

# Public Review Copy

## AGENDA

**RIO DELL PLANNING COMMISSION  
REGULAR MEETING  
WEDNESDAY, APRIL 28, 2010 - 6:30 PM  
CITY COUNCIL CHAMBERS  
675 WILDWOOD AVENUE, RIO DELL**

*WELCOME . . . By your presence in the City Council Chambers, you are participating in the process of representative government. Copies of this agenda, staff reports and other material available to the City Council are available at the City Clerk's office in City Hall, 675 Wildwood Avenue. Your City government welcomes your interest and hopes you will attend and participate in Rio Dell City Council meetings often.*

**THE TYPE OF COMMISSION BUSINESS IS IDENTIFIED IMMEDIATELY AFTER EACH TITLE IN BOLD CAPITAL LETTERS.**

A. CALL TO ORDER

B. ROLL CALL

C. PLEDGE OF ALLEGIANCE

D. CEREMONIAL MATTERS

- 1) 2010/0428.01 - Swearing in and Seating of Newly Appointed Planning Commissioners R. L. "Bud" Leonard and Andrew Gonzales

E. CONSENT CALENDAR

- 1) 2010/0428.02 - Approve Minutes of the January 27, 2010 Regular Meeting  
**(Action)**

F. PUBLIC PRESENTATIONS

*This time is for persons who wish to address the Commission on any matter not on this agenda and over which the Commission has jurisdiction. Items requiring Commission action not listed on this agenda will be placed on the next regular agenda for consideration, unless a finding is made by at least 4/5ths of the Commission that the item came up after the agenda was posted and is of an urgency nature requiring immediate action.*

G. SCHEDULED MATTERS/PUBLIC HEARINGS/STUDY SESSIONS

- 1) 2010/0428.03 - General Plan and Zoning Amendments for Scotia Annexation  
**(Information & Comment)**

- 2) 2010/0428.04 - General Plan and Zoning Amendments for Metropolitan Wastewater Disposal Site and Blue Slide Road Annexations  
**(Information & Comment)**
- 3) 2010/0428.05 - General Plan Update – Housing Element  
**(Information & Comment) (Possible Action to Approve)**
- 4) 2010/0428.06 - General Plan Update – Circulation Element  
**(Information & Comment)**
- 5) 2010/0428.07 - Consideration of Zoning Ordinance/General Plan Interpretation/Amendment regarding Medical Marijuana Dispensaries **(Action)**

#### H. ADJOURNMENT

*The next Regular Planning Commission Meeting will be May 26, 2010*

**CITY OF RIO DELL  
PLANNING COMMISSION  
REGULAR MEETING  
JANUARY 27, 2010**

**CALL TO ORDER**

The Regular meeting of the Rio Dell Planning Commission was called to order at 6:30 P.M. by Planning Commissioner Gonzales.

Present were Commissioners Gonzales, Millington and Sweaney. Absent were Commissioner Davis and Sanderson.

Others present were Interim City Manager Stretch, George Williamson, Planning Consultant, and City Clerk Dunham.

**PUBLIC PRESENTATIONS**

Dean Smither, owner of Redwood Mini Golf approached the Commission with the idea of putting in some recreational vehicle spaces next to the golf course and stated it was an allowable use with a Conditional Use Permit within the Community Commercial Zone. With no objections from the Planning Commission he said they could expect to see an application forthcoming.

Commissioner Sweaney stated as an owner of an R.V. she supported the idea.

**CONSENT CALENDAR**

Approve Minutes of the November 18, 2009 Special Meeting

Motion was made by Millington/Sweaney to approve the minutes of the November 18, 2009 Special meeting as submitted. Motion carried 3-0.

**SCHEDULED MATTERS/PUBLIC HEARINGS**

Discuss Policy on Planning Commissioner Attendance and Direct staff to bring back a draft policy for review and approval

Interim City Manager Stretch stated that since the City does not have a policy in place regarding Planning Commissioner attendance he thought he would approach the Commissioners for ideas on the drafting of a policy.

Commissioner Sweaney stated she understood it was a law that regular meetings be held during the same day and time each month but suggested the Commission consider holding more meetings during the spring and summer months.

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City Clerk Dunham explained the time and day for regular meetings is set by resolution but special meetings can be scheduled if the Commission deems it necessary.

Commissioner Gonzales stated the Commission held special meetings during the course of the Zoning Ordinance and General Plan updates as well as to accommodate applicants with timely processing of planning applications but felt there should be a policy regarding planning commissioner attendance at meetings. He suggested there also be provisions for allowing a temporary leave of absence from the Commission for certain circumstances stating there were times in the past when he was required to work out of town.

Interim City Manager Stretch stated the California Government Code states that if a Councilmember is absent without permission from all regular City Council meetings for 60 days consecutively from the last meeting he or she attended, his or her office becomes vacant by operation of law and shall be filled as any other vacancy; however the California Government Code does not address attendance of meetings for Planning Commissioners. He stated he could bring back a draft policy for consideration.

Commissioner Gonzales suggested a policy be implemented for all boards and commissions of the City.

Dennis Wendt, 1660 Newburg Road, Fortuna stated that having to postpone meetings because of the lack of a quorum creates a hardship on the developer and said commissioners should notify the City Clerk prior to the day of the meeting if they are unable to attend. He suggested the City consider appointing an alternate to the Planning Commission to help prevent cancellation of meetings due to lack of attendance.

Consensus of the Commission was that the City Manager brings back a draft attendance policy for consideration at the next regular meeting.

Receive Update on Proposed Annexation for RLF Redwood Properties, (33 Acre Parcel South of Blue Slide Road APN 205-081-011)

Planning Consultant Williamson presented a map outlining the proposed annexation area of a 33 acre parcel south of Blue Slide Road. He said the subject property is currently zoned as *Timber Production Zone* with the County and the applicant is requesting proposed annexation into Rio Dell under the Suburban Low Zone which will allow for single family dwellings with a minimum lot area of 1 acre.

Planning Consultant Williamson explained the process for a General Plan Amendment and explained the consideration for the proposed annexation would be based on the ability for the City to provide services to the subject property. He noted the City currently provides water services to property owners outside of City limits to neighboring

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properties and at the time of development, the City would require extension of the utilities. He explained over the next 60 days the application would be back to the planning commission for consideration with a recommendation to the city Council who would have the final approval.

Discussion continued regarding public access and whether that section of Blue Slide Road was public or private.

Dennis Wendt, 1660 Newburg Road commented that Blue Slide Road may not be owned by the City but when the City accepted the annexation of the Micheli property it accepted responsibility for maintenance of the road. He stated conditions of approval may be placed on a development but not on an annexation.

Humboldt's Draft Regional Housing Needs Allocation Plan

Planning Consultant Williamson provided a brief overview of the *Humboldt County Regional Housing Needs Allocation Plan* prepared by Humboldt County Association of Governments (HCAOG). He noted the housing needs allocation numbers have already been incorporated into the *Draft Housing Element* which will be coming to the Planning Commission for approval at a subsequent meeting.

Discuss and Comment on for City Council Consideration on Notice of Preparation of a Joint EIR/EIS for the Bear River Ridge Wind Power Project

Interim City Manager Stretch stated the Notice of Preparation (NOP) of the joint EIR/EIS for the Bear River Ridge Wind Power Project was received on January 21, 2010 and that the City has 30 days in which to respond to the County in connection with the proposed project.

Commissioner Gonzalez referred to page 2 of the NOP under *Probable Environmental Effects* and noted that those 15 items are the things that will be evaluated in the EIR as having potential environmental impacts and essentially what the City would need to comment on.

Interim City Manager Stretch said one big concern is the enormous amount of truck traffic that will occur with the transporting of the components of the wind mills and the poor condition of Monument Road. He indicated repairs to the road may not only be needed prior to the start of the project but also after decommissioning of the equipment. Another concern he said is aesthetics since some of the electrical may not be able to be placed underground. He suggested the applicant be required to define the areas throughout town that would not have underground utilities and what the overhead utilities would look like.

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Commissioner Gonzales stated the City may want to address the possibility of birds flying into the blades.

Commissioner Sweaney asked if this project would create local jobs; City Manager Stretch stated there would be some job creation during construction of the project and perhaps a few beyond completion of the project.

Planner Williamson said if interested, Commissioners and staff could attend upcoming scoping meeting scheduled to be held at the River Lodge in Fortuna and the Warfinger Building in Eureka.

Commissioners were advised to forward any comments on the preparation of the EIR for the project to the City Clerk over the next week so they may be incorporated in the staff report for the next City Council meeting.

**STAFF COMMENTS**

City Manager Stretch reported as a matter of information that he had been in discussions with Planner Williamson regarding update of elements of the General Plan and he would be preparing cost estimates for update of the Public Safety Element and Circulation Element as recommended by the City Council.

**ADJOURNMENT**

The meeting adjourned at 7:40 P.M. to the February 24, 2010 regular meeting.

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Karen Dunham, Secretary to the Planning Commission



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TO: Rio Dell Planning Commission  
FROM: George Williamson AICP, Contract City Planner  
DATE: April 28, 2010  
SUBJECT: City of Rio Dell General Plan Amendment – Scotia Annexation

**IT IS RECOMMENDED THAT THE PLANNING COMMISSION:**

Receive the staff report and provide comments to the City staff.

**BACKGROUND AND DISCUSSION**

The City Council has initiated General Plan and Zoning Amendments for the Town of Scotia. The City must complete these actions as part of the annexation process. The former owners of the Town, PALCO, approached the City regarding annexation several years ago. The City was then, and continues to be, favorable to annexation over the proposed CSD formation. The area proposed for this annexation is approximately 582 acres of land (Scotia APNs 205-351-016 & 205-351-018). The County land uses for the town include: Industrial, Commercial, Residential and Public Facility. Existing land uses surrounding the site include forested slopes to the north and east, the Eel River to the south, and Highway 101 and agricultural land to the west.

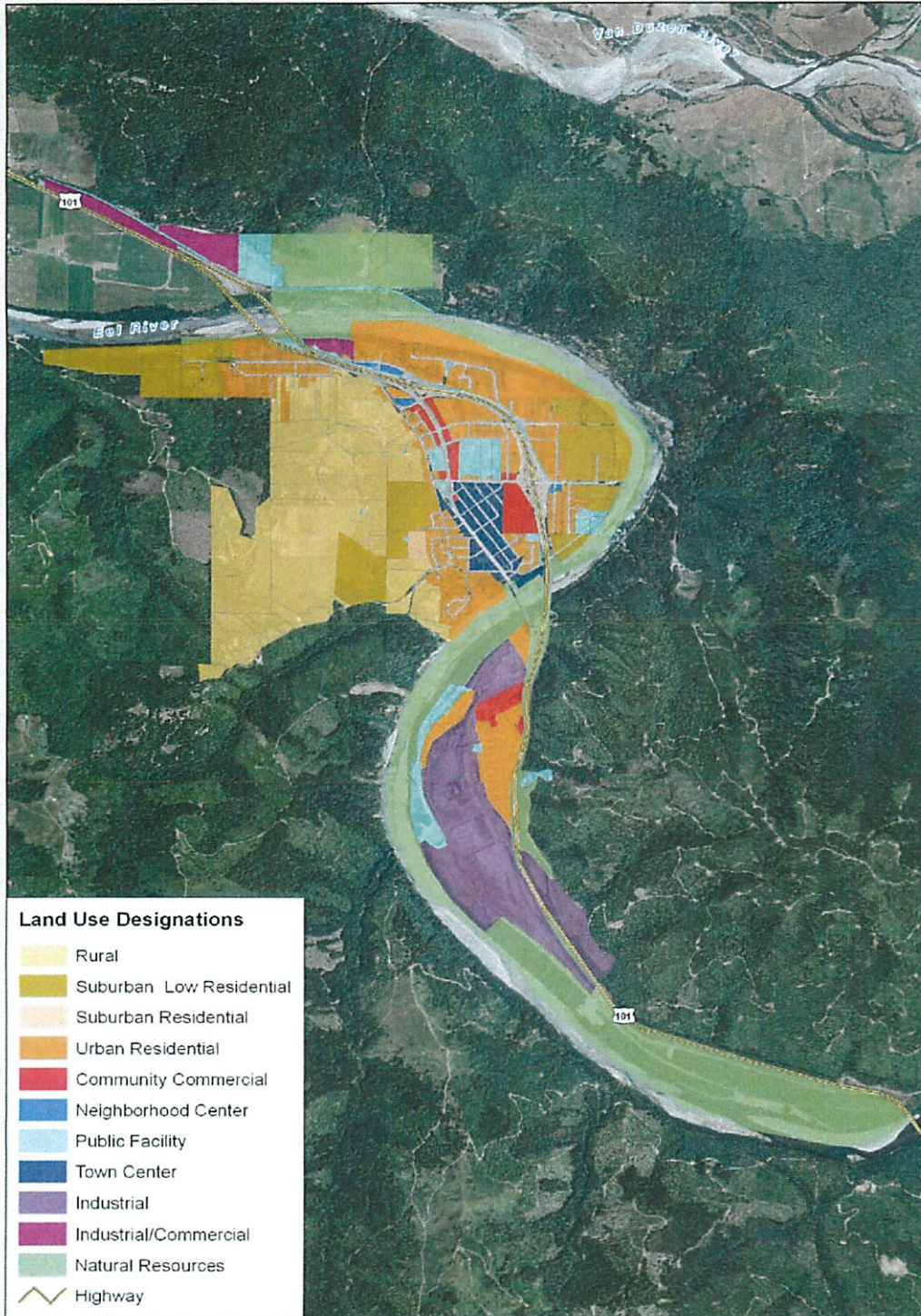
By applying a Planned Development (PD) combining zone overlay, the presently non-conforming lots can be created; the Town was developed prior to zoning code adoption. In essence, with the PD overlay, existing non-conforming standards become the standards for each individual lot; however, there is not adequate space for most residential zone lots to accommodate secondary dwelling units.

The industrial areas of the Town, zoned Industrial (MH-Q), are expected to have continued use by Humboldt Redwood Company (HRC) for lumber mill production. The subdivision and annexation will not result in changes to this existing condition. No plans exist to change from lumber production to some other industrial use in the foreseeable future. The City will apply industrial zoning policies and standards based on the ongoing and intended use of mill facilities.

The proposed City General Plan and Zoning designations are one in the same, and include: Urban Residential, Community Commercial, Industrial, Natural Resources, and Public Facility. Table 1 shows the acreage of existing and proposed General Plan designations, as well as the percentages of each. Figure 1 is a map of the proposed General Plan designations.

General Plan and Zoning amendments will be subject to CEQA, therefore, environmental review. The County prepared an EIR for their General Plan and Zoning review, which included annexation to Rio Dell as an alternative. The City intends to “tier” off of this EIR.

# Existing Rio Dell and Proposed Scotia General Plan Land Use



Map compiled by  
Planwest Partners Inc  
16 February 2010

0 0.5 1 Miles



**PLANWEST**  
PARTNERS, INC.



This matter will be brought back to the Planning Commission as a public hearing item for recommendation to the City Council.

Table 1: Acreage of Rio Dell and Proposed Scotia Annexation General Plan Designations

General Plan Designation	Existing City (Acres)	%	Proposed Scotia (Acres)	%	Total	% of Total
Residential						
Rural	343.1	19.7%	0.0	0.0%	343.1	13.2%
Suburban Low	240.81	13.8%	0.0	0.0%	240.8	9.2%
Suburban Residential	6.75	0.4%	0.0	0.0%	6.8	0.3%
Urban Residential	332.78	19.1%	63.2	7.3%	396.0	15.2%
Commercial/Mixed Use						
Community Commercial	32.59	1.9%	14.5	1.7%	47.1	1.8%
Industrial/Commercial	51.9	3.0%	0.0	0.0%	51.9	2.0%
Town Center	47.72	2.7%	0.0	0.0%	47.7	1.8%
Neighborhood Center	5.53	0.3%	0.0	0.0%	5.5	0.2%
Industrial						
Industrial	0.0	0.0%	270.1	31.2%	270.1	10.4%
Natural Resources/Public Facility/Other						
Natural Resources	286.41	16.5%	181.7	21.0%	468.1	18.0%
Public Facility	83.15	4.8%	37.9	4.4%	121.1	4.6%
Right of Way	149.7	8.6%	0.0	0.0%	149.7	5.7%
Sphere of Influence	159.6	9.2%	298.4	34.5%	458.0	17.6%
<b>Total</b>	<b>1740.0</b>	<b>100.0%</b>	<b>865.8</b>	<b>100.0%</b>	<b>2605.9</b>	<b>100.0%</b>

Figure 1:



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TO: Rio Dell Planning Commission  
FROM: George Williamson AICP, Contract City Planner  
DATE: April 28, 2010  
SUBJECT: City of Rio Dell General Plan Amendment – Metropolitan and Blue Slide Road 2 Annexations

**IT IS RECOMMENDED THAT THE PLANNING COMMISSION:**

Receive this staff report and provide comments to City staff.

**BACKGROUND AND DISCUSSION**

Prior to submitting an annexation application to LAFCo the City must complete General Plan and Zoning Amendments for the Metropolitan and Blue Slide Road 2 Annexations. In addition, a Plan for Services, Municipal Services Review, Fiscal Impact Study, and CEQA compliance are required.

The areas proposed for annexation are:

**Metropolitan Treated Wastewater Discharge Annexation (action).**

The City is presently negotiating for the purchase of 29.37 acres of property from Robert Mozzetti in Metropolitan for a Treated Wastewater Disposal (MTWWD) site. The purpose for annexation of these properties (APN 205-111-31, 205-111-07, & 205-111-33) is for disposing of and utilizing treated wastewater for irrigation purposes. The current County land uses designation is Agriculture and the site is zoned as Agriculture Exclusive (AE). Existing land uses surrounding the site include a scenic highway and industrial area to the north, industrial and conservation to the east, the Eel River to the south, and agriculture to the west. The land use designation proposed in the Metropolitan annexation is Natural Resources.

**Blue Slide #2 Annexation (informational).**

The property owners for 33.24 acres (APN 205-081-11) located on the south side of Blue Slide Road, adjacent to the northwesterly City limits, have applied for annexation to the City. Existing County land use designations at the site include: Residential (19 acres) and Conservation (14 acres) and the site is zoned as TPZ. Existing land uses surrounding the site include: residential to the north, forested hillsides to the south and west, and the City to the east. The property owners are proposing a Suburban Low Residential (S-L) land use for the site, or one development per acre.

These General Plan and Zoning amendments are subject to CEQA. Similar to the prior annexations of Sawmill site and Blue Slide Road, these annexations are also subject to environmental review. The City will be preparing an Initial Study for these annexations.

This matter will be brought back to the Planning Commission as a public hearing item for recommendation to the City Council.

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TO: Rio Dell Planning Commission  
FROM: George Williamson AICP, Contract City Planner  
DATE: April 28, 2010  
SUBJECT: City of Rio Dell General Plan Amendment – Housing Element Update

**IT IS RECOMMENDED THAT THE PLANNING COMMISSION:**

Receive this staff report and provide comments to City staff.

**BACKGROUND AND DISCUSSION**

To comply with CA Housing and Community Development (HCD) requirements, it is recommended that a compliant Housing Element, a required element of the City's General Plan, be adopted. Planning Commission previously reviewed the Draft Housing Element policy document prior to HCD first round review.

A Draft Housing Element was submitted to HCD November 2009. The draft underwent a 60 day review; the City received a comment letter detailing the various additions and deletions necessary for the Element to be in compliance.

Modifying the Housing Element policy document was part of HCD recommendations for compliance. The Draft Housing Element policy document is attached with edits in redline/strike out. These additions and deletions address HCD comments and are required to ensure a compliant Housing Element.

Currently, an updated version of the Draft Housing Element is ready for HCD review. Once the policy document has been reviewed by the Planning Commission and City Council, the Draft is ready for HCD. HCD then has 60 days to issue a response to a jurisdiction from the day that a draft element is received. At the end of 60 days, HCD is required (by law) to issue a response, either a letter stating the document is in substantial compliance with State Housing Element Law or provide findings of non-compliance.

**NEXT STEPS**

Through working with HCD on various iterations of the Draft, the Element will reach compliance. At this time, the Element will be adopted by the City; the adopted element will then go to HCD for final 90 day review. After this review, HCD will give an official determination of compliance.

ATTACHMENT – Housing Element Policies

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## CHAPTER 2 HOUSING ELEMENT GOALS, POLICIES, AND ACTION PLAN

### 2.1 INTRODUCTION

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This chapter describes the City's housing goals, policies, and action plan for the planning period 2009 through 2014. The City has identified six basic goals related to housing addressing the issues of housing production, rehabilitation, equal opportunity to housing, infrastructure needs, energy conservation, and information needs. The related polices have been developed as ways to achieve City housing goals. Goals, policies and associated programs are consistent with the General Plan; consistency will be monitored on a project-by-project basis.

The Action Plan describes what the City intends to complete during the planning period to implement housing policies consistent with the stated goals. These actions are listed in Table 2-1 and identify the responsible party and the projected time frame for implementation.

### 2.2 HOUSING GOALS AND POLICIES

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GOAL A: *A variety of housing types to meet the needs of all economic segments of the community, including those with special housing requirements.*

- POLICIES: A-1. Encourage the development of available vacant and under-utilized residential and mixed-use parcels served by sewer and water for a range of housing types and densities consistent with General Plan. (Reference program D-1, D-2, A-6)
- A-2. Monitor market trends for residential land/housing and consider, where appropriate, changes in the City General Plan Land Use Element and Zoning to ensure a balance in residential uses and densities. (Reference program D-1, D-2)
- A-3. Allow development of manufactured homes and mobile home parks in residential zones throughout the community in accordance with the requirements of Government Code Section 65852.3 and 65852.7 and where consistent with local regulations.
- A-4. Allow development of secondary residential units on existing residentially developed lots in accordance with Government Code Section 65852.2 requirement and where consistent with local regulations. (Reference program C-1)

- A-5. Encourage a density bonus for developments containing at least 10% of the units set aside for lower income households, or at least 5% of the units for extremely low, very low-income households, or 50% of the units for qualifying residents (i.e., seniors) as provided in Government Code Section 65915 and where consistent with local regulations. Allow additional concessions/incentives with increased affordable units (GC 65915) and where necessary to maintain economic feasibility of the lower income units. (Reference program A-1)
- A-7. Use State and Federal Funding Assistance to the extent this assistance exists and are needed to develop affordable housing in Rio Dell. (Reference program B-2)
- A-8. Pursue those housing finance programs that do not require Article 34 Referendum.
- A-9. Provide capacity for City staff to respond to, and apply for, federal and state loans and grants.
- A-10. Partner with local non-profit housing sponsors to make maximum use of Federal and State Programs for new housing construction and rehabilitation. The non-profit corporation is not intended to compete with the City or other current programs, but to complement these efforts.
- A-11. Assist developers in taking full advantage of state and federally funded programs, when feasible. (Reference program B-2)
- A-12. Encourage mixed-use of commercial/residential development in the appropriate zones.
- A-13. Minimize housing construction in areas subject to hazards, such as flooding or geologic instability.
- A-14. Promote access in new housing development for persons with disabilities. (Reference program A-4)
- A-15. Encourage rental housing developments to include a mixture of units sizes and bedrooms, including a percentage of 3-bedroom units to help accommodate larger households, where feasible.
- A-16. Promote multi-family housing that is in keeping with community design guidelines and that provides a sense of connection to the neighborhood. (Reference program A-3)

- A-17 Preserve assisted housing reserved for lower income households including assisted multi-family housing units at risk of being converted to market rate housing. (Reference program D-3)
- A-18 Assist in affordable housing development that serves extremely low-, very low-, low- and moderate-income households through financial and/or technical assistance.
- A-19 Support streamlining the permitting process for housing that serves extremely low, very low, low and special needs populations. (Reference program D-3)

GOAL B: *To encourage the maintenance and continued improvement of the existing housing stock.*

- POLICIES:
- B-1. Encourage rehabilitation of private housing by discouraging demolition and encouraging rehabilitation through tax incentives.
  - B-2. Make maximum use of Federal and State funding program to continue the City’s current rehabilitation program for lower income households. (Reference program B-1)
  - B-3. Require that minimum health and safety standards are maintained for housing in the City.
  - B-4. Ensure that City code enforcement efforts are included in federal and state rehabilitation programs
  - B-5. Require abatement of unsafe structures after providing property owners reasonable opportunity to correct deficiencies.
  - B-6. Encourage the use of rehabilitation program funds and grants to remove architectural barriers to housing for persons with disabilities as part of rehabilitation projects. (Reference program A-4)

GOAL C: *To promote equal opportunity to secure safe, sanitary, and affordable housing for everyone in the community regardless of race, color, religion, sex, marital status, familial status, national origin, ancestry, sexual orientation or disability.*

POLICIES:

- C-1. Support equal access to housing and promote the enforcement activities of the State Fair Employment and Housing Commission. (Reference program A-5, C-2)

- C-2. Give special consideration in housing programs to the needs of special groups, including the disabled, large households, the elderly, households with low incomes, single-parent households, and the homeless. (Reference program C-2, E-1, E-2)
- C-3. Maintain Fair Housing complaint forms and information in both English and Spanish. (Reference program C-2)
- C-4. Exempt the construction of ramps for disabled persons from zoning setback provisions where it is the only feasible design and provides a “reasonable accommodation” consistent with the Americans with Disabilities Act. (Reference program A-4)

GOAL D: *To assure the provision of adequate infrastructure and services to existing and planned housing throughout the community.*

- POLICIES:
- D-1. Seek Federal and State funding to assist City efforts to remove constraints to housing related to inadequate infrastructure, including water, sewer, roads, and drainage facilities. (Reference program B-3)
  - D-2. Work with neighborhoods to identify and prioritize necessary upgrades to existing public facilities and infrastructure, and to obtain support for appropriate financing mechanisms.
  - D-3. During the term of the Regional Water Quality Control Board’s Cease and Desist Order, allow secondary units on lots with provisions to limit wastewater generation.
  - D-4. During the term of the Cease and Desist Order No. R1-203-0046, the City will allocate a maximum of 100 sewer service connections, 25 of which will be set aside for affordable housing. This allowance is meant to assist in meeting the City’s share of regional housing needs for persons of lower income. Qualifying affordable housing projects shall mean rental or owner occupied new construction projects under a rent limitation or resale agreement (or equivalent security) ensuring that the unit remains affordable to persons of lower income for a term of not less than five (5) years. Sewer service connection set-aside for affordable housing will be reduced by one connection for each “qualifying” second unit constructed during the term of the Order and will otherwise be excluded from the connect limitation per Policy D-3 above.

**GOAL E:** *To encourage energy efficiency in all new and existing housing and reduce green house gas emissions.*

- POLICIES:**
- E-1. Promote the use of energy conservation features in the design of all new residential structures, and those existing structures undergoing remodeling, room additions and/or extensive renovation. (Reference program C-3)
  - E-2. Promote the use of weatherization programs for existing residential units. (Reference program C-3)
  - E-3. Ensure that the City’s Housing Element policies are in compliance with SB 375.
  - E-4. Maintain and distribute current information about building insulation, energy efficient appliances, lighting and heating; other conservation measures and materials; and home power alternatives, where consistent with local regulations. (Reference program C-3)

**GOAL F:** *To assure that the City has accurate and current information on the housing stock and housing needs.*

- POLICIES:**
- F-1. Maintain the Geographic Information System (GIS) database for parcels within the City to provide an accurate inventory of the City’s roads, utilities and vacant land. (Reference program D-1)
  - F-2. Require any future development projects that alter (add or reduce) housing supply to provide GIS data to update City GIS database.

## **2.3 ACTION PLAN**

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This Action Plan is organized into five basic categories to facilitate housing program implementation. These categories include legislative action, federal and state fund application, continued support and implementation, studies and monitoring program, and homeless task force and agency coordination.

Specific actions/programs that the City intends to develop during the planning period (2009 to 2014) to achieve housing element goals and implement policies are described below and organized in Table 2-1. For each action item, the policy, objective, responsible agency, and implementation date is identified. Some of these measures are continued from the 1992 and 2004 Housing Element. See Chapter 8 for discussion of what was learned from the previous element and the modifications made to individual measures, if any.



## A. LEGISLATIVE ACTIONS

### (A-1) Density Bonus

**Objective:** Guided by State law, establish procedures that allow the City to respond to density bonus requests. The procedures should include criteria that outline affordable-to-market unit ratios, written documentation, evaluations for project financial information, processing timeframes, additional incentives for consideration, and a method to sustain unit affordability.

**Policy Addressed:** A-5

**Responsible Agency:** City staff or Consultant

**Implementation Plan:**

1. Review current State law and review ordinances adopted by other jurisdictions.
2. Ordinance considerations:
  - (a) Evaluate whether density bonuses or a mix of density bonuses and other concessions and/or incentives should be used.
  - (b) Determine if the ordinance should provide for a transfer of development bonus credits to off-site areas proposed for development; identify areas, if appropriate.
  - (c) Determine the acceptable form of the affordability agreement, payback arrangement for early cancellation and/or conversion of designated “lower income” units, and methods of monitoring compliance.
  - (d) Determine aspects of the development that should be given consideration for an increase in density bonus percentage or additional incentives, such as accommodations for disabled persons, lower income households, inclusion of 3-bedroom or larger units in the development mix, usable open space and/or recreational areas, and day care facilities.
3. Include changes in zoning ordinance revision to ensure consistency with General Plan and to be considered and adopted by the Planning Commission and City Council.

**Implementation Date:** June 2011

**Funding Source:** City Council Budget

### (A-2) Mixed-Use Development

**Objective:** Develop incentives to encourage the development of a mix of commercial and residential uses in the Town Center and Community Commercial zones.

**Policy Addressed:** A-12

**Responsible Agency:** City Staff or Consultant

**Implementation Plan:**

1. Research best practices regarding incentives to encourage mixed use developments. Incentives may include streamlining the permitting processes and/or fee waivers for mixed use developments.
2. Understand the barriers to providing mixed use developments in the City and work to eliminate the barriers.
3. Provide information and incentives to the private development community that encourages a mix of commercial and residential uses in appropriate zones.

4. Include appropriate changes in zoning ordinance revision to ensure consistency with General Plan and to be considered and adopted by the Planning Commission and City Council.

3-5

**Implementation Date:** June 2010 (research), ongoing

**Funding Source:** City Council Budget

**(A-3) Multi-Family Design Guidelines**

**Objective:** Revise City zoning ordinance to provide design guidelines for new multi-family residential development that ensure compatibility with community character and provide a sense of connection to the neighborhood.

**Policy Addressed:** A-16

**Responsible Agency:** City staff or Consultant

**Implementation Plan:**

1. Research and identify standards that encourage compatibility with community character, including such features as entrances that face onto fronting streets, usable open space, and architectural styles that generate visual interest and sense of place. The Guidelines shall be consistent with the standards for attached dwelling units set forth in Section 1.5 (Page 1.9) of the Rio Dell General Plan, 2015.
2. As part of the Zoning Ordinance update, develop guidelines for new multi-family residential development.
3. Include changes in Zoning Ordinance revision consistent with General Plan and for consideration and adoption by the Planning Commission and City Council.

**Implementation Date:** June 2010 (Research and develop draft guidelines); December 2010 (adopt as part of Land Use Code update)

**Funding Source:** City Council Budget

**(A-4) Architectural Barriers to Disability Access**

**Objective:** Revise City zoning ordinance to allow the construction of ramps and other reasonable accommodations (e.g., wheel chair lift), consistent with the Americans with Disabilities Act, necessary to permit full housing access to persons with mobility limitation consistent with “reasonable accommodation” under the Fair Employment and Housing Act.

**Policy Addressed:** A-14, C-4

**Responsible Agency:** City staff or Consultant

**Implementation Plan:**

1. Research and identify standards that may limit removal of architectural barriers to access to housing by disabled persons (e.g., setback requirements which limit the location of ramps within yards).
2. As part of the zoning ordinance update, develop an exception for ramps and other facilities (e.g., lifts) that are necessary to provide access but conflict with zoning development standards.
3. Include changes in comprehensive zoning ordinance revision consistent with General Plan and for consideration and adoption by the Planning Commission and City Council.

**Implementation Date:** September 2010 (Research and develop exception language); June 2011 (adopt as part of Land Use Code update)

**Funding Source:** City Council Budget

**(A-5) Equal Access to Housing**

**Objective:** Amend the City zoning ordinance to ensure that the definitions used do not prevent equal access to housing on the basis of age, familial status or disability consistent with the California Fair Employment and Housing Act (FEHA).

**Policy Addressed:** C-1

**Responsible Agency:** City staff or Consultant

**Implementation Plan:**

1. Research and identify definitions, such as “family” that may act to limit access to housing due to familial status, age or disability.
2. Develop modified definitions consistent the California Fair Employment and Housing Act in regards to equal access to housing.
3. Include changes in comprehensive zoning ordinance revision consistent with General Plan and for consideration and adoption by the Planning Commission and City Council.

**Implementation Date:** March 2010 (Research ordinance definitions and suggest modified language); June 2010 (adopt as part of Land Use Code update)

**Funding Source:** City Council Budget

**(A-6) Small Lot Development**

**Objective:** The increase the development potential of small, individual lots (typically less than one acre in size) so that the maximum development potential allowed by zoning can be achieved.

**Policy Addressed:** A-1

**Responsible Agency:** City Staff or Consultant

**Implementation Plan:**

1. Research effective methods to develop small lots to their greatest potential (e.g. small lot consolidation, flexible development standards) by reviewing best practices adopted by other jurisdictions.
2. Develop fiscal incentives (e.g. density bonuses for merged lots) and/or regulatory incentives (small lot ordinance) for small lot consolidation.
3. Provide information and incentives to the private development community.
4. Contact property owners of small adjacent infill lots, zoned to accommodate multifamily housing, that are vacant and/or underutilized, in order to encourage the owners to merge suitable lots to increase the development potential for housing.
5. City will meet with interested property owner to discuss the advantages of lot mergers and may offer incentives for owners to merge their lots.

**Implementation Date:** March 2011 (Research and develop language); December 2011 (Develop method to work with landowners)

**Funding Source:** City Council Budget

## B. APPLICATION FOR FEDERAL & STATE FUNDS

### (B-1) Housing Rehabilitation

**Objective:** Seek funding from federal and state sources to continue rehabilitation of the City's housing stock, to provide safe and decent housing for the community, meet the objectives for housing under the adopted Regional Housing Needs Plan

**Policy Addressed:** A-11, B-1 and B-2

**Responsible Agency:** City staff and Redwood Community Action Agency (RCAA)

**Implementation Plan:**

1. The City will continue to use loan repayments from closed-out CDBG programs to supplement the City's current CDBG Program, and provide bridge financing for its housing rehabilitation program as grant funds are expended.
2. The City will make application during the 2010 CDBG funding cycle for a grant to continue its City wide housing rehabilitation loan program. The program should provide the flexibility to assist large households to increase the number of bedrooms where warranted.
3. The City will contract with a qualified agency to perform the required housing condition survey and household income survey (if applicable) prior to the funding cycle and to prepare an application for submittal to the State Department of Housing and Community Development (HCD). In the event that the application is not funded during the 2010 funding cycle, the City will revise its application to improve its competitiveness and will reapply during each successive funding cycle until funds are awarded.
4. The City will work with the Redwood Community Action Agency (RCAA) to leverage housing rehabilitation program funds under the CHRP-O/CHRP-R and Department of Agriculture Rural Development residential loan programs administered by that agency.
5. The City will ensure that the Housing Rehabilitation program guidelines include as an eligible activity the removal of barriers to access in housing serving lower income households with disabilities.
6. The City will encourage the rehabilitation of private housing by requiring demolition permits that include suitable waiting periods. Building more time into the demolition process will allow the City to assess alternatives to demolition and housing rehabilitation opportunities.
7. The City will research and analyze best practices for private sector home rehabilitation and provide developers with technical assistance and methods.
8. Include any changes in zoning ordinance revision to ensure consistency with General Plan and to be considered and adopted by the Planning Commission and City Council.

7.9.

**Implementation Date:** January 1, 2010 (Pre-Application); April 1, 2010 (Application Submittal); On-going (Leveraging, Barrier Removal, First-Time Homebuyers Program)

**Funding Source:** CDBG

**(B-2) Housing Affordability**

**Objective:** Encourage the acquisition of housing by lower income persons to achieve a greater balance of affordable owner- and renter-households.

**Policy Addressed:** A-3 A-7, A-11

**Responsible Agency:** City Staff or Consultant

**Implementation Plan:**

1. Research and analyze governmental and non-governmental constraints to providing affordable housing to City residents.
2. Revise City Zoning Ordinance to comply with State law provisions and provide a mechanism for establishing, preserving or redeveloping SRO units, including mobile home park in single family residential zone subject to a use permit as required by GC Code Section 65852.3 and 65852.7
3. Research how to support the conversion and use of motels, and hotels for SRO units.
4. Identify measures that could be used to encourage redevelopment and upgrading of existing parks while maintaining affordability.
- ~~2-5.~~ The City will continue to apply for grant assistance to improve and increase the supply of affordable housing through the HOME program to ELI, very low and low households.
6. The City will work with RCAA to monitor the success of the first-time homebuyer program and pursue modifications to the program guidelines, if necessary, to address the recent rise in home sale prices.
- ~~3-7.~~ Include any changes in zoning ordinance revision to ensure consistency with General Plan and to be considered and adopted by the Planning Commission and City Council.

**Implementation Date:** On-going

**Funding Source:** City Council Budget, HOME

**(B-3) Water & Sewer Facilities**

**Policy Addressed:** D-1

**Objective:** Pursue federal and state funding for infrastructure improvements, primarily water and sewer lines and facilities, which currently act as constraints to the production of housing.

**Responsible Agency:** City staff or Consultant

**Implementation Plan:**

1. The City will continue to investigate possible funding for correction of deficiencies in both the sewer and water systems through a combination of federal and state sources. Programs to be examined include but are not limited to: State Water Resources Control Board's Revolving Loan Fund (Sewer); State Safe Drinking Water Bond Law (Water); US Department of Agriculture's Water & Sewer Loan, and Grant Program
2. The City will request that the City Engineer prepare a report on the feasible alternatives and possible funding options.
3. The City will authorize the City Engineer and/or staff to prepare a pre-application for possible loan and/or grant funding for correction of the most severe deficiencies identified.

**Implementation Date:** On-going (Phase II, beginning in 2011, will construct the new wastewater treatment plant).

**Funding Source:** General Fund, Rate Payers

## C. CONTINUED SUPPORT & IMPLEMENTATION

### (C-1) Secondary Dwelling Units

**Objective:** Allow creation of secondary residential units in residential zones as a use by right (consistent with provisions of AB 1688 GC Section 65852.2), by amending the zoning ordinance to reflect changes in State law including raising the unit size limitation and excluding second units from certain residential areas based on road or utility service limitations.

**Policy Addressed:** A-4

**Responsible Agency:** City staff or Consultant

**Implementation Plan:**

1. The City will evaluate whether it needs to establish unit size requirements different from the State law.
2. The City will consider if areas of the City should be excluded from allowing second units “by right” until road or other infrastructure amenities are provided.
3. Include appropriate changes in zoning ordinance revision to ensure consistency with General Plan and to be considered and adopted by the Planning Commission and City Council.

2-4.

**Implementation Date:** By January 2011 or earlier, if adopted as part of the General Plan updates implementation.

**Funding Source:** City Council Budget

### (C-2) Fair Housing

**Objective:** Promote equal housing access by distributing information in both English and Spanish on State Fair Employment and Housing Commission Enforcement Program, providing referrals, providing complaint forms and enforcing non compliance penalties

**Policy Addressed:** C-1, C-2, C-3, C-4

**Responsible Agency:** City staff and Redwood Community Action Agency

**Implementation Plan:**

1. The City will continue to distribute Fair Housing information with all housing rehabilitation loan and first-time homebuyer application packages.
2. The City will post a notice identifying the City Manager as the City’s “Fair Housing Enforcement Officer” and providing a contact telephone number and address for housing discrimination complaints.
3. The City will work with the affordable housing providers and managers and other social service and non-profit tenant and landlord rights advocacy groups to inform the public of their responsibilities and rights under the law.
4. The City will maintain State complaint forms in English and Spanish.
5. The City will disseminate Fair Housing information to the Rio Dell Public Library and the Rio Dell-Scotia Chamber of Commerce in addition to posting of Fair Housing notices at Rio Dell City Hall. The City will work with local agencies including the Humboldt Transit Authority (HTA) to include Fair Housing information in appropriate format within their facilities. Annually, the City will adopt a Fair Housing proclamation and provide copies to local news organizations.

**Implementation Date:** Ongoing (posting of Fair Housing Notice); Ongoing (distribution of Fair Housing information and loan packages: Ongoing (providing referrals and complaint forms)

**Funding Source:** General Fund

### **(C-3) Energy Conservation and Weatherization**

**Objective:** Post and distribute information on currently available energy conservation and weatherization techniques to improve energy efficiency in existing housing and to encourage energy conservation in new housing.

**Policy Addressed:** E-1, E-2, E-4

**Responsible Agency:** City staff and Redwood Community Action Agency

**Implementation Plan:**

1. Research and analyze information on how to incorporate energy saving features and materials, and energy efficient systems and designs for residential development that either meet or exceed Title 24 energy efficiency standards for California.
2. The City will research and analyze conservation incentives for the building industry and residents including services offered by local organizations (e.g. Redwood Coast Energy Authority)
3. The City will develop and annually update its referral listing of public and private grant/loan and assistance programs for weatherization.
4. The City will work with the Rio Dell Branch of the Humboldt County Library to establish a reference section containing resource materials for home improvement energy conservation techniques and weatherization projects.

**Implementation Date:** Ongoing (annual update of referral listings for funding assistance); June 2011 (create local reference library).

**Funding Source:** City Council Budget, Other grants

## **D. STUDIES & MONITORING PROGRAM**

### **(D-1) Housing Condition & Building Activity**

**Objective:** Monitor housing production consistent with the adopted Regional Housing Needs Allocation by tracking the inventory of vacant land available for development, building permit activity and housing conditions

**Policy Addressed:** A-1, A-2 and F-1

**Responsible Agency:** City staff or Consultant

**Implementation Plan:**

1. The Planning Department will annually update the City's Vacant Land Inventory, and will provide the City Council with a summary of annual building permit activity. The summaries may be prepared on a calendar or fiscal year basis.
2. The Planning Department, with the assistance of its Housing Rehabilitation Coordinator, will update the City's housing condition survey every 24 to 30 months, or more frequently if required for maintaining State CDBG Program eligibility.

**Implementation Date:** Ongoing (update of vacant land inventory); June 2012 (update of housing condition survey).

**Funding Source:** City Council Budget, CDBG

**(D-2) Maintaining Densities consistent with Housing Affordability**

**Objective:** Annually review building development within the Urban Residential and Town Center land use designations to ensure that housing is made available in types and densities that do not exclude lower income households, and, if necessary, to recommend changes to foster housing affordable by all segments of the community.

**Policy Addressed:** A-1 and A-2

**Responsible Agency:** City staff or Consultant

**Implementation Plan:**

1. The City shall annually review building development within the Urban Residential and Town Center land use designations to determine if new construction is occurring consistent with the plan “mid-point” density range. In the Town Center, a combination of commercial, civic uses and higher density residential use (i.e., apartments over commercial use) is encouraged over the development of a single-detached residence per lot.
2. If the annual report shows that sites are not providing sufficient opportunities for housing affordable to lower income and very low income households, the City Council will review its Zoning Ordinance to consider other measures, including the adoption of incentives or regulatory mechanisms to encourage construction at the mid-point or higher end of the density range. Such measures could include but are not limited to: inclusionary zoning (i.e., requiring a percentage of units be affordable to lower income households), exclusionary or “qualified” zoning (i.e., restricting building types on certain key lots, e.g., “townhouse” only), density bonuses (i.e., specifying development standards that may be modified to make units more affordable – reduced lot sizes), or plan development overlays (i.e., allow flexibility of design as trade-off for greater affordability).
3. Include appropriate changes in zoning ordinance revision to ensure consistency with General Plan and to be considered and adopted by the Planning Commission and City Council.

2-1.

**Implementation Date:** Review annually

**Funding Source:** City Council Budget

**(D-3) Preserving Units at Risk of Conversion to Market Rate Units**

**Objective:** Mitigate the potential loss of 71 “at-risk” units due to conversion to market rate units.

**Policy Addressed:** A-17, A-19

**Responsible Agency:** City Staff or Consultant

**Implementation Plan:**

1. Monitor owners of “at-risk” projects on an ongoing basis, at least every twelve months, in coordination with other public and private entities to determine their interest in selling, prepaying, terminating, or continuing participation in a subsidy program.
2. Maintain and annually update the inventory of “at-risk” projects through the use of existing databases (e.g., HUD, State HCD, and California Tax Credit Allocation Committee).



3. Respond to any federal and/or State notices including Notice of Intent to Pre-Pay, owner Plans of Action, or Opt-Out Notices filed on local projects. The City should receive these notices and quickly respond by contacting property owners.
4. Maintain and annually update the list of qualified entities interested in participating in an Offer of Opportunity to Purchase Program as defined in Government Code Section 65838.11.
5. Allocate and support potential sources of funds for mortgage refinancing, acquisition, and rehabilitation including gap funding for nonprofit housing developers as intermediaries, and for rental subsidy assistance (HOME Program, CDBG, LIHTC, HCD Multi-family Housing Program, and CHFA).
6. Reduce, waive, or subsidize local development fees associated with preservation or replacement of “at-risk” units.
7. Provide ongoing preservation technical assistance and education to affected tenants and the community as a whole, on the need to preserve the existing affordable housing stock.

**Funding Source: Federal and State Assistance**

## **E. HOMELESS TASK FORCE & AGENCY COORDINATION**

### **(E-1) Updated List of Service Providers**

**Objective:** Establish local capacity to inform the community of services available to assist persons without shelter, increase the community’s capacity as liaison to persons and families in need, and maintain and update information in available services for the homeless.

**Policy Addressed:** C-3

**Responsible Agency:** City staff or Consultant

**Implementation Plan:**

1. The City will annually update its list of agencies and services provided to homeless and indigent persons in Rio Dell and Humboldt County.
2. The City will make available this list to non-profit groups and churches for distribution to the public.
3. The City will request that a representative of the County Homeless Task Force make a presentation to the City Council regarding the homeless issue in the County, Multiple Assistance Center (MAC) services and other resources/information that can be made available to the community.

**Implementation Date:** Ongoing (update and distribution of list of service providers).

**Funding Source: City Council Budget, CDBG**

### **(E-2) Participation in Homeless Task Force**

**Objective:** Establish an appointed representative to serve on, or act as an observer of, the County’s homeless task force.

**Policy Addressed:** C-3

**Responsible Agency:** City Council representative and City staff

**Implementation Plan:**

1. The City will contact the County homeless coordinator regarding possible participation on the County-wide Homeless Task Force. The City’s participation may be as a “member” or “observer.”
2. The County’s liaison to the Homeless Task Force will report to the City Council on actions the City might take to improve referral information and the distribution of essential services to persons in need.

**Implementation Date:** June 2010 (contact homeless coordinator); Ongoing after January 2011 (reports to City Council).

**Funding Source:** City Council Budget

Table 2-1  
Housing Action and Programs Matrix

Program	Policy No.	Item No.	Implementation Steps	2009	2010	2011	2012	2013	2014
Density Bonus	A-5	(A-1)	<ul style="list-style-type: none"> <li>• Ordinance Review</li> <li>• Ordinance Drafting</li> <li>• Adopt Ordinance</li> </ul>			X			
Mixed use Development	A-12	(A-2)	<ul style="list-style-type: none"> <li>• Research</li> <li>• Mitigate barriers</li> <li>• Develop incentives</li> </ul>		X				
Multi-Family Design Guidelines	A-16	(A-3)	<ul style="list-style-type: none"> <li>• Research Guidelines</li> <li>• Draft Ordinance</li> <li>• Adopt Ordinance</li> </ul>		X				
Architectural Barriers	C-4	(A-4)	<ul style="list-style-type: none"> <li>• Research Constraints</li> <li>• Draft Ordinance</li> <li>• Adopt Ordinance</li> </ul>		X	X			
Equal Access to Housing	C-1	(A-5)	<ul style="list-style-type: none"> <li>• Research Constraints</li> <li>• Draft Ordinance</li> <li>• Adopt Ordinance</li> </ul>		X				
Housing Rehabilitation	A-11, B-1, B-2	(B-1)	<ul style="list-style-type: none"> <li>• Use of Loan Repayments</li> <li>• CDBG Application</li> <li>• Housing Coordinator</li> <li>• Leverage Funds</li> <li>• Remove architectural barriers in housing</li> <li>• Research best practices and encourage private sector rehab</li> </ul>	O	O	O	O	O	O
Housing Affordability	A-7, A-11	(B-2)	<ul style="list-style-type: none"> <li>• Research constraints</li> <li>• Apply for grant assistance</li> <li>• Monitor</li> </ul>	O	O	O	O	O	O
Water & Sewer Facilities	D-1	(B-3)	<ul style="list-style-type: none"> <li>• Engineering Report</li> <li>• Alternatives and Funding Options</li> <li>• Pre-application</li> </ul>	O	O	O	O	O	O
Second Dwelling Units	A-4	(C-1)	<ul style="list-style-type: none"> <li>• Determine unit size requirements</li> <li>• Units by right or exclusion</li> </ul>			X			
Fair Housing	C-1, C-2, C-3, C-4	(C-2)	<ul style="list-style-type: none"> <li>• Distribute Information</li> <li>• Post Notice</li> <li>• Forms in Spanish</li> <li>• Proclamation</li> </ul>	O	O	O	O	O	O

Program	Policy No.	Item No.	Implementation Steps	2009	2010	2011	2012	2013	2014
Weatherization and Energy Conservation	E-1, E-2, E-4	(C-3)	<ul style="list-style-type: none"> <li>• Research energy saving techniques</li> <li>• incentives</li> <li>• Update listing</li> <li>• Reference library</li> </ul>	O	O	O X	O	O	O
Building Activity	A-1, A-2; F-1	(D-1)	<ul style="list-style-type: none"> <li>• Update Inventory</li> <li>• Update Condition Survey</li> </ul>	O	O	O	O X	O	O
Underutilization of Residential Land Use and Zoning	A-1, 2	(D-2)	<ul style="list-style-type: none"> <li>• Monitoring</li> <li>• Incentives and Regulation</li> </ul>	O	O	O	O	O	O
Homeless Resources	C-3	(E-1)	<ul style="list-style-type: none"> <li>• Service Providers List</li> <li>• Distribute Information</li> </ul>	O	O	O	O	O	O
Homeless Task Force	C-3	(E-2)	<ul style="list-style-type: none"> <li>• Participate in Task Force</li> <li>• Report to City Council</li> </ul>			O X	X		

O = On-going Program

X= Completion Date



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**TO:** Rio Dell Planning Commission  
**FROM:** George Williamson AICP, Contract City Planner  
**DATE:** April 28, 2010  
**SUBJECT:** City of Rio Dell General Plan Update – Circulation Element

**IT IS RECOMMENDED THAT THE PLANNING COMMISSION:**

Receive this staff report and provide comments to City staff.

**BACKGROUND AND DISCUSSION:**

As one of the seven General Plan elements required by the State, Rio Dell's Circulation Element was last updated in October 1977. The Circulation Element focuses on mobility for multiple transportation modes: vehicles, pedestrians, cyclists and transit users. The City Council approved the preparation of an updated Circulation Element at its March 2, 2010, meeting. The update will include the three proposed annexation areas (to be discussed) for consistency.

The Circulation Element Update involves following tasks:

1. Assessing Existing Circulation System and Needs;
2. Preparing Draft Circulation Goals and Objectives;
3. Updating Roadway and Pathway Classification System and Prepare Circulation Diagram;
4. Preparing Draft Plan with Policies, Programs and Recommended Roadway Improvements;
5. Preparing Environmental Document for CEQA Compliance;
6. Planning Commission and City Council Hearings; and
7. Preparing Circulation Development Standards.

The updated Circulation Element will ensure the safe and efficient movement of people and goods through the City of Rio Dell. Accessibility for motorists, pedestrians, bicyclists, and persons with limited mobility shall be balanced with issues of safety, levels of service, air quality, greenhouse gas emissions and smart growth. It is important when planning for transportation within the City of Rio Dell to take into account the public health and economic development aspects of existing and future transportation facilities.

This is an opportunity to evaluate the City's circulation system, consider right-of-way dimensions and uses, and develop guidelines for the most efficient use of City facilities. The goals and policies of the updated Circulation Element will emphasize multiple travel modes, encourage non-vehicular trips, and promote the long-term transportation interests of Rio Dell.

In subsequent meetings, Planning Commission will have the opportunity to review and provide input to Circulation Element contents, such as circulation diagrams, recommended transportation improvements, and goals and policies. Ultimately, Planning Commission will provide a recommendation to the City Council related to Circulation Element adoption.

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*675 Wildwood Avenue  
Rio Dell, CA 95562*



TO: Rio Dell Planning Commission

THROUGH: Jim Stretch, Interim City Manager

FROM: Karen Dunham, City Clerk

DATE: April 28, 2010

SUBJECT: Medical Marijuana Dispensaries

**RECOMMENDATION**

Review interpretation of allowable uses within the Town Center (TC) zone and consider Zoning Ordinance/General Plan amendment regarding Medical Marijuana Dispensaries in the City of Rio Dell

**BACKGROUND AND DISCUSSION**

At the April 20, 2010 regular meeting of the Rio Dell City Council action was taken to adopt an urgency (temporary) ordinance prohibiting the establishment of medical marijuana dispensaries in the City of Rio Dell to allow the City to add, review and amend ordinances if necessary to protect the public health, welfare, and safety from impacts associated with or implicated by use of property for Medical Marijuana Dispensaries.

Included in the action was direction to staff to refer the item to the Planning Commission for their consideration of a zoning ordinance/General Plan interpretation/amendment regarding Medical Marijuana Dispensaries.

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675 Wildwood Avenue  
Rio Dell, CA 95562  
(707) 764-3532



TO: Honorable Rio Dell City Council

FROM: Jim Stretch, Interim City Manager

DATE: April 20, 2010

SUBJECT: Adoption of an interim urgency ordinance prohibiting the establishment of medical marijuana dispensaries in the City of Rio Dell.

**IT IS RECOMMENDED THAT THE CITY COUNCIL:**

1. Make the necessary finding under Government Codes Section 65858 that, to protect the public health, safety and welfare, an urgency measure in the form of an interim ordinance is necessary to prohibit uses that may be in conflict with a general plan, specific plan or zoning proposal that the legislative body or planning commission is considering or intends to study within a reasonable period of time.
2. Open the public hearing, receive testimony and then close the public hearing.
3. Consider adoption of an emergency interim ordinance prohibiting the granting of any land use approval, permit, business license or other entitlement for the purpose of establishing a medical cannabis dispensary, and prohibiting the establishment of medical marijuana dispensaries in the City of Rio Dell for a period of 45 days.
4. Refer the item to the Planning Commission for their consideration as what would be a new use in the zoning ordinance, proposed by the public, and which may require a CEQA review and amendment to the City's general plan.

**BACKGROUND AND DISCUSSION**

Council Member Thompson requested that this matter be placed on the April 20, 2010 agenda for action.

In 1996, the voters of the State of California enacted Proposition 215, which authorized the use of marijuana for medicinal purposes. Effective January 1, 2004, the State Legislature adopted SB 420 to clarify the scope of Proposition 215. This bill set amounts of marijuana that qualified patients could possess and allowed cities to adopt and enforce rules and regulations consistent with SB 420. More recently, on January 21, 2010 in a unanimous decision, the California Supreme Court (People v. Kelly) basically eliminated restrictions on the amount of marijuana a qualified patient can possess. Not surprisingly, there has been an increased interest in establishing medical marijuana dispensaries throughout the state.

Recently, the City of Rio Dell received a business license application from a “collective” wishing to establish medical marijuana dispensaries in the downtown commercial area. The proposal, which has not been processed, would amongst products and services, include the sale and dispensing of medical marijuana. Existing City codes, including the zoning code, do not address or regulate the location or operation of medical marijuana dispensaries. In most cases, the medical marijuana dispensaries may be allowed as permitted uses (i.e., without any special permits, City review or regulation) in any zone that allows commercial, pharmacy or other medical uses, and potentially in other zones if the business is not conducted on a commercial basis.

#### **REASON FOR RECOMMENDATION:**

According to a survey conducted by the City of Rocklin Police Chief, experiences in other cities such as Oakland, Hayward, Fairfax and Roseville have demonstrated that medical marijuana dispensaries in general create negative secondary effects in the community, including, increased incidents of illegal drug activity, theft, robbery, burglary and home invasion, and a concentration of marijuana use in public places.

The study also documents that the dispensaries tend to attract a variety of potentially illicit users, including non-medical users and persons from out of the area or even out of state. As a result of the nuisance activities surrounding the dispensaries, some of the cities surveyed report that the dispensaries have contributed to the deterioration of the neighborhoods in which they are located by driving other lawful businesses out of the area. The City of Arcata has found that a growing number of homes have been removed from the affordable market to become “215” indoor grow houses.

Because of the impending interest in these types of business proposals and the strong likelihood of the negative impacts previously mentioned, staff recommends that the City Council adopt the attached interim emergency ordinance prohibiting all new medical marijuana dispensaries in the City of Rio Dell for a period of 45 days. This temporary measure will allow the City to prevent the establishment of medical marijuana dispensaries, or the conversion of existing businesses into medical marijuana dispensaries, while the City studies various zoning proposals and/or other measures designed to alleviate the negative secondary effects of such businesses.

In order to adopt the proposed interim urgency ordinance, it is necessary for the **City Council to make the finding** that such urgent ordinance is necessary to preserve the public safety, health, and welfare. This action waives the requirement for a first and second reading of the ordinance and allows it to become effective immediately, instead of in 30 days.

Based on the recent inquiries regarding the establishment of medical marijuana dispensaries described above, and the experiences of other cities with existing medical marijuana dispensaries, staff believes that such a finding can be made in this case. Pursuant to Government Code Section 65858, such an urgent ordinance must be passed by at least four (4) affirmative votes.



## **STEPS FOLLOWING APPROVAL:**

Staff will study the issues related to regulation of medical marijuana dispensaries and prepare proposed amendments to the zoning code and/or other ordinances for consideration by the Planning Commission and the City Council. In addition, state law requires the City to issue a written report describing measures taken to alleviate the conditions that led to the adoption of the ordinance no later than ten days prior to the expiration of the forty-five day period. The City Attorney and City Manager will prepare the required report for Council consideration at least ten days prior to the expiration of the interim emergency ordinance.

**Cc:** David Martinek, City Attorney  
Graham Hill, Chief of Police  
Dave Gonzales, Chair, Rio Dell Planning Commission  
Jean Pyhtila and Ryan Gilruth

**Attachment:** Interim Urgency Ordinance 265-2010

ORDINANCE NO. 265-2010

**AN INTERIM URGENCY ORDINANCE OF THE CITY OF RIO DELL  
AUTHORIZING A MORATORIUM ON THE LEGAL ESTABLISHMENT AND  
OPERATION OF MEDICAL MARIJUANA DISPENSARIES WITHIN THE  
CITY OF RIO DELL PURSUANT TO GOVERNMENT CODE SECTION 65858.**

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THE CITY COUNCIL OF THE CITY OF RIO DELL DOES ORDAIN AS FOLLOWS:

ARTICLE 1: SHORT TITLE, PURPOSE AND SCOPE

§1.01 This ordinance shall be known and cited as the “Medical Marijuana Dispensary” Ordinance.

§1.02: Purpose: It is declared that this article is enacted for the purpose of imposing a moratorium on the legal establishment and operation of medical marijuana dispensaries and related uses. This would allow the City to add, review and amend ordinances in order to protect the public health, welfare, and safety from impacts associated with or implicated by use of property for Medical Marijuana Dispensaries.

§1.03: Scope: This ordinance shall apply to any and all locations within the city limits of Rio Dell.

§1.04: The provisions adopted in this ordinance shall not be exclusive but shall be cumulative and complementary to any other provisions of Rio Dell City ordinances and County, State and Federal laws. Nothing in this ordinance shall be read, interpreted or construed so as to limit any existing right or power of the City.

ARTICLE 2: STATUTORY AUTHORITY / ENFORCEMENT AUTHORITY

§2.01: Statutory and Enforcement Authority is granted in the following from the Health and Safety Code Section 11362.5 et seq. and Government Code Section 65858.

**ARTICLE 3: ADMINISTRATION AND ENFORCEMENT**

**§3.01 Administration and Enforcement**

- 3.01.1 The Chief of Police of the City is the chief law enforcement officer for the City. The Chief of Police shall carry out the additional powers and duties imposed by this ordinance.

**ARTICLE 4: DEFINITIONS**

**§4.01 Definitions.**

- 4.01.1 For the purposes of this ordinance, “medical marijuana dispensary” (MMD) means any profit or not-for-profit facility or location, whether permanent or temporary, where the owner(s) or operator (s) intends to or does possess and distribute marijuana for any purpose. A MMD includes a marijuana club as describe in People v. Peron, (1997) 59 Cal. App. 4<sup>th</sup> 1383, and further includes medical marijuana cooperatives. A MMD shall not include the following uses, as long as the location of such uses are otherwise regulated by the City’s Municipal Code: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code; a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code; a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code; a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code; a residential hospice; or a home health agency licensed pursuant to Chapter 8 of the Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code section 11362.5 et seq.

**ARTICLE 5: Necessity**

- §5.01 In 1996 the voters of the State of California approved Proposition 215 (codified as Health and Safety Code Section 112362.5 et seq. and entitled it “The Compassionate Use Act of 1996”).
- 5.01.2 The intent of Proposition 215 was to enable seriously ill Californians to legally possess, use, and cultivate marijuana for medical use under state law.
- 5.01.3 As a result of Proposition 215, individuals have established MMDs in various cities.
- 5.01.4 Recently, persons have inquired with the City of Rio Dell regarding the establishment of MMDs within the city limits.

- 5.01.5 The experiences of California cities in the regulation and policing of MMDs have varied from city to city. Several California cities have experienced an increase in crime, such as burglary, robbery, loitering around the dispensaries, an increase in pedestrian and vehicular traffic and noise in the vicinity of the dispensaries, and the sale of illegal drugs, including the illegal resale of marijuana from dispensaries in the areas immediately surrounding such MMDs.
- 5.01.6 In October 2005, the State Board of Equalization instituted a policy that allows MMDs to obtain a seller's permit thus enabling the State to collect sales tax on medical marijuana sales.
- 5.01.7 Recent surveys with several California cities regarding the secondary effects of MMDs indicated the following mutual issues: street dealers attempting to sell to patrons entering/exiting dispensaries; smoking marijuana in public areas; driving while under the influence of marijuana; attempted burglaries of marijuana establishments; robberies of clients patronizing establishments; adverse impacts on neighboring businesses; physicians writing prescriptions for any patrol regardless of medical infirmity; nuisance behavior of patrons; and illegal drug sales from dispensaries.
- 5.01.8 The City has not adopted rules and regulations specifically applicable to the establishment and operation of MMDs. The lack of such controls may lead to a proliferation of dispensaries and the inability of the City to regulate these establishments in a manner that will protect the general public, homes and businesses adjacent to and near such businesses, and the patient or clients of such establishments.
- 5.01.9 Based on the adverse secondary impacts experience by other cities and the lack of any regulatory program in the City regarding the establishment and operation of MMDs, it is reasonable to conclude that negative effects on the public health, safety and welfare may occur in Rio Dell as a result of the proliferation of MMDs and the lack of appropriate regulations governing the establishment and operation of such facilities.
- 5.01.10 A MMD currently is not an expressly permitted use or a use permitted subject to a conditional use permit in any zoning district in the City of Rio Dell. However, such establishments may seek to locate in any zoning district disguised as a permitted use or may seek to legalize this use.
- 5.01.11 The establishment of, or the issuance or approval of any permit, certificate of use and occupancy, or other entitlement for the legal establishment of a MMD in the City may result in a threat to public health, safety and welfare in that the Rio Dell Municipal Code does not currently regulate the location and operation of MMDs and does not have a regulatory program in effect that will appropriately regulate the location, establishment, and operation of MMDs in the City.

**§5.02 Enactment**

- 5.02.1 For the period of this ordinance a MMD shall be considered a prohibited use in any zoning district of the City, even if located within an otherwise permitted use. No permits or authorizations for a MMD shall be issued while this ordinance is in effect.
- 5.02.2 The City Council finds that this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15060 (c) (2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060 (c) (3) the activity is not a project as defined in Section 15378 Title 14, of the California Code of Regulations) because it has no potential for resulting in physical change to the environment, directly or indirectly. Conversely, it prevents changes in the environment pending the completion of the contemplated municipal code review.
- 5.02.3 The City Manager or his/her designee/s/ shall: (1) review and consider options for the regulation of MMDs in the City, including, but not limited to the development of appropriate rules and regulations governing the location and operation of such establishments in the City; (2) meet with medical patients, advocates, law enforcement representatives, and other interested parties; and (3) shall file a written report describing the measure which the City has taken to address the conditions which led to the adoption of this ordinance with the City Council ten (10) days prior to the expiration of this interim urgency ordinance, or any extension thereof, and such report shall be made available to the public.
- 5.02.4 This interim urgency ordinance is adopted pursuant to Section 65858 of the California Government Code.
- 5.02.5 This interim urgency ordinance shall take effect immediately upon its adoption by a four-fifths (4/5) vote of the City Council. This interim urgency ordinance will remain in effect for 45 days unless otherwise extended as allowed by law.

**ARTICLE 6: SEVERABILITY:** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this ordinance.

**ARTICLE 7: EFFECTIVE DATE:** This interim urgency ordinance becomes effective immediately after the date of its enactment.

**ARTICLE 8: POSTING REQUIREMENT:** The City Clerk shall cause publication of this ordinance within 15 days after passage in a newspaper of general circulation published and circulated in the city, and posted in at least three public places in the city.

**ARTICLE 9: ENACTING DATE AND SIGNATURES:** Passed, approved and adopted by the City Council of the City of Rio Dell at a regular meeting on April 20, 2010 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Julie Woodall, Mayor

ATTEST:

\_\_\_\_\_  
Karen Dunham, City Clerk

## Article 4. Regulations for the Principal Zones

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Table 4.03-1 Development Standards for the Urban Residential (UR) Zone

Site Development Standard	Zone Requirement	Measurement
Minimum Lot Area:	6,000	Square Feet
Maximum Ground Coverage:	50%	
Minimum Lot Width:	60	Feet
Minimum Open Space	50%	percent
Minimum Yard		
Front:	20	Feet
Rear:	10	Feet
Side:	5	Feet
Maximum Building Height:	35	Feet

### Sec. 4 .04      **Town Center or TC Zone**

The purpose of the Town Center Zone is to maintain the downtown as the heart of the City by establishing a mixed use district. The following regulations shall apply in all Town Center or TC Zones:

#### **A.      Principal Permitted Uses.**

1. Detached and Attached Single family dwellings;
2. Live/Work Residential;
3. Rooming and boarding of not more than two (2) persons not employed on the premises.
4. Business and professional services;
5. Retail;
6. Restaurants;
7. Theaters;
8. Galleries;
9. Health services;
10. Commercial/Residential building where the ground floor is put to one or more of the non-residential uses contained in 4.04A and the upper floors are used solely for residential purposes.

#### **B.      Uses Permitted with a Use Permit.**

1. Civic and cultural organizations;
2. Hotels and motels;
3. Bars.

#### **C.      Other Regulations.**

See Table 4.04-1 for development standards for the Town Center (T-C) Zone.

**Article 4. Regulations for the Principal Zones**

Table 4.04-1 Development Standards for the Town Center or TC Zone

Site Development Standard	Zone Requirement	Measurement
Minimum Lot Area:	2,500	Square Feet
Maximum Ground Coverage:	100% for commercial, 35% for separate residential units [Floor Area Ratio = 2]	
Minimum Lot Width:	25	Feet
Minimum Yard		
Front:	20 (No setbacks required for mixed use or non-residential uses)	Feet
Rear:	10 (No setbacks required for mixed use or non-residential uses)	Feet
Side:	5 (No setbacks required for mixed use or non-residential uses)	Feet
Minimum Building Height:	Two (2) stories	
Maximum Building Height:	Three (3) Stories or 45 feet	Feet

**Sec. 4 .05 This Section is Reserved**

**Sec. 4 .06 This Section is Reserved**

**Sec. 4 .07 Neighborhood Center or NC Zone.**

The Neighborhood Center or NC Zone is intended to provide for small scale shopping centers located within neighborhoods which will provide convenient sales and service facilities to residential areas, without detracting from the residential desirability of such areas. The following regulations shall apply in all Neighborhood Center or NC Zones.

**A. Principal Permitted Uses.**

1. Social halls, fraternal and social organizations and clubs, plant nurseries and greenhouses.
2. Professional and business offices and commercial instruction
3. Stores, agencies and services of a light commercial character, conducted entirely within an enclosed building, such as antique shops, art galleries, retail bakeries, banks, barber shops, beauty salons, book stores, clothing and apparel stores, coin-operated dry cleaning and laundries, dry cleaning and laundry agencies, drug stores, florists,



THE GREEN HEART COLLECTIVE



BUSINESS PROPOSAL

# THE GREEN HEART COLLECTIVE

Our proposed objective is to establish an herbal collective at 195 Wildwood Ave that provides quality alternative healing products. We believe this business can be a cornerstone in the community and an asset to both the city of Rio Dell and it's residents.

The business will focus primarily on cannabis, but will also include other herbs, teas, and tinctures from around the globe. We will have a separate waiting area in front which will also be used for demonstrations or presentations from local or professional dieticians, herbal cooks, massage and hypno-therapists. Our goal is to feature as many local products and services as possible. It is our promise, that we will always operate with a strong moral ethic, and within the guidelines of California State law. Each patients prescription will be validated through the issuing physician's office by our staff before entry is granted.

There are many ways Rio Dell and it's citizens have to benefit from the addition of this business. From an economic standpoint, we plan to donate ten percent of our net sales to the city to be used at it's discretion. We would however, like to see a portion of this money used for methamphetamine suppression. Furthermore, our business will also create a few new jobs, and provide an outlet to feature local products and services for sale. In addition to boosting Rio Dell's economy, we also plan to help make the city a safer place. Our plan is to contract through American Star Private Security, to hire a security guard to patrol the storefront and surrounding areas during closed hours. This should deter some methamphetamine/criminally related activity and bring some peace of mind to nearby residents, all at no cost to the city. In addition to the guard we will also be installing six high quality color/infrared closed circuit television cameras. Two of which will be monitoring Wildwood Ave in opposite directions twenty four hours a day, seven days a week. This added security comes once again, at no cost to the city.

There are bound to be unforeseen issues in the future. We can assure you though, that we are more than willing to work with the city, local residents, and any other party involved to make this a positive experience for everyone. Ideas are limitless, and we are open to suggestions. Thank you for your time, we are looking forward to speaking with you more about this venture.☺

# THE GREEN HEART COLLECTIVE

March 30, 2010

## Contact Info

Jean Pyhtila **Home** (707) 923-2627  
**Cell** (707) 223-0495  
**Mail** 195 Wildwood Ave  
Rio Dell, CA 95562

Ryan Gilruth **Cell** (805) 459-5857  
**Email** [Pismoicb@aol.com](mailto:Pismoicb@aol.com)  
**Mail** P.O.Box 366  
Redway, CA 95560