

November 19, 2013

The Honorable Ryan Sundberg, Chairman
Humboldt County Board of Supervisors
County of Humboldt
825 Fifth Street, Room 111
Eureka, CA 95501

Re: General Plan Update – Request to Remand to Planning Commission

Dear Honorable Sundberg:

On behalf of Humboldt Builders' Exchange ("HBE"), we thank the County Board of Supervisors ("Board") for its consideration of the County's General Plan Update ("GPU"). The purpose of this letter, however, is to express HBE's serious concerns regarding the manner in which the Board's review has proceeded and its impact on the integrity of the overall GPU process.

In more than thirty (30) public hearings over the past eighteen (18) months, the Board has made significant and fundamental changes to the draft GPU it received from the County Planning Commission in June of last year. During that time, the Board has revised everything from the GPU's Guiding Principles to individual mandates in the GPU's Transportation and Economic Development Elements. While these actions are clearly within the Board's discretion, the changes have fundamentally altered the nature and scope of the GPU as a whole and have served to render the balance of the GPU internally inconsistent and functionally obsolete.

Therefore, as a matter of law, the Board is required to remand the GPU back to the Planning Commission for further review and consideration before final adoption. (Gov. Code § 65356.) In addition to providing the Planning Commission with an opportunity to correct any internal inconsistencies within the GPU as a result of Board changes, a remand to the Planning Commission will also satisfy the County's legal obligation to provide the Commission with "with the opportunity to review the effect of the change upon its position and prior recommendations." (*Karlson v. City of Camarillo* (1980) 100 Cal.App.3d 789, 808-809.)

The significance of the Board's changes and the need to remand the entire GPU to the Planning Commission at this time cannot be underestimated. Emphasizing the profound impact of the Board's changes to the Guiding Principles, an individual Supervisor is quoted as saying that "[t]he whole plan is based on these principles" and that it is "like being 90 percent done with

building a house and asking for a new blueprint.”¹ Given that the whole GPU is based on these Guiding Principles, it is clear that the whole GPU must be remanded to the Planning Commission for reconsideration and further recommendation.

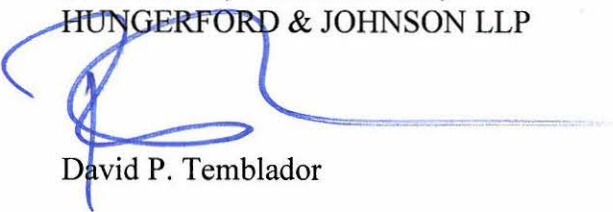
County Planning Staff has also raised concerns regarding the Board’s changes. Addressing the Board’s changes to the proposed Transportation Element related to minimum levels of service and development fee obligations, County planning Staff noted that the changes effectively rendered several related implementation measures inconsistent. (County Planning Staff, County Board of Supervisor’s Hearing, April 21, 2013.)

In addition to causing profound confusion for the general public, these inconsistencies have serious legal consequences. A cornerstone of state land use law is that a general plan must be fully integrated and that each element must be consistent with itself and with the other elements within the general plan. (Gov. Code § 65300.5.) Given the changes that have been made to date, it is clear that the current GPU cannot meet this basic legal mandate.

In sum, to remedy any legal infirmities in the draft GPU and to ensure that both the Board and the general public are presented with the cohesive and consistent planning document, we respectfully request that the Board direct staff to remand the GPU to the Planning Commission for further review and consideration consistent with the requirements of state law.

Sincerely,

HARRISON, TEMBLADOR,
HUNGERFORD & JOHNSON LLP



David P. Temblador

DPT/III

cc: John VanderMolen, President, Humboldt Builders’ Exchange, Inc.
The Honorable Rex Bohn, Vice-Chairman
The Honorable Virginia Bass
The Honorable Estelle Fennell
The Honorable Mark Lovelace
Kevin Hamblin, Director, Department of Community Development Services
Wendy Chaitin, Esq., Humboldt County Counsel
Carolyn Ruth, Esq., Assistant Humboldt County Counsel

¹ “Supervisors receive death threats over General Plan Update,” Redwood Times, Published July 2, 2013.