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MENDOCINO COUNTY GRADING ORDINANCE

The 1998/1999 Mendocino County Grand Jury investigated, and wrote a report recommending the adoption of an updated grading ordinance for Mendocino County. The Uniform Building Code currently in place includes a grading section, but it does not address the issue of protecting fish spawning streams, and riparian vegetation. Responses to the Grand Jury Report indicated the Mendocino County Board of Supervisors (BOS) was in the process of working with four northern counties in producing a comprehensive grading ordinance. The counties of Mendocino, Trinity, Humboldt, Del Norte, and Siskiyou began the process in 1997, with Humboldt and Trinity Counties taking the lead.

Reason for Review

The investigation was initiated as a result of a citizen's complaint. Because of the vital importance of creating and implementing this ordinance, the 1999/2000 Grand Jury deemed it appropriate to re-visit this issue.

Method of Investigation

Because of the in-depth investigation done by the 1998-1999 Grand Jury, it was decided to confine this year's investigation to determine if any action had occurred since the report was published. Two Mendocino County Supervisors were interviewed. The Uniform Building Code, Chapter 70 was reviewed.

Findings

1. The purpose of the five-County joint participation in the creation of a Grading Ordinance is to create a cohesive plan that incorporates the regulations of the California Division of Forestry, California Fish and Game, National Marine Fisheries Service, Regional Water Quality Control Board and county requirements, since conditions that endanger fish spawning streams are common to all five counties.

Response (Planning & Building): Agree with this finding.

Response (Department of Transportation): Neither agrees nor disagrees with this finding. The Department of Planning & Building Services is responsible for administering the grading ordinance and therefore has the responsibility for drafting any new County grading ordinance.

Response (Board of Supervisors): The Board agrees with this finding.

2. Humboldt County has developed a draft ordinance which was to be available to Mendocino County for review by the end of June, 2000. According to the interviewees, the BOS plans to decide what to do with the draft ordinance of Humboldt County within 30 to 60 days after receiving it. This ordinance will not include a phase-in or training period.

Response (Planning & Building): Agree with this finding with the following clarifications: The Humboldt County draft ordinance became available in July 2000. Mendocino County Board of Supervisors on September 12, 2000 is scheduled to discuss and provide direction regarding grading regulations for Mendocino County. It is unclear if the last sentence in this finding is intended to apply to Humboldt or Mendocino County. It is premature, at this time, to conclude what may or may not be contained within a future Mendocino County grading ordinance relative to a training or phase-in period until public hearings are held and the ordinance is adopted by the Board of Supervisors.

The Board of Supervisors has included funding in the 2000/01 County Budget for preparation, processing and implementation of grading regulations for Mendocino County.

Response (Department of Transportation): Neither agrees nor disagrees with this finding. The Department of Planning & Building Services is responsible for administering the grading ordinance and therefore has the responsibility for drafting any new County grading ordinance.

Response (Board of Supervisors): The Board agrees that Humboldt County was to have developed and made available to Mendocino County a copy of its draft ordinance by the end of June, 2000. The Humboldt County draft ordinance became available in July, 2000. Further discussion on the direction and implementation of grading regulations for Mendocino County is scheduled to be discussed during a future Board meeting. The Board agrees with the Director of Planning and Building Services that it is too early in the process to determine what may or may not be contained within a future County grading ordinance relative to a training or phase-in period until public hearings are held and the ordinance adopted by this Board.

3. Trinity County is working on a certification plan ordinance which involves a training period to be sure that appropriate persons in the county understand the scope and conditions of the ordinance. The purpose is to prevent violations due to misunderstanding of the new ordinance.

Response (Planning & Building): Agree with this finding.

Response (Department of Transportation): Neither agrees nor disagrees with this finding. The Department of Planning & Building Services is responsible for administering the grading ordinance and therefore has the responsibility for drafting any new County grading ordinance.

Response (Board of Supervisors): The Board agrees with this finding.

4. Coordination between the counties is accomplished by conference calls every two weeks and almost daily e-mail.

Response (Planning & Building): Agree with this finding.

Response (Department of Transportation): Neither agrees nor disagrees with this finding. The Department of Planning & Building Services is responsible for administering the grading ordinance and therefore has the responsibility for drafting any new County grading ordinance.

Response (Board of Supervisors): The Board agrees with this finding.

Recommendation

The Grand Jury urges the BOS to review and act on the Humboldt County draft ordinance with the 30 to 60 day time frame. The Grand Jury strongly suggests that the BOS encourage Trinity County to complete their ordinance quickly, so that its features can be considered and incorporated, if found appropriate.

Response (Board of Supervisors): The Board will be discussing and providing direction to Planning and Building staff on the Mendocino County grading regulations at a future Board meeting. The Board has included \$80,000 in the budget for fiscal year 2000/01 for the purpose of developing and implementing grading regulations.

Time frame for implementation:

- The Board on September 6 reviewed a memorandum from the Planning and Building Department that provided background to the issue as well as options for proceeding with grading regulations. Due to the late hour, the discussion was continued to the next available Board hearing.
- On September 26, the Board again discussed grading regulations. The Board directed the Planning and Building Services Director to utilize the Public Resources Council to create a matrix identifying the highlights from the Mendocino County

Administrative Draft, Humboldt, Lake, and Napa County ordinances and include related State and Federal Regulations. Further, the Board requested the Public Resources Council recommend a grading committee structure for Board review.

- The Public Resources Council held a special meeting on October 23, 2000, to discuss the Board referral. The Public Resources Council recommended that (1) the Resource Conservation District take an active role in grading regulations, (2) the Board establish a "Grading Committee" and (3) that the County prepare and adopt grading regulations that are more comprehensive than those contained within the Uniform Building Code. Comments to the draft matrix were due to Planning and Building Services on November 3.
- Discussion and direction for grading regulations for Mendocino County will be scheduled for a Board hearing in January.

Comments

The County has received Federal and State grants to repair various drainage problems on the county roads, but the appropriate granting agencies have not yet given guidelines for making these repairs.

County road crews are currently being trained on standard procedures to repair drainage problems, in addition to procedures for new drainage construction.

The Grand Jury recognizes and appreciates the complexity of creating a sensible, comprehensive County Grading Ordinance. With all of the urgent issues facing the BOS, it is sometimes tempting to consign items "to the back burner." This is especially true when there is the perception that there is already something in place which addresses the problem. The existing Uniform Building Code could appear to be sufficient to deal with grading problems in the County, allowing for a less urgent priority. However, since the existing codes do not adequately address fish spawning streams and riparian vegetation, it is particularly important and urgent, to protect these habitats.

Response (Department of Transportation): It should be noted that the Department of Public Works (predecessor to the Department of Transportation) worked with the Department of Planning and Building Services on previous efforts toward grading ordinance development. We provided review and comment from an engineering perspective, particularly on the interrelationship of the grading ordinance with construction administered through subdivision and other land use entitlement processes,

encroachment permit process and County Road construction and maintenance. We will be available for such cooperative involvement in any future grading ordinance development process.

Additionally, the Department is currently involved in the preparation of Road Standards. We are coordinating this effort with Planning and Building Services to ensure continuity with planning and grading ordinance issues.

Response Required

Mendocino County Board of Supervisors

Response Requested

Mendocino County Department of Planning and Building Services
Mendocino County Department of Public Works