



COMMUNITY DEVELOPMENT SERVICES
PLANNING DIVISION
COUNTY OF HUMBOLDT

<http://co.humboldt.ca.us/CDS/Planning>

February 18, 2009

Southern Humboldt Community Park
Attn: Kathryn Lobato
P.O. Box 185
Garberville, CA 95542

RE: Property located at 934 Sprowel Creek Road, Garberville area; APN: 222-091-06, 222-241-08
Case Nos.: VIO-07-134

Dear Mrs. Lobato and Members of the SHCP Park Board:

On January 23rd, we received a request from Joanne Pardini asking whether Heart of the Redwoods Community Hospice could hold their "Fifth Annual Barnyard Brew & BBQ" at the park this year. The request describes activities including: beer tasting, a silent auction, BBQ dinner, performance of live acoustic music, as well as hay rides and other activities for children. The event is further described as operating from 4pm until "dark", with approximately 300 people in attendance, and on-site parking in nearby grazing land.

As has been discussed in previous correspondence, the majority of the Southern Humboldt Community Park (SHCP) holdings are planned and zoned for agricultural use ("AE" Zone, 'AR' & 'AL' Plan). Besides 'general agriculture' uses, all other principally permitted uses must be found consistent with 314-43.1.3 of the Zoning Regulations which lists various permitted 'Agricultural Accessory Uses'.

314-7.1	AE: AGRICULTURE EXCLUSIVE
Principal Permitted Uses	
<i>All general agricultural uses, including accessory agricultural uses and structures listed at Sections 314-43.1.3 (Permitted Agricultural Accessory Uses) and 314-69.1.1 (Permitted Agricultural Accessory Structures), except those specified in the following subsection, Uses Permitted with a Use Permit.</i>	
<i>(Amended by Ord. 2189, Sec. 1, 2/9/99; Amended by Ord. 2214, 6/6/00)</i>	
Farm dwellings. On lots 40 acres or larger in size, two single detached dwellings are permitted. <i>(Amended by Ord. 1949, Sec. 1, 12/4/91; Amended by Ord. 2189, Sec. 1, 2/9/99)</i>	
Manufactured homes used as farm dwellings.	
Uses Permitted with a Use Permit	
Hog farms, turkey farms, frog farms and fur farms.	
Animal feed yards and sales yards.	
Agricultural and timber products processing plants.	
Rental and sales of irrigation equipment and storage incidental thereto.	
Animal hospitals.	
Labor camps and labor supply camps.	
Any use not specifically enumerated in this Division, if it is similar to and compatible with the uses permitted in the AE zone.	

The Planning Division has reviewed the information and details regarding the above-described Hospice proposal and determined that it cannot be considered as an accessory agricultural use of the property. §314-43.1.3 lists various permitted 'Agricultural Accessory Uses'.

43.1.3 **Permitted Agricultural Accessory Uses.** The following accessory uses shall be permitted in the (AE) Agricultural Exclusive, (AG) Agriculture General, and (TPZ) Timber Production zones: (See also, Permitted Agricultural Accessory Structures, Section 314-69.1) (Former Section INL#316-2.1; Added by Ord. 2189, Sec. 1, 2/9/99)

43.1.3.1 Windmills, not including windmills that produce energy for export off of the ranch or farm; (Former Section INL#316-2.1(1); Added by Ord. 2189, Sec. 1, 2/9/99)

43.1.3.2 Greenhouses which do not result in lot coverage exceeding 5 acres on lots 20 acres or larger in size, or exceeding 25% of the lot coverage for lots less than 20 acres in size, either individually or collectively, with or without a perimeter foundation, and without an improved floor or footpath which will preclude the agricultural use of the underlying soil. Greenhouses with an improved floor or footpath which will preclude the agricultural use of the underlying soil shall not be located on prime agricultural soils, but may be located on non-prime agricultural soils with a special permit. Concrete, asphalt, and similarly constructed footpaths are permitted within a greenhouse located on non-prime agricultural soils, and may be permitted on prime agricultural soils with a Special Permit. (Former Section INL#316-2.1(2); Added by Ord. 2189, Sec. 1, 2/9/99)

43.1.3.3 Silos; (Former Section INL#316-2.1(3); Added by Ord. 2189, Sec. 1, 2/9/99)

43.1.3.4 Tank Houses; (Former Section INL#316-2.1(4); Added by Ord. 2189, Sec. 1, 2/9/99)

43.1.3.5 Barns and outbuildings; (Former Section INL#316-2.1(5); Added by Ord. 2189, Sec. 1, 2/9/99)

43.1.3.6 Coops; (Former Section INL#316-2.1(6); Added by Ord. 2189, Sec. 1, 2/9/99)

43.1.3.7 Drainage facilities and structures. (Note: in the Coastal Zone these facilities and structures are subject to the following regulations, as applicable: Coastal Wetlands, Streams and Riparian Corridors Protection, Transitional Agricultural Lands, and Chapter 2: Procedures. (Former Section INL#316-2.1(7); Added by Ord. 2189, Sec. 1, 2/9/99)

43.1.3.8 Roadside Sales of Agricultural Products. Operation of a single roadside stand for the display and sales of only those products produced on the premises, or on other property owned or leased by the vendor, as permitted by these regulations, provided that the stand does not exceed an area of 200 square feet, and is located not nearer than fifteen (15) feet from any street or highway right-of-way. (Former Section INL#316-2.1(8); Added by Ord. 2189, Sec. 1, 2/9/99)

43.1.3.9 Public Stables for 6 horses or less. Public stables for 7 or more horses may be permitted with a Special Permit. (Former Section INL#316-2.1(9); Added by Ord. 2189, Sec. 1, 2/9/99)

43.1.3.10 *Other Necessary and Customary Uses.* Accessory uses and structures in addition to those identified above, which are necessary and customarily associated with, and are appropriate, incidental, and subordinate to agricultural activity as determined by the Planning Director. Buildings or structures, which result in lot coverage exceeding 5 acres on lots 20 acres or larger, or exceeding 25% lot coverage on lots less than 20 acres, either individually or collectively, shall not be permitted as agricultural accessory structures and shall only be permitted with a Special Permit. (Former Section INL#316-2.1(10); Added by Ord. 2189, Sec. 1, 2/9/99)

As you can see, as discussed in §314-43.1.3.10 above, only 'necessary and customary uses' which are 'appropriate, incidental, and subordinate to agricultural activity' may be considered. The Department does not consider the proposed Hospice fundraiser to be consistent with this concept. Additionally, none

of the 7 categories of activities listed in the table that was emailed to the Department on 2/4/09 seem to qualify as a “permitted agricultural accessory uses”.

It is important to point out that while similarly zoned (AE) as the balance of the SHCP lands, the Department recognizes that within the ownership exists the area known as ‘Tooby Memorial Park’. This subarea has a long history of public recreational use(s). Until fairly recently, this land was leased by the County from the Tooby family and included as part of the Humboldt County Parks system managed by the Public Works Department. Public use has clearly continued to occur following acquisition of these lands by the SHCP. §314-131 of the Zoning Regulations provides for the recognition and continuation of lawfully established non-conforming uses. Therefore, use of Tooby Memorial Park for recreation may continue provided it does not exceed historic levels of use of the property.

131.2 REGULATIONS CONTROLLING OTHER NONCONFORMING USES

- 131.2.1 No accessory use to a principal nonconforming use shall continue after such principal use shall cease or terminate. (Former Section INL#317-63(g); Ord. 1104, Sec. 3, 10/5/76)
- 131.2.2 The rights pertaining to a nonconforming use shall be deemed to pertain to the use itself, regardless of the ownership of the land or building on or in which such nonconforming use is conducted. (Former Section INL#317-63(h); Ord. 1104, Sec. 3, 10/5/76)
- 131.2.3 All of the foregoing provisions relating to nonconforming uses shall apply to all nonconforming uses existing on the effective date of these regulations and to all uses that become nonconforming by reason of any Amendment thereof. However, any use established in violation of law, regardless of the time of establishment, is not a nonconforming use and shall not benefit from the provisions in this section. (For nonconforming buildings, see Section 314-132, Nonconforming Structures.) (Former Section INL#317-63(i); Ord. 1104, Sec. 3, 10/5/76))

As you are likely aware, changes to the land use and zoning of the SHCP lands has proven increasingly controversial. While General Plan Update Mapping still includes a proposal to designate a large portion of the SHCP lands as Public Recreation (PR), because of the controversy this proposal is no longer included with Alternative ‘B’, which is the ‘staff-recommended’ alternative. As we have indicated in previous conversations, we recommend at this point that the Park strongly consider initiating an individual General Plan Amendment Petition which will allow this concept to be more fully evaluated in an open public process. I suggest you schedule a meeting with me so that I can advise you as to the application requirements, timeframe, and fees. Proceeding under this scenario will allow the Park to have more control over the timing and level of attention given to the proposed zoning/land use changes that have long been desired by the Park.

Lastly, the Hospice inquiry brings forward an issue requiring our attention. The inquiry was made by persons other than the SHCP Board of Directors. As the property remains under the ownership and control of the SHCP Board, the Department requests that all inquiries be made through the SHCP Board of Directors or your authorized representative. This will ensure clear communication and avoid any possible misunderstandings. This approach conforms more fully with the SHCP Board’s responsibilities under the understanding reached with the County’s Code Enforcement Unit as set forth in the letter from Deputy County Counsel Zuber to the SHCP Board of Directors dated November 19, 2008.

If you have any questions regarding this letter, please contact me at 268-3741.

Sincerely,

Steven Lazar, Planner I
Community Development Services Department
County of Humboldt
(707) 268-3741
slazar@co.humboldt.ca.us

cc: (via email)
Cliff Clendenen, 2nd District Supervisor
Office of County Counsel
Kirk Girard, Director, CDS
Claude Young, Code Compliance Unit