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## MENDOCINO COUNTY MEMORANDUM

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**DATE:** February 2, 2011

**TO:** Planning Commission

**FROM:** Planning and Building Services; Planning Staff

**SUBJECT:** Agenda Item for February 17 and March 3, 2011; Public Review of Draft Environmental Impact Report (DEIR) for the Draft 2007 Ukiah Valley Area Plan (UVAP).

**Purpose:**

The purpose of the public hearings on February 17 and March 3, 2011 is to provide the Planning Commission, the public, and agencies the opportunity to comment on the content and adequacy of the Draft Environmental Impact Report (DEIR) in evaluating impacts associated with the Draft Ukiah Valley Area Plan (UVAP, framework plan including goals, policies, and implementation measures) tentatively approved by the Board of Supervisors in 2007. The Board of Supervisors will also hold a public hearing on the DEIR on a date to be determined in the near future. It is recognized that depending upon the number of comments and amount of discussion regarding the DEIR, it may be necessary to continue this agenda item to a subsequent Planning Commission hearing. County staff emphasizes that there will be future public hearings on the UVAP itself, and that revisions to the current version of the UVAP may arise through the EIR review and certification process.

In summary, the purpose of the Planning Commission hearings described above is as follows:

- to review the DEIR and make comments and recommendations to the Board of Supervisors regarding the DEIR;
- to provide a public forum for the County to obtain comments regarding the DEIR (not to answer or debate the merits of any particular comment or question); and
- to focus the discussion upon the DEIR rather than the Draft UVAP. The Board of Supervisors tentatively approved the Draft UVAP in 2007 as “the project” pursuant to the California Environmental Quality Act (CEQA). The project and project alternatives are addressed in the DEIR. It is recognized that revisions to the Draft UVAP may result from the EIR review and certification process.

**Background:**

The County proposes to adopt the 2007 Ukiah Valley Area Plan (UVAP) as an element of the Mendocino County General Plan. The draft Plan tentatively approved by the Board of Supervisors as “the project” pursuant to CEQA includes Open Space & Conservation, Historic & Archaeological Resources, Health & Safety, Parks & Recreation, Community Design, Circulation & Transportation, Water Management, Energy & Air Quality, and Land Use

Elements. Noise and Housing Elements are not included, but are part of the County's General Plan and will apply to the UVAP planning area.

The UVAP plan area is coterminous with the Planning Area for the City of Ukiah as shown in the City's adopted General Plan (December 1995). That plan (*Ukiah Valley General Plan and Growth Management Program*) included land use classifications and policies that would apply to portions of the Planning Area if it were annexed to the City. In 1992, at the City's request, the County Board of Supervisors made a commitment to consider the City's General Plan (once adopted) as an "area plan" for the entire Ukiah Valley.

In 1998, the Board of Supervisors directed County planning staff to revise the unincorporated portion of the City's General Plan as the draft Ukiah Valley Area Plan to provide increased County perspective and greater consistency with the existing County General Plan. In January 2000, the County Planning Commission held the first public hearing on possible adoption of the City of Ukiah's General Plan land use as an area plan for the Ukiah Valley. Over the next two years the Planning Commission, with input from the public, made a number of modifications to the land use classifications, policies, and implementation measures to develop an area plan that provided a County perspective on land use as well as increased consistency between the area plan and other planning policies and documents, including the County's General Plan.

In 2005, the County proposed adoption of the Draft 2002 UVAP. A Draft EIR was prepared on that plan and circulated for public review in July 2005. After receipt of public comments on the Draft EIR, the County determined that revisions to the draft plan were needed to address the public concerns. Accordingly, a new draft plan was developed – the Draft 2007 UVAP. It is important to note that the Draft 2007 UVAP has been updated by County staff to include information from the recently completed Water Assessment. In addition, background and supportive text was added to the Draft 2007 UVAP in support of goals and policies which were tentatively approved by the BOS in 2007. The current version of the UVAP is dated December 2010; however, it is in essence the Draft 2007 UVAP.

The following is a summary of previous workshops and meetings held resulting in the current draft version of the UVAP:

- UVAP Open House (September 25, 2006) was an introductory presentation and meeting with the plan consultants. Over 100 residents attended and reviewed existing maps and the 2002 Draft UVAP. They gave initial feedback about their vision for the plan area and met with County staff who answered questions.
- Eight focus group meetings (October through December 2006) with stakeholder groups and residents were held. The purpose of these meetings was for County staff to obtain a first impression of what stakeholders and residents consider to be the assets, issues, and opportunities of the plan area.
- Community Workshop #1 (November 4, 2006) was a presentation about the plan vision, opportunities for participation, the planning process, and key planning opportunities and constraints. Over 125 people attended, and many participated in meetings of break-out groups to develop input on plan vision, assets, and constraints and opportunities.
- A Joint Policy Boards Meeting of the County Planning Commission, County Board of Supervisors, City of Ukiah Planning Commission, and Ukiah City Council (January 10, 2007) was held to present information on the plan process and constraints and opportunities.

Representatives of the various boards and commissions provided input into the planning process. This meeting was attended by 15 County officials, 11 City officials, and about 60 residents.

- Community Workshop #2 (March 10, 2007) was a day-long design exercise which allowed groups of participants to allocate where new development should occur in the nine main discussion areas developed for the plan area.
- A second Joint Policy Boards Meeting of County and City officials (April 24, 2007) was held to review a number of issues that had been developed after the previous meetings. It included a presentation of an economic report prepared for the plan and summaries of the citizen input from Workshop #2. Potential land use alternatives were presented for discussion and input from the officials.
- The Board of Supervisors conducted a public meeting (June 26, 2007) to review potential land use designations for the nine plan discussion areas and to provide guidance to County staff for developing a range of alternatives to be included in the Notice of Preparation for an updated/revised EIR.
- An Open House (August 14, 2007) was held to allow residents to review all planning documents, including the Preliminary Draft of the Goals, Policies, and Implementation Measures and the three preliminary land use alternatives.
- The Board of Supervisors held a public meeting (August 21, 2007) wherein they reviewed all preliminary Draft 2007 UVAP materials and selected a preferred land use alternative. They also determined that the other two alternatives be assessed in the EIR.
- The EIR Scoping Meeting (November 5, 2007) was held to identify what issues should be assessed in updated/revised EIR.

#### **Recent Actions:**

As described above, in 2007, the County proceeded to conduct a series of workshops and other public outreach efforts to gather public concerns and recommendations that were used to guide the UVAP revision process. A variety of alternative land use plans were developed. On August 21, 2007, the County Board of Supervisors selected the “preferred alternative” that is “the project” to be assessed in the EIR. The Board also directed that two other land use alternatives (Alternatives A and B) be analyzed and compared with “the project”. It is important to note that “the project/preferred alternative” is the most aggressive alternative with respect to development potential. The Board of Supervisors recognized this fact and directed staff to prepare the DEIR on this alternative thereby assuring that the potential impacts of the “highest intensity development” scenario would be analyzed thus allowing for the greatest flexibility in selecting the final alternative.

Subsequent to the Board’s direction, the decision was made to complete a Water Assessment for the Ukiah Valley. This assessment was/is considered a major component of the UVAP. The Water Assessment was completed in October of 2010 and will be subject to review through the EIR public hearing process. The Draft 2007 UVAP has been updated by County staff to include information from the completed Water Assessment. Additionally, PBS staff was directed to complete the 2007 version of the UVAP (which contained only a framework of goals, policies, and a land use map with selected land use designation change alternatives) into a complete

document. This task has been completed without modifying the BOS direction of 2007. A policy matrix has been prepared as an attachment to this report which tracks policy renumbering and reformatting associated with the transition to the 2010 version of the UVAP. In addition, background and supportive text was added to the Draft 2007 UVAP in support of goals and policies which were tentatively approved by the BOS in 2007. The latest printed version of the UVAP is dated December 2010; however, it is in essence the Draft 2007 UVAP.

At the direction of the County, Leonard Charles & Associates (LCA) has prepared a Revised Draft Program Environmental Impact Report (DEIR) addressing the potential impacts of future development that would be allowed under the Draft 2007 Ukiah Valley Area Plan (UVAP, as reformatted and updated in December 2010). The UVAP has a year 2030 planning horizon. Projections regarding the amount of new development that can be expected over the next 20+ years have been developed as part of preparing the DEIR based on land use classifications, policies, and implementation measures included in the UVAP.

#### **Status of 2005 Environmental Impact Report (EIR) and Comments Received:**

The Draft EIR for the original project was circulated for public review in August 2005. Where the data and analyses remain pertinent for the revised plan (from the 2002 version), data from the original Draft EIR has been incorporated into the Revised DEIR. Otherwise, new or revised analyses have been done to reflect Draft UVAP changing baseline conditions, and changes in the regulatory setting and requirements. The Revised Draft EIR is a stand-alone document. It replaces the original DEIR, and there is no need to refer to that original DEIR to understand the Draft UVAP or its impacts. Regarding written and verbal comments submitted in 2005 on the original plan, the Revised Draft EIR is not a Response to Comment report. It is an assessment of the revised plan. Many of the comments submitted on the original DEIR are no longer pertinent and/or have been addressed in the analyses in the Revised DEIR. However, all letters and comments remain part of the administrative record for the project. All of these comments were read. Responses to comments have been incorporated in the text when they are accurate and pertinent to the Draft UVAP. CEQA Guidelines do require that this Revised EIR include a summary of revisions to the original Draft EIR that were made. This discussion is included in Section 2.4 of the DEIR.

Through public notices, the County will advise all reviewers of the Revised Draft EIR that previous comments on the original Draft EIR will not be responded to, and that new comments need to be submitted on this revised EIR, consistent with CEQA Guidelines Section 15088.5(f)(1) that states, "The lead agency shall advise reviewers, either in the text of the revised EIR or by an attachment to the revised EIR that although part of the administrative record, the previous comments do not require a written response in the final EIR, and that new comments must be submitted for the revised EIR. The lead agency need only respond to those comments submitted in response to the recirculated revised EIR."

#### **Environmental Impact Report (EIR) Process:**

The County has filed a Notice of Completion (NOC) of the UVAP DEIR with the State Clearinghouse and applicable agencies and provided public notice by publication and mailing as required by CEQA Guidelines. As described in previously released public notices, printed copies and CD versions of the DEIR have been made available (at cost) at the County of Mendocino Planning and Building Services Department office. A copy of the DEIR has been placed at the Main Branch of the Mendocino County Library. The Draft Ukiah Valley Area Plan and Draft EIR can be viewed online at: <http://www.co.mendocino.ca.us/planning/UVAP.htm>.

It is noted that CEQA does not require formal hearings associated with the DEIR at any stage of the environmental review process. Following the close of the forty-five (45) day public review period, County staff, in coordination with the EIR consultant, will prepare the Final EIR consisting of written responses to all comments received. Subsequent public hearings by the Planning Commission and Board of Supervisors will be scheduled in order to consider certification of the Final EIR. The UVAP itself will be the focus of future public hearings. Revisions to the Draft UVAP (“the project”) may result based upon information and findings associated with the FEIR.

**Content and Adequacy of DEIR:**

The Draft 2007 UVAP Draft EIR is a program EIR under Section 15168 of the State CEQA Guidelines. As described in CEQA Guidelines §15168(a)(3), a program EIR “may be prepared on a series of actions that can be characterized as one large project and are related...in connection with the issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program.” As a program EIR, the document focuses on the overall effect of the Draft 2007 UVAP. The DEIR analysis does not examine the effects of site-specific projects that may occur within the overall umbrella of this program in the future. The nature of area plans is such that many proposed policies are intended to be general, with details to be worked out during implementation. Thus, many of the impacts and mitigation measures can only be described in general or qualitative terms.

The analysis in the program DEIR is considered the first tier of environmental review, creating the foundation upon which future, project-specific CEQA documents can build. A program EIR can be incorporated by reference into subsequently prepared environmental documents to address issues such as cumulative impacts and growth inducing impacts, allowing the subsequent documents to focus on new or site-specific impacts. It is recognized that future development allowed pursuant to the Draft 2007 UVAP will result in various impacts on the environment. Many of these areas of impact and concern are addressed by policies and measures incorporated into the Draft 2007 UVAP. In some cases, specific policies were adopted to mitigate potential future impacts. This integration of mitigations into the Draft 2007 UVAP increases environmental protection in the plan area. The DEIR determines whether the policies and measures included in the plan adequately reduce the predicted impacts.

It is important to reiterate that the DEIR under consideration is a Program EIR and not an EIR on site-specific impacts that could result from development on particular properties in the plan area. Site-specific analyses and mitigations will be assessed at the time that a development application is submitted. The DEIR addresses the cumulative, area-wide effects of buildout over the next 20+ years in the plan area (to year 2030). This approach is consistent with the degree of specificity required by CEQA for such EIRs. The *CEQA Guidelines* Section 15146 states:

*The degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR.*

- (a) *An EIR on a construction project will necessarily be more detailed in the specific effects of the project than will be an EIR on the adoption of a local general plan or comprehensive zoning ordinance because the effects of the construction can be predicted with greater accuracy.*
- (b) *An EIR on a project such as the adoption or amendment of a comprehensive zoning ordinance or a local general plan should focus on the secondary effects that can be*

*expected to follow from the adoption or amendment, but the EIR need not be as detailed as an EIR on the specific construction projects that might follow.*

The State CEQA Guidelines note that in reviewing draft EIRs persons and public agencies should focus on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated. At the same time, reviewers should be aware that the adequacy of an EIR is determined in terms of what is reasonably feasible, in light of factors such as the magnitude of the project at issue, the severity of its likely environmental impacts, and the geographic scope of the project. The Final EIR, responding to comments on the DEIR, need only respond to significant environmental issues rather than providing all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR.

### **Significant Effect on the Environment:**

The DEIR focuses on the significant effects on the existing environment, identifying whether effects at a 'program level' are significant or insignificant. CEQA Section 15002(g) states that a significant effect on the environment is defined as a substantial adverse change in the physical conditions which exist in the area affected by the proposed project. The significance criteria for each topic in the DEIR have been developed based on guidelines set forth in the *CEQA Guidelines* as modified in some cases by standards established by the County. The DEIR lists the thresholds of significance for each area of impact and assesses whether the project's impacts exceed these thresholds. If the impact does not exceed the threshold or if the recommended mitigation measures reduce the impact below the thresholds, then the impact is considered to be less-than-significant. Conversely, if there are no mitigation measures available to reduce an anticipated impact to a level of insignificance, the DEIR would then conclude that the impact is significant and avoidable. This conclusion would then necessitate that the Lead Agency adopt a Statement of Overriding Considerations for these impacts as part of the EIR certification process.

### **DEIR - Summary of Major Conclusions:**

The DEIR includes a description of the UVAP ("the project") and its major objectives, including the location of several proposed changes to the Land Use Map. During previous hearings on the UVAP, a majority of the discussion and general public interest was focused upon certain proposed land use changes that were being considered as either part of the project, or as project alternatives. Early on in the UVAP process, the decision was made by the County Board of Supervisors to include potential land use changes as part of the UVAP in order to gain a comprehensive perspective on future growth and development in the Ukiah Valley. Although positive in some respects, this approach resulted in a major focus on potential land use changes, with minimal input and focus on UVAP goals, policies and implementation measures.

As an example, there has been much interest in the future land uses on the decommissioned "Masonite" site, as well as future land uses that might be allowed in the Lovers Lane area. Because of the intense interest in these sites, as well as other sites situated throughout the valley, the Board of Supervisors tentatively approved the UVAP in 2007 with a preferred alternative, as well as two additional alternatives which offered an array of land use options for the parcels in question. The DEIR analyzes impacts associated with the "preferred project", which is the most intense with respect to development potential and associated impacts. The UVAP contains alternatives which may be chosen as part of the final review and adoption of the UVAP.

In continuing with the Masonite site example, the UVAP and DEIR are written in such a manner as to provide the option of maintaining the Industrial land use designation on the site. The impacts of this option are thoroughly described in the DEIR. The “Comparison of Land Use Differences Between the Alternatives” table contained in the DEIR provides for this “menu” of land use choices for all of the mapped study areas shown in DEIR Figure 3.1.

### **The UVAP and Land Use:**

The UVAP, Section Three, Land Use and Community Development, designates the general distribution and intensity of uses of land for housing, business, industry, open space, education, public buildings, and other categories of public and private uses. It specifies standards of population density and building intensity in the various land use categories. This Section includes the primary statement of how land in the plan area should be used or reused in the event of redevelopment. It, therefore, sets the framework for all other elements in the plan, all of which must be consistent with one another. The Land Use and Community Development Section and its policies would guide growth and the development and use of land in the unincorporated areas of the plan area through 2030. The section includes an area wide land use policy framework, specific land use policies, a land use map, and an implementation program. The stated goals of this section are:

*Goal LU1: Create compact, mixed-use, and well-balanced communities that can achieve this plan’s principles of sustainability.*

*Goal LU2: Promote compatible land uses adjacent to important transportation facilities and protect against incompatible ones.*

*Goal LU3: Consider the needs of education providers in the planning and project review process.*

*Goal LU4: Manage future growth to ensure that essential support infrastructure is in place prior to development.*

*Goal LU5: Recognize that the Ukiah Valley is one community, and foster collaborative decision-making between County and City Agencies.*

*Goal LU6: Create a business development strategy that emphasizes local ownership and/or adds value to local goods or services that re-circulates money within the community.*

*Goal LU7: Ensure that there is an ongoing process of community involvement for the purposes of providing input and monitoring the success of the Ukiah Valley Area Plan.*

To realize these goals, the County has established land use designations and classified properties within the plan area so that future land use will be consistent with the goals and policies of other plan elements. The Land Use and Community Development Section provides land use designations to ensure that future development within the plan area preserves open space and agriculture; conserves natural resources; provides adequate park facilities; is consistent with available roads and infrastructure; is safe; and maintains the beauty of the area. The Land Use Section promotes economic sustainability and revenue sharing with the City in order to develop an equitable revenue sharing agreement to facilitate economic development,

efficient resource use and resource protection, throughout the Ukiah Valley. The Section includes provisions for a growth management plan and would allow new development entitlements only if adequate infrastructure and services are available to serve that development.

In preparing the Land Use and Community Development Section, the County concentrated on developing appropriate land use classification for nine areas (called "discussion areas" in the planning process) where most new development could be located. The DEIR describes the acreage of development potential for those nine areas as well as the rest of the plan area outside those nine discussion areas. The DEIR contains information regarding buildout potential for the proposed plan, the Existing General Plan, and the land use alternatives identified by the Board of Supervisors (Alternatives A and B), the latter being modified by the County Department of Planning and Building Services based on citizen and agency input.

#### **Addition of Alternative C:**

The UVAP alternatives approved for study by the Board of Supervisors are described and assessed in Section 4.4 of the DEIR. There is a fourth alternative, Alternative C, which has been added by County staff. This alternative combines the land use classifications of the Existing General Plan, the policies of the County's 2009 updated General Plan, and the policies of the Draft UVAP, but would not make any of the land use changes being considered as part of the Draft UVAP. As such, the development potential for this alternative is the same as for the Existing General Plan. Under Alternative C, the goals, policies and implementation measures of the UVAP would be adopted. The land use changes considered as part of the project, as well as Alternatives A and B, would not be adopted.

#### **Discussion of Alternatives – Options Available to County:**

CEQA requires that the EIR assess alternatives to the project and if the project will have significant environmental impacts, even if these impacts can be mitigated to a level that is less than significant. As noted in Chapter 3.0 of the EIR, the project will have a number of significant impacts, including 25 significant and unavoidable impacts. The EIR therefore assesses alternatives to the project.

Given CEQA mandates, the UVAP DEIR assesses "the preferred project", as well as the following alternatives:

1. No Project – Existing General Plan
2. Land Use Alternative A
3. Land Use Alternative B
4. Alternative C – Policy document only

The *CEQA Guidelines* requires that an EIR address the impacts that would result if no project were approved. For EIRs on general plans (and the Draft 2007 UVAP would be considered the equivalent of a general plan), the *CEQA Guidelines* states that the "no project" alternative will be the continuation of the existing general plan (CEQA Guidelines, Section 15126.6[e][3][A]). The existing County General Plan adopted in 2009 states that land uses in the UVAP planning area will be regulated and guided by the UVAP (even though the UVAP had not been adopted at the time the General Plan was adopted). For purposes of the DEIR analysis, staff has determined that the existing land use designations from the 1982 General Plan apply to the UVAP area. In addition, all policies and action items contained in the 2009 General Plan would

apply to new development within the UVAP planning area. The combination of the previous land use designations and updated General Plan policies are considered to be the Existing General Plan.

The DEIR includes an in-depth description of the UVAP project and alternatives. Figure 3.1 shows where certain land use changes may occur if approved as part of the UVAP. The DEIR contains a table titled "Comparison of Land Use Differences Between the UVAP Alternatives". This table contains columns which describe the variations between the preferred project and project alternatives. The DEIR analyzes the "preferred project", which is also considered to lead to the most environmental impacts. According to the DEIR, Alternatives A, B, and C would each lead to less impacts as they would limit growth and development as compared to the "preferred project".

The DEIR concludes that Alternative C would be the environmentally superior alternative. Alternative C would maintain the land use designations of the existing General Plan and incorporate the policies of the Draft 2007 UVAP (except where those policies directly describe/discuss the land use changes included in the Draft 2007 UVAP).

### **Proposed Land Use Designations:**

The Draft 2007 UVAP contains 16 land use classifications organized into four broad categories. The designations are listed below. Except for the five Mixed-Use classifications, the land use classifications are the same as in the County's current General Plan.

#### **Residential Neighborhoods**

- Remote Residential (RMR)
- Rural Residential (RR)
- Suburban Residential (SR)
- Multi-Family Residential (MF)

#### **Activity Centers**

- Rural Community (RC)
- Mixed-Use: General (MU-2)
- Mixed-Use: Brush Street Triangle (MLBST)
- Mixed-Use: Lovers Lane (MU-3)
- Mixed-Use: Masonite (MUM)
- Mixed-Use: North State (MUNS)

#### **Industry and Commerce**

- General Commercial (C)
- Industrial (I)
- Agriculture (AG)
- Range Lands (RL)

#### **Open Space**

- Public Lands (PL)
- Public Services, Parks, and Recreation (PS)

### **Decision Regarding Project Approval**

The *CEQA Guidelines* state that public agencies should not approve projects as proposed until all feasible means available (i.e., mitigation measures or alternatives to the project) have been employed to substantially decrease the significant effects of such projects. "Feasible means" indicate steps capable of being accomplished in a successful manner within a reasonable

period of time taking into account economic, environmental, legal, social, and technological factors (*CEQA Guidelines*, Section 15364).

If an EIR determines that there will be significant impacts as the result of a project, the Board of Supervisors must make one or more of the following findings (in accordance with *CEQA Guidelines* Section 15091):

- Changes have been required in the project that would avoid or substantially reduce significant impacts;
- Such changes are the responsibility of another public agency; or
- Specific economic, social, or other considerations make the mitigation measures of the EIR or project alternative(s) infeasible.

For impacts that the County determines cannot be mitigated to a less than significant level, it would be necessary for the Board to issue a Statement of Overriding Considerations (per *CEQA Guidelines* Section 15093) that describes how benefits of the project outweigh those impacts. After considering the Final EIR, the lead agency shall not approve a project unless all significant effects have been eliminated or reduced where feasible or the agency adopts a statement of overriding considerations finding that economic, legal, social, technological or other benefits of the proposed project outweigh its unavoidable adverse environmental effects. The EIR is a factual, objective, public-disclosure document that takes no position on the merits of the project, but rather provides information on which decisions about the project can be based.

**Recommended Action:**

That the Planning Commission receives and makes comment on the content and adequacy of the Draft Environmental Impact Report (DEIR) for the Draft Ukiah Valley Area Plan, and forward comments to the Board of Supervisors for consideration.

Attachments:

- 2007 UVAP (Framework plan designated as “the project” pursuant to CEQA).
- 2007 to 2010 UVAP Goals, Policies, Implementation Measures Comparison Matrix.
- Draft UVAP Figure 1.1 Plan Area.
- Draft UVAP Figure 3.1 Proposed Land Use Changes Map.