

January 17, 2011

County of Mendocino
Planning Commission
C/O Roger Mobley
Department of Building and Planning
501 Low Gap Rd
Ukiah, CA 95482

Subject: Case #R 7-2011 RCHDC Request for Rezone of AP # 002-101-26-101-27

Dear Planning Commissioner,

I am writing on behalf of Friends of Gibson Creek to draw your attention to the County's policy change requiring 50-foot buffer zones or riparian setbacks from streams located within the Ukiah Valley Area Plan (UVAP) and 100-foot setbacks from the Russian River that were adopted by the Board of Supervisors in 2011.

Mendocino County's General Plan and the UVAP Environmental Impact Report addressed the biological impacts to wildlife habitat and the disruption of migration patterns by unchecked development. Fortunately, the Board agreed with those findings that buffer zones are necessary. For your information please refer to General Plan Policy RM-1 Water Resources states, "Protect stream corridors and associated riparian habitat." Action Item RM-1-1 specifically states, "Require adequate buffers for all projects potentially impacting stream corridors and/or their associated riparian habitat."

The parcels located on the southside of Brush Street between Orchard Avenue on the east and the Orr Street extension on the west borders Orr's Creek. Since these parcels are adjacent to Orr's Creek and are directly affected by the County's policy of preventing any development within the 50 foot designated buffer zone it is important that the commission and applicant are fully aware of this constraint for a future project.

Please provide notification by e-mail of any public notice related to a application(s) for a project located near the Russian River or a tributary within the Ukiah Valley Area Plan. Thank you for this opportunity to respond to the Rural Communities Housing Development Corporation's rezoning application.

Sincere regards,

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Potential Impacts and Mitigations

1. Criteria Used to Determine Impact Significance

Buildout under the Draft 2007 UVAP would have a significant impact if it would:
Conflict with any applicable habitat conservation plan or natural community conservation plan. There is no adopted habitat conservation plan or natural community conservation plan

Page 81 While Draft 2007 UVAP and General Plan policies would generally reduce the impact to remaining agricultural operations to a less than significant level, one of the implementation measures under **Policy OC3.4d** that addresses buffers should be revised. Otherwise, there would be a potentially significant impact on agricultural operations

Implementation Measure OC3.4d requires a 200-foot buffer between existing agricultural operations and new development (for certain projects that require discretionary approval). However, discussions with the County Agricultural Commissioner indicate that a 200-foot buffer is appropriate for vineyards but more than what is needed for pasture or range lands (a 100-foot buffer is adequate) and less than what is needed for pear and apple orchards (a 400-foot buffer is needed due to the

increased use of restricted materials and non-restricted materials on these fruits).⁹
3.1-C.1 The County will minimize the impacts of new development on agricultural operators. To do so, the second bullet item in Implementation Measure OC3.4d shall be revised as follows:

□ Building envelopes, clustered development, and commercial, industrial, civic, and sensitive uses shall be designed with buffers or setbacks from lands classified Agricultural or Range Lands. Buffers shall generally be defined as a physical separation of 200 100 feet from pasture or range lands, 400 feet from pear and apple orchards, and 200 feet from vineyards or other crops with the potential for a reduced separation when a topographic feature, substantial tree-stand, landscaped berm, watercourse or similar existing or constructed feature is provided and maintained.

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4. Landsliding

The mapping and study that was done for the Ukiah hillside area showed the hillsides having very steep slopes, bedding planes, and weak rock types that would constrain road and home development in this area. Because roads cannot exceed 20% grade (and should not, for safety reasons, exceed 16% grade), roads traveling up ridges must traverse and switchback the contours to reach higher elevations. Construction of these long access roads on steep cross slopes is difficult and has the potential for causing landslides and soil erosion with subsequent adverse effects on fish and aquatic wildlife. Similar constraints and impacts would be expected on other hillside areas within the plan Area

3.3 HYDROLOGY AND WATER QUALITY

2. Surface Water Hydrology

Pg 106 The entire plan area is a part of the Ukiah and Coyote Valley sub-basins of the Russian River Watershed. The sub-basins (which are much larger than the plan area) cover an area of approximately 418 square miles. The plan area drains by overland flow to roadside ditches, swales, storm drain inlets, and intermittent stream channels that feed into perennial tributaries and the Russian River. Major tributaries of the Russian River which drain the plan area (starting at the north end of the plan area) include: York, Hensley, Howard, Ackerman, Sulphur, Orr, Gibson, Doolin, McClure, Mill, Howell, and Robinson Creeks.

Pg 1105. Surface Water Quality

The North Coast Regional Water Quality Control Board (RWQCB) is responsible for ensuring the quality of the water in the plan area. The goals and standards for water quality are established in the *North Coast Basin Plan*. This plan identifies ways to curb water pollution in order to maintain the "beneficial uses made of water." These "uses" form the basis for all water quality protection efforts. Beneficial uses, include domestic and municipal water supply, preservation and enhancement of fish and wildlife, and recreation. Beneficial uses of water demand different physical or chemical criteria for their protection. Because of this, water quality objectives for a given stream (or water

source) are geared to "the most sensitive use." The most sensitive beneficial uses supported by the Russian River include uses associated with the cold-water fishery and municipal and domestic water supply.³⁶

The most critical water quality problems within the plan area are sedimentation and water temperature. The major sources of sediment include 1) erosion from barren or poorly vegetated soils, 2) erosion from the toes of slides along stream channels, and 3) sediment input from unpaved roads. Human-caused sources of sedimentation are a byproduct of current and historical land uses, including logging, agriculture, mining, road construction, continued use of unpaved roads, and other development-related activities within the County.

Water temperature is affected by the volume of water flowing in the stream, the amount of sunlight reaching the water surface, and the daily average air temperature. Elevated water temperature may adversely affect different life stages of anadromous fish (i.e., species that migrate from the ocean to freshwater streams to spawn and breed). Shade cover from riparian vegetation has been reduced through historical land uses, as well as by high flows occurring during the major 1964 flood.

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Long-term presence of toxic substances have rarely been detected during river monitoring. Sediment sampling in 1985, 1986, and 1995 detected no pesticides in sediments. Monitoring of heavy metals exhibited no trends except for higher zinc levels downstream of heavily urbanized areas. Toxic substance sampling in resident fishes and in transplanted (i.e., caged) freshwater clams as part of the North Coast RWQCB's Surface Water Ambient Monitoring Program has occasionally detected pesticides and/or heavy metals in tissues. There is one toxic substance that shows a consistent trend, which is the presence of mercury in fish from Pillsbury, Mendocino, and Sonoma Lakes.³⁷

The Clean Water Team (First Flush Volunteer Project) conducted monitoring of runoff from the first major storm of 2002 (November 6-8, 2002) throughout the Russian River watershed, including at three locations in the plan area. There has not been subsequent "first flush" monitoring due to lack of funding. One local monitoring site was on Gibson Creek, one was on the West Fork of the Russian River, and one was on the East Fork of the Russian River above Lake Mendocino. This monitoring indicated that water quality in the Russian River in the Ukiah area was better than at many downstream locations, while water quality in Gibson Creek (as measured at Gobbi Street) was more polluted. For example the sampling showed 200 MPN/100ml of *E. coli* at the East Fork of the Russian River sampling station, 740 at the West Fork station, and 6,900 at the Gibson Creek station. Diazinon is a wide range insecticide used for control of pests in yards and gardens and which is highly toxic to many species of crustaceans and aquatic insects. Diazinon concentrations in the water ranged from 30 mg/L at the East Fork, 60 at the West Fork, and 120 at the Gibson Creek stations. Total Suspended Solids (TSS) ranged from 22 mg/l at the West Fork (the East Fork was not sampled for TSS) to 25 mg/l at the Gibson Creek station.³⁸ These samples are typically worst case conditions

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since they measure the runoff from the first major storm, and this storm is washing off pollutants that may have collected on streets and other impermeable surfaces for many months. However the data give a picture of how smaller tributaries that drain urbanized areas can contribute significant pollution to the river.

The RWQCB monitors water quality at a station on Mill Creek at Talmage Road. This is one of four RWQCB monitoring stations on the Russian River used for the Surface Water Ambient Monitoring Program (SWAMP); the other three stations are at Cloverdale, Healdsburg Memorial Beach, and Johnson's Beach. Mendocino County

Water Agency monitors water temperature on the Russian River. In general, the data show that water quality in Ukiah is better than at downstream monitoring sites. While there is some indication of organic compounds associated with agricultural practices, the concentrations are very low, approaching the No Detection threshold.

The State's Municipal Storm Water Permitting Program regulates stormwater discharges from Municipal Storm Systems. Municipal Storm System permits were issued to jurisdictions in two phases. Under Phase I, which started in 1990, the RWQCBs have adopted National Pollutant Discharge Elimination System (NPDES) stormwater permits for medium (serving between 100,000 and 250,000 people) and large (serving 250,000

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people) municipalities. Most of these permits are issued to a group of co-permittees encompassing an entire metropolitan area. These permits are reissued as the permits expire. As part of Phase II, the State Water Resources Control Board (SWRCB) adopted a General Permit for the Discharge of Storm Water from Small Municipal Storm System (WQ Order No. 2003-0005-DWQ) to provide permit coverage for smaller municipalities.

The Municipal Storm System permits require the discharger to develop and implement a Stormwater Management Program with the goal of reducing the discharge of pollutants to the Maximum Extent Practicable (MEP). MEP is the performance standard specified in Section 402(p) of the Clean Water Act. The management programs specify what Best Management Practices (BMPs) will be used to address certain program areas. The program areas include public education and outreach; illicit discharge detection and elimination; construction and post-construction; and good housekeeping for municipal operations. In general, medium and large municipalities are required to conduct chemical monitoring, though small municipalities are not.

As required by Phase II, the County has developed a Stormwater Management Program. The program was specifically developed for the urbanized area around Fort Bragg and Ukiah, as these two cities were listed as urban areas subject to the Phase II requirements (and each city has developed and adopted its own Stormwater Pollution Prevention Program). The Program applies to the urbanized areas as well as to all projects that meet the Phase II requirements. The Program contains over 50 Activities/Best Management Practices aimed at reducing sedimentation and pollution of waterways.

Under the Phase II NPDES program, which went into effect on March 10, 2003, construction sites disturbing between one and five acres of land are also required to obtain coverage under the General Construction Activity Stormwater Permit. Permit applicants are required to prepare a Stormwater Pollution Prevention Plan (SWPPP), implement construction-related BMPs, monitor discharges, and implement postconstruction BMPs. Typical construction BMPs include temporary soil stabilization measures (e.g., mulching, seeding); storing materials and equipment to ensure that spills or leaks cannot enter the storm drain system or stormwater; and using filtering mechanisms at drop inlets to prevent contaminants from entering storm drains. Typical post-construction management practices include street sweeping and cleaning of stormwater inlet structures.

In December 2010, the County adopted a Stormwater Ordinance and a Standard Urban Storm Water Mitigation Plan. This Ordinance and Plan describes how developers and developed for each water body and the pollutant or stressor causing impairment on the 303(d) List. The TMDL serves as the means to attain and maintain water quality standards for the impaired water body, allowing for seasonal variations and an appropriate margin of safety.

The SWRCB is responsible for making determinations for the 303(d) List of Impaired Water Bodies. The 303(d) List is promulgated by the EPA, which prepares the TMDL according to a prioritized schedule. The RWQCBs prepare Technical Support Documents that form the basis for SWRCB and EPA actions. The RWQCBs are also responsible for developing and carrying out the TMDL implementation plans subsequent to plan approval by the State Office of Administrative Law and EPA.

The most sensitive beneficial uses of the Russian River are associated with the cold water fishery and municipal and domestic water supplies. The Russian River provides habitat for coho salmon and steelhead trout, which are listed as threatened species under the Federal Endangered Species Act (ESA). The Russian River is on the 303(d) list associated with excessive sediment and temperature (RWQCB, 2006). It is anticipated that development of implementation plan(s) for Russian River TMDL(s) will follow the processes used for other streams in Mendocino County. The RWQCB is aggressively working with local governments and agencies within the Russian River watershed to reduce water quality impacts associated with temperature, sedimentation, dissolved oxygen, and aluminum.³⁹ The implementation plan for the Russian River is pending dependent on completion of plans for other impaired streams. others cannot pollute the storm drain system or surface waters. The County can require the use of BMPs to prevent such pollution.

6. Impaired Water Bodies and the TMDL Process

Section 303(d) of the Clean Water Act (CWA) requires states to develop a list of impaired water bodies where technology based on effluent limits or other legally required pollution control mechanisms are not sufficient or stringent enough to meet water quality standards. A pollution control plan, called a Total Maximum Daily Load (TMDL), must be

OC1.1a River Corridor Planning Area Definition

Define the River Planning Corridor and extent of surrounding riparian area within which proposed development will trigger design review, performance standard requirements, and use of river design guidelines.

OC1.1b Stream Setbacks

Determine appropriate development setback distances from watercourses (utilizing current ecological and scientific data) and specify setback requirements in the zoning code.

OC1.1c Riparian System Management Plan

Develop, implement and maintain a Riparian System Management Plan and companion design guidelines that will include:

- Assessment of river conditions (in reach-by-reach segments);
- Identification of critical areas for preservation (through limited or prohibited development) and priority segments for restoration;
- Strategies for restoration, maintenance and preservation;
- Description of the specific functions for which each stream or stream reach will be managed (aquatic habitat preservation/ enhancement, flood control, storm water management, groundwater recharge, recreation, etc.).
- Identification of opportunities to cultivate and use native plant species that are culturally significant to local Native American Tribes in planned restoration projects

- **Identification of potential projects and locations for public access and recreational greenways; and**
- **Design guidelines for projects proposed within the defined river corridor planning area.**

OC1.1d Management Plan Implementation

Decide how implementation of these functions will occur. Either:

- **Retain access to riparian corridors; or**
- **Assign the responsibility for implementing the Riparian Systems Management Plan, perhaps by way of use permits, to private landowners seeking to develop within or adjacent to designated riparian corridors; and**
- **In either case, identify a permanent source of funding in the Riparian Systems Management Plan.**

OC1.1e Zoning Cod

OC1.2d Design Review

Require a detailed plan design review process for projects proposed within the defined river corridor planning area to ensure that the channel elevation is maintained and river banks are protected.

Policy OC1.3: Enhance the fisheries in the Russian River and its tributaries within the Ukiah Valley.

The Russian River, as it runs through the Ukiah Valley, is essential to threatened salmon and steelhead species. A goal of State and Federal significance is to protect and enhance the unique fisheries in the Russian River and its tributaries.

OC1.3a Indigenous Fish Population Protection and Recovery.

Coordinate with State and Federal agencies to implement existing strategies for the protection and recovery of protected species of fish in the Russian River.

These guidelines are meant to supplement existing state fish passage criteria (Appendix IX-A) and federal guidelines (Appendix IX-B). The designer should refer to those and other documents, standards and experts for structural, roadway, geotechnical, and other engineering and environmental considerations associated with the design.

Each site is unique, and conditions will often require individual solutions. These guidelines advocate a principle that the best fish passage design is the one that provides for all or most of the following ecological objectives:

- Efficient and safe passage of all aquatic organisms and life stages
- Continuity of geomorphic processes such as the movement of debris and sediment
- Accommodation of behavior and swimming ability of organisms to be passed

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