

131.1.2 Such use is allowed in the zone in which it is located as a conditional use. However, no such use shall be enlarged, increased or structurally altered, nor be extended to occupy a greater area than that existing on the effective date of the application of these regulations to the subject property until a Special Permit for such use is first obtained. (Former Section INL#317-61(b); Ord. 1104 Sec. 3, 10/5/76; Amended by Ord. 1876, Sec. 12, 9/26/89)

131.2 REGULATIONS CONTROLLING OTHER NONCONFORMING USES

131.2.1 No accessory use to a principal nonconforming use shall continue after such principal use shall cease or terminate. (Former Section INL#317-63(g); Ord. 1104, Sec. 3, 10/5/76)

131.2.2 The rights pertaining to a nonconforming use shall be deemed to pertain to the use itself, regardless of the ownership of the land or building on or in which such nonconforming use is conducted. (Former Section INL#317-63(h); Ord. 1104, Sec. 3, 10/5/76)

131.2.3 All of the foregoing provisions relating to nonconforming uses shall apply to all nonconforming uses existing on the effective date of these regulations and to all uses that become nonconforming by reason of any Amendment thereof. However, any use established in violation of law, regardless of the time of establishment, is not a nonconforming use and shall not benefit from the provisions in this section. (For nonconforming buildings, see Section 314-132, Nonconforming Structures.) (Former Section INL#317-63(i); Ord. 1104, Sec. 3, 10/5/76)

314-132 NONCONFORMING STRUCTURES**132.1 QUALIFICATION OF NONCONFORMING STRUCTURE**

Notwithstanding any other provision, a structure shall not be deemed a nonconforming structure if: (Former Section INL#317-61; Ord. 1104, Sec. 3, 10/5/76; Amended by Ord. 1876, Sec. 12, 9/26/89)

132.1.1 Such structure would otherwise be a conforming structure under the current provisions of this Code section except that it does not meet the lot size or yard requirements of the zone in which it is located. Such a structure may be continued, altered, added to, or enlarged provided that any addition or enlargement shall comply with all of the regulations of the zone in which it is located; or (Former Section INL#317-61(a); Ord. 1104, Sec. 3, 10/5/76; Amended by Ord. 1876, Sec. 12, 9/26/89)

132.1.2 Such structure is allowed in the zone in which it is located as a conditional use. However, no such structure shall be enlarged, increased or structurally altered, nor be extended to occupy a greater area than that existing on the effective date of the application of these regulations to the subject property until a Special Permit for such structure is first obtained. (Former Section INL#317-61(b); Ord. 1104 Sec. 3, 10/5/76; Amended by Ord. 1876, Sec. 12, 9/26/89)

132.2 ENLARGEMENT OF NONCONFORMING STRUCTURES

132.2.1 Notwithstanding any other provisions, the Hearing Officer may approve a Special Permit for the enlargement, alteration or remodeling of the following nonconforming structures: (Former Section INL#317-62(a); Ord. 1726, Sec. 6, 3/4/86)

132.2.1.1 A one-family detached dwelling in a Commercial (C) or Industrial (MI) zone; or (Former Section INL#317-62(a)(1); Ord. 1726, Sec. 6, 3/4/86)

132.2.1.2 Any commercial structure located in any commercial zone in which either a principal use, permitted use or a conditional use is conducted; or (Former Section INL#317-62(a)(2); Ord. 1726, Sec. 6, 3/4/86)

132.2.1.3 Any commercial structure located in an Unclassified (U) zone where the General Plan designates the area for commercial development. (Former Section INL#317-62(a)(3); Ord. 1726, Sec. 6, 3/4/86)

132.2.2 Approved enlargements of nonconforming structures specified in subsection 314-132.2.1 may not exceed: (Former Section INL#317-62(b); Ord. 1726, Sec. 6, 3/4/86)

132.2.2.1 Twenty-five percent (25%) of the area of land occupied by such nonconforming structure; or (Former Section INL#317-62(b)(1); Ord. 1726, Sec. 6, 3/4/86)

132.2.2.2 Twenty-five percent (25%) of the gross floor area of the existing nonconforming structure; or (Former Section INL#317-62(b)(2); Ord. 1726, Sec. 6, 3/4/86)

- 132.2.2.3 The maximum ground coverage prescribed for the zoning district in which the nonconforming structure is located, whichever is less. (Former Section INL#317-62(b)(3); Ord. 1726, Sec. 6, 3/4/86)
- 132.2.3 The fair market value of approved enlargements, structural alterations or remodeling of a nonconforming structure specified in subsection 132.2.1 may not exceed fifty percent (50%) of its current appraised value according to the records of the Assessor's Office. (Former Section INL#317-62(c); Ord. 1726, Sec. 6, 3/4/86)
- 132.2.4 One-family detached dwellings remodeled, extended, expanded or enlarged in accordance with the provisions of Sections 314-132.1 through 314-132.3 shall not be used to accommodate a greater number of dwelling units than such structure accommodated prior to any such work. (Former Section INL#317-62(d); Ord. 1726, Sec. 6, 3/4/86)
- 132.2.5 Replacement of Nonconforming Manufactured Homes. The Director may approve a Special Permit for the replacement of an existing nonconforming manufactured home by a newer manufactured home. The replacement manufactured home shall be set up on a standard foundation as required by the County Building Regulations. Replacement manufactured homes in Residential Zones (RS, R-1, R-2, R-3 and R-4) without a T Combining Zone shall have: (Former Section INL#317-62(e); Ord. 1726, Sec. 6, 3/4/86; Amended by Ord. 1738, Sec. 4, 5/20/86)
- 132.2.5.1 A roof overhang of not less than six inches (6") for the entire exterior perimeter; and (Former Section INL#317-62(e)(1); Ord. 1726, Sec. 6, 3/4/86; Amended by Ord. 1738, Sec. 4, 5/20/86)
- 132.2.5.2 A roof of composition shingles, wood shingles or shakes or other materials compatible with the majority of dwellings in the neighborhood; and (Former Section INL#317-62(e)(2); Ord. 1726, Sec. 6, 3/4/86; Amended by Ord. 1738, Sec. 4, 5/20/86)
- 132.2.5.3 An exterior wall covering of natural or man made materials of a non-reflective nature. (Former Section INL#317-62(e)(3); Ord. 1726, Sec. 6, 3/4/86; Amended by Ord. 1738, Sec. 4, 5/20/86)

132.3 REGULATIONS CONTROLLING OTHER NONCONFORMING STRUCTURES

- 132.3.1 Any nonconforming structure, except as permitted by Section 314-132.2 shall not be enlarged or extended where an intensification or increase in the nonconformity would result. The hearing officer may approve the structural alteration of an existing structure not conforming with development standards. Approval of a variance or other discretionary permit shall not be required for "one-for-one" structural alterations. A structural alteration changing a flat roof to a pitched roof where no expansion of floor area is involved is determined to be a "one-for-one" structural alteration. A variance will be required for the total replacement or expansion of structures where such replacement or expansion would not conform with development standards. (Former Section INL#317-63(a); Amended by Ord. 1848, Sec. 21, 9/13/88)

- 132.3.2 If a structure in which a nonconforming use is conducted is moved for any distance whatever, for any reason, then any future use of such structure shall be in conformity with Sections 314-132.1 through 314-132.3. (Former Section INL#317-63(b); (Ord. 1104, Sec. 3, 10/5/76)
- 132.3.3 If any structure in which any nonconforming use is conducted is hereafter removed, the subsequent use of land on which such structure was located and the subsequent location and use of any structure thereon shall be in conformity with the regulations specified by Sections 314-132.1 through 314-132.3. (Former Section INL#317-63(c); Ord. 1104, Sec. 3, 10/5/76)
- 132.3.4 Nothing in Sections 314-132.1 through 314-132.3 shall be deemed to prevent keeping in good maintenance and repair a nonconforming structure or a structure in which a nonconforming use is conducted, but no such structure that is declared by any authorized County official to be a public nuisance by reason of physical condition shall be restored, repaired or rebuilt. (Former Section INL#317-63(d); Ord. 1104, Sec. 3, 10/5/76; Amended by Ord. 1234, Sec. 4, 6/13/78)
- 132.3.5 A nonconforming structure or a structure in which a nonconforming use is conducted that is destroyed or damaged by any casualty to an extent not exceeding sixty percent (60%) of its current appraised value according to the records of the Assessor's Office, exclusive of foundations, may be restored within two (2) years after such destruction or damage but shall not be enlarged except as provided in Section 314-132.2 of this Code. If any such structure is so destroyed or damaged to an extent exceeding sixty percent (60%) of its value as above, it shall not be reconstructed except: (Former Section INL#317-63(e); Ord. 1104, Sec. 3, 10/5/76)
- 132.3.5.1 For a conforming use; (Former Section INL#317-63(e)(1); Ord. 1104, Sec. 3, 10/5/76)
- 132.3.5.2 If the structure is used for agricultural purposes and the floors and foundation walls are of concrete and/or other masonry and are not practical to move; or (Former Section INL#317-63(e)(2); Ord. 1104, Sec. 3, 10/5/76)
- 132.3.5.3 If the nonconforming location is necessary to meet any requirement or regulation of the Health Department. (Former Section INL#317-63(e)(3); Ord. 1104, Sec. 3, 10/5/76)
- 132.3.5.4 If the total floor area of the structure to be restored does not exceed that of the damaged or destroyed structure by more than ten percent (10%) and the sewage disposal system is in compliance with all applicable State and local standards. (Former Section INL#317-63(e)(4); Added by Ord. 2166, Sec. 32, 4/7/98)
- 132.3.6 If any nonconforming structure ceases to be used for any reason for a continuous period of two (2) years or more, or is changed to or replaced by a conforming structure, the land and nonconforming structure shall become subject to all the regulations as to use for the zone in which such land and structures are located as if such nonconforming structure had been expressly abandoned. (Former Section INL#317-63(f); Ord. 1104, Sec. 3, 10/5/76; Amended by Ord. 1234, Sec. 4, 6/13/78; Amended by Ord. 1876, Sec. 13, 9/26/89)

- 132.3.7 The rights pertaining to a nonconforming structure shall be deemed to pertain to the structure itself, regardless of the ownership of the land on which such nonconforming structure is located or the nature or the tenure of the occupancy thereof. (Former Section INL#317-63(h); Ord. 1104, Sec. 3, 10/5/76)
- 132.3.8 All of the foregoing provisions relating to nonconforming structures shall apply to all nonconforming structures existing on the effective date of these regulations and to all structures that become nonconforming by reason of any amendment thereof. However, any structure erected in violation of law, regardless of the time of erection, is not a nonconforming structure and shall not benefit from the provisions in this section. (Former Section INL#317-63(i); Ord. 1104, Sec. 3, 10/5/76)
- 132.3.9 If a nonconforming manufactured home or recreational vehicle is removed from a designated flood-prone area of the County, the same manufactured home or recreational vehicle may be relocated on the same site within six (6) months and installed in accordance with the applicable regulations in effect at the time of the unit's original installation. (Former Section INL#317-63U); Ord. 1104, Sec. 3, 10/5/76; Amended by Ord. 2166, Sec. 32, 4/7/98)
- 132.3.10 Special Provisions Concerning Nonconforming Manufactured Homes. Each existing manufactured home placed on an individual lot in accordance with the then applicable laws and Code sections may remain at the existing location without the construction of a foundation. The Use Permit for such manufactured home shall run with the land and shall be transferable to subsequent purchasers. If such manufactured home is moved to another individual lot not within a manufactured home park it must be placed upon a foundation. (For more information on Manufactured Homes, see Section 314-81.1, Manufactured Homes and Recreational Vehicles.) (Former Section INL#316-11; Ord. 1092, Sec. 1, 8/10/76)

Examples of parcels that will become nonconforming following adoption of the currently proposed land use changes are numerous. For instance, many parcels in the Fieldbrook area are slated to be designated as Residential Agricultural 5-20. The issue is that some of these parcels are well below the minimum parcel size of 5 acres. Although the goal of the proposed designation change may be to bring a parcel's land use designation into compliance with the corresponding zoning, this is an example of how a land use change may bring affected parcels deeper into noncompliant status rather than rectifying the problem. This is only one example of potential problems.

The overall aim of this document is to demonstrate several of the numerous conflicts created by Humboldt County's proposed land use changes up for consideration by the Board of Supervisor's. This is by no means an exhaustive list of all potential conflicts; rather, this document highlights a number of the more serious negative impacts that may affect Humboldt's landowners.

From Humboldt County Zoning Regulations, Chapter 4, Pages 145-149, Section 314-132: Nonconforming Structures

132.2.3 The fair market value of approved enlargements, structural alterations or remodeling of a nonconforming structure specified in subsection 132.2.1 may not exceed fifty percent (50%) of its current appraised value according to the records of the Assessor's Office. (Former Section INL#317-62(c); Ord. 1726, Sec. 6, 3/4/86)

132.2.4 A nonconforming structure or a structure in which a nonconforming use is conducted that is destroyed or damaged by any casualty to an extent not exceeding sixty percent (60%) of its current appraised value according to the records of the Assessor's Office, exclusive of foundations, may be restored within two (2) years after such destruction or damage but shall not be enlarged except as provided in Section 314-132.2 of this Code. If any such structure is so destroyed or damaged to an extent exceeding sixty percent (60%) of its value as above, it shall not be reconstructed except: (Former Section INL#317-63(e); Ord. 1104, Sec. 3, 10/5/76)

Both of these ordinances pertaining to nonconforming structures severely limit a landowner's ability to repair, improve, or alter their home. This is particularly true of properties affected by Proposition 13. The appraised value for homes with longtime owners under Proposition 13 would be significantly lower than actual market value. In the event of a home fire or other such damage, any Prop. 13 owners would be practically incapable of restoring or rebuilding their home.

132.2.1 Approved enlargements of nonconforming structures specified in subsection 314-132.2.1 may not exceed: (Former Section INL#317-62(b); Ord. 1726, Sec. 6, 3/4/86)

132.2.2.1 The maximum ground coverage prescribed for the zoning district in which the nonconforming structure is located, whichever is less. (Former Section INL#317-62(b)(3); Ord. 1726, Sec. 6, 3/4/86)

Highly restrictive of nonconforming structures on improperly zoned or use-designated properties. For example, parcels less than a ½ or ¼ acre improperly designated

as Agricultural in use would leave practically no room for any type of structure, as maximum ground coverage would be limited to 10% of total lot size.

132.3.1 Any nonconforming structure, except as permitted by Section 314-132.2 shall not be enlarged or extended where an intensification or increase in the nonconformity would result. The hearing officer may approve the structural alteration of an existing structure not conforming with development standards. Approval of a variance or other discretionary permit shall not be required for "one-for-one" structural alterations. A structural alteration changing a flat roof to a pitched roof where no expansion of floor area is involved is determined to be a "one-for-one" structural alteration. A variance will be required for the total replacement or expansion of structures where such replacement or expansion would not conform with development standards. (Former Section INL#317-63(a); Amended by Ord. 1848, Sec. 21, 9/13/88)

If a structure is already nonconforming as a result of a changed land use designation, than no improvements, enlargements, or alterations may be made if said improvements, enlargements, or alterations are in keeping with the structure's current, noncompliant use.

132.3.1 If a nonconforming manufactured home or recreational vehicle is removed from a designated flood-prone area of the County, the same manufactured home or recreational vehicle may be relocated on the same site within six (6) months and installed in accordance with the applicable regulations in effect at the time of the unit's original installation. (Former Section INL#317-63U); Ord. 1104, Sec. 3, 10/5/76; Amended by Ord. 2166, Sec. 32, 4/7/98)

This ordinance creates an undue burden on a resident to place the exact same manufactured home or recreational vehicle in the exact same place as it was previously located. This is impractical, and precludes the opportunity for a resident or landowner to use an improved or different home or recreational vehicle which would otherwise have no significant impact.

Again, HumCPR must stress that the scope of negative impacts created between Nonconforming Structures regulations and proposed use designations is greater than what is contained within this document. The potential effects are varied and wide reaching.