



COUNTY OF SANTA CRUZ

OFFICE OF THE COUNTY COUNSEL

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0613

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September 9, 2014

AGENDA: September 16, 2014

Board of Supervisors
County of Santa Cruz
701 Ocean Street
Santa Cruz, California 95060

Report Back On Implementation And Enforcement Of Cannabis Cultivation Ordinance

Dear Members of the Board:

On February 11, 2014, your Board directed staff to report back on the implementation and enforcement of recently-adopted County Code Chapter 7.126 relating to the cultivation of medical cannabis. This letter will provide your Board with an update of pending code enforcement activity and superior court actions relating to the ordinance, as well as a discussion of various concerns that have been identified.

A. Implementation

As your Board will recall, the creation and adoption of Chapter 7.126 took significant time and effort, given the various community considerations at issue. Once the ordinance was adopted, relevant County departments and officers gathered to delineate their roles and responsibilities in implementing the ordinance. Meetings took place among the Planning Department, County Counsel, the Sheriff's Office, and the District Attorney's Office to discuss what staff understood to be the Board's objectives in adopting the ordinance, and the way those objectives could be achieved. Through this process, staff has identified what is expected of each department, and has begun to implement the ordinance to the best of their ability.

One of the most challenging issues for staff in implementing the ordinance is a lack of resources. Effective enforcement of the ordinance involves the cooperation of several County departments, and each investigation, enforcement, and prosecution effort is time-consuming and costly. Given that this is a new legislative scheme for the County and one that did not come with a funding source for more employees, materials, or new contracts, it must be acknowledged that the enforcement of the ordinance has a reductive effect on the other work staff is doing. Stated

another way, without an increase in resources, staff are working on these issues to the exclusion of issues that they were working on before, primarily in the area of general code enforcement. 0614

As you know, your Board has approved a general tax measure concerning cannabis sales to be placed before the voters in November. Should that measure pass, it is expected to provide for expanded resources for the departments primarily responsible for enforcing the ordinance.

B. Current Enforcement Efforts

The code enforcement division of the Planning Department is primarily responsible for implementing and enforcing the cannabis cultivation ordinance. Code enforcement investigations begin as a result of community complaints or because code enforcement officers discover violations of the cultivation ordinance while investigating other issues. Code enforcement currently has seventeen pending cases related to cannabis cultivation, and two pending cases related to dispensaries. Additionally, there are at least ten citizen complaints that have not yet been fully investigated. The cases involve various violations of the ordinance ranging from grading, number and location of plants, and related violations associated with improper energy supplies and illegal buildings. Only one of the cases has been resolved so far, but a number of the violators are working with the County to remedy deficiencies. On September 16th, code enforcement staff will present your Board with photographs of representative examples of the types of issues being encountered and addressed, and will be available to answer more detailed questions regarding enforcement efforts.

The Sheriff's Office has provided a significant amount of assistance to the Planning Department in its enforcement efforts. Specifically, Sheriff's deputies confer with code enforcement officers prior to enforcement activity and provide civil stand-by protection for them when the enforcement officers are at a violator's property. In addition, the Sheriff's Office has been investigating the violators for criminal offenses where appropriate. The District Attorney's Office has shown interest in developing criminal prosecutions from the cases the County identifies in the code enforcement process, and the District Attorney is currently prosecuting several cultivators for state law criminal violations related to large grows.

County Counsel's Office has also been working closely with code enforcement staff to interpret, implement, and enforce the ordinance. Specifically, the offices have been working together to identify cases that would be better addressed in superior court than through the County's administrative process. So far, County Counsel has filed three lawsuits against violators. In each of the cases, the County was able to obtain a temporary restraining order from the Court requiring the violators to refrain from grading, building, or cultivation during the pendency of the lawsuits. Those civil suits are pending, and County Counsel is diligently prosecuting them. In two of these cases, a significant amount of cannabis was destroyed by a County contractor after the violators failed to comply with abatement orders.

C. Concerns

In the first six months of implementation, staff has identified a variety of concerns related to enforcement of the ordinance and cannabis cultivation practices. Most of the violations identified to date are on remote rural parcels that have steep slopes, and the parcels do not have legal residences or established access roads. The cultivators associated with these sites are

causing extensive environmental damage in the County, creating dangerous fire conditions, and creating other health and safety concerns.

0615

To briefly summarize the issues related to environmental destruction, the cultivators are grading and clearing large swaths of land to establish flat areas to grow and to gain access to the parcels. This adversely affects protected resources in this County including riparian habitat, steelhead and coho salmon habitat, timber resources, and sensitive habitats such as the federally protected Sandhills. The grading and clearing affects the natural landscape of the County, and in some cases may affect drainage and cause damage to County maintained roads. Water sources are also not established on many of these parcels and a significant volume of water is either pumped directly out of local streams, or wells are installed, which substantially impact water supplies in our aquifers. The large-scale water diversion from streams and rivers has potentially disastrous consequences for protected species such as Coho salmon or steelhead trout.

Many of these cultivation sites pose grave fire danger, both to the subject parcels as well as to surrounding properties and wilderness areas. The majority of the sites are located in steep, remote areas that do not contain legal residences. As a result, gas-powered generators, propane tanks, or solar panels are usually the only sources of electricity, and the systems are not being used properly or safely. Hundreds of feet of unprotected extension cords and other wiring systems are commonly strewn across the properties. Fire pits and propane heaters are also commonplace. Roads on these properties rarely meet standards required by emergency vehicles. This combination of factors presents an extraordinary fire hazard.

The value and desirability of medical cannabis has also resulted in a proliferation of unsafe structures, as well as vehicles that are used as makeshift dwelling units. Caretakers for cannabis farms are sleeping in tents, trailers, shipping containers and plywood shanties, which present obvious health and safety hazards. In addition to the unpermitted electrical and heating systems, there are no sanitation or solid waste disposal facilities available, and many of these sites are maintaining a large amount of unregulated refuse. Additionally, the use of fertilizers, pesticides and other hazardous chemicals can pose threats to human health and safety, as well as threats to wildlife, habitat, and groundwater resources.

Finally, the growing number of cultivation sites, whether rural or urban, is frequently responsible for negatively impacting surrounding property owners. Code enforcement staff receive daily complaints from citizens regarding 24-hour generator noise, bright lighting, constant pungent odors, and heavy increases in traffic.

In closing, we request that your Board accept and file this report, and we look forward to answering any questions you have regarding the implementation of Chapter 7.126.

Sincerely,

COUNTY COUNSEL

By: 

DANA McRAE
County Counsel

PLANNING DEPARTMENT

By: 

KATHY M. PREVISICH
Planning Director

Regarding meeting Sept. 16, 2014 - Land use ordinance
Board of Supervisors #5176

to chair person: Zack Friend
and all Board members

0616

I would like the new land use regulation regarding medical marijuana cultivation, commercial and personal growing (ordinance #), to remain in force with some clarifying of the personal use section. 5176

I don't want Santa Cruz County to become a clone of Humboldt County. I live in Bonny Doon which seem to be drawing growers. Two out of three of the last purchasers of land/homes on my road have bought for the purpose of growing in our RR neighborhood. The commercial grow plan was entirely illegal and the personal grower is in his second year of growing far beyond what a personal grow should be.

ZONING: RR AND RA

Please keep the prohibition of commercial cultivation in RR zones intact.

As far as the RA commercial grows, the number of plants allowed should not be increased. If there is not enough marijuana to be had at the local dispensaries, it is because people sell out of the area where they can make more money. There is plenty being grown, most growing many more than the 99 allowed.

PERSONAL GROWS

The personal grow aspect should be tweaked in that a number of plants should be specified because the current ordinance allows for too many plants. I would be surprised if the designers of the ordinance intended for 24 plants to be considered a personal grow. Most states/counties that allow personal grows cite a number such as six plants and never anywhere close to 24.

As an example, a relatively new Bonny Doon resident who leases a house owned by someone in Humboldt County (who wrote a book on marijuana) is allowed to have 24 plants as a personal grow. This person brought the Planning Department inspector up to look at his seedlings saying he wanted to be within the rules. However, this person did that because last year he planted a huge amount and he was informed that this year the neighbors would complain formally because of the extreme nuisance smell, a caretaker that behaved poorly in the neighborhood, and other issues.

PLANNING DEPARTMENT INSPECTIONS

I must note that the inspector told the grower above that he would not be back, basically giving him a wink and a nod to grow more. Others neighbors witnessed this interaction.

I would suggest, if it is within your power, to ask the Planning Department to have their inspector to randomly reinspect at least 15 to 20% of the grows in August/September because once they leave the premises, many growers plant more. The internet is full of sites helping people dupe the county. This would help enforcement.

SAFETY

0617

We also need help in feeling safe addressing the issue of marijuana growing in our community. Dealing with the type of people that we have encountered who have attempted to grow commercially pretending they are legal has been very taxing and time consuming for our particular neighborhood.

There are others in the community who are afraid of contacting the county for help because they feel threatened by the type of people who are growing and there are many who come from out of the area and/or are sponsored by organizations out of the area. It frightens people.

We want to raise our families here, enjoy our retirement and want to know that the county has a reasonable ordinance that is enforced.

TAXING LINKED TO ENFORCEMENT/ ENFORCEMENT IS CRITICAL

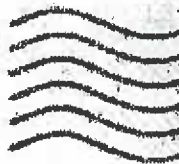
As far as taxing the dispensaries or anyone who profits, I am in support if the money goes into enforcement. The business of marijuana, historically illegal, is culturally an underground, flaunt the law, industry. The ordinance won't change this without consistent enforcement. Strong enforcement will be a huge help to the communities affected. The ordinance, except with a tweak regarding personal growing, is very reasonable and if strongly enforced can eventually be respected.



219 SUMMIT DRIVE
SANTA CRUZ, CA 95060

SAN JOSE CA 950

09 SEP 2014 PM 4 L



ZACK FRIEND - chairperson
Board of Supervisors
Santa Cruz County
701 Ocean St. Room 500
Santa Cruz, Ca. 95060

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95060406499



September 9, 2014

Supervisor Zach Friend
701 Ocean Street, Room 500
Santa Cruz, CA 95060

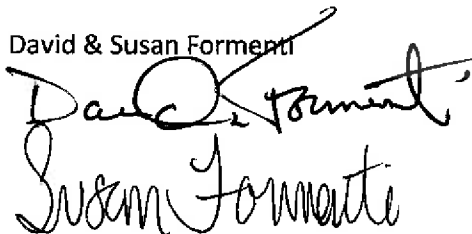
Dear Zach,

I would like to comment on current regulations set up by the county regarding marijuana growers in rural areas of Bonny Doon.

- The current regulation stating that a personal grow is a 10x10 area. We feel that it should be more specific stating the number of plants that can be grown. We have a neighbor who has put in 24 plants and because they are spread out over his property, not in a 10x10, the county inspector allowed it. That is not a personal grow or a medical marijuana legal grow and we are pretty sure that after the inspector left, telling the property owner he would not be coming back to inspect again and lecturing us on being nice to this neighbor, that he continued planting more plants. There is no way you can grow 24 marijuana plants in a 10x10. The regulation needs to state more specifically how many plants can be grown for personal use.
- Commercial cultivation of medical marijuana should not be allowed in RR zoned areas.
- We believe that medical marijuana should be taxed like any other business and the revenue used for monitoring/inspection of illegal grows.

We live in a Rural Residential neighborhood in Bonny Doon, not Rural Agriculture, and are plagued by pot farmers (drug dealers) trying to make a lot of quick money. We have many families with at least 15 children living on our street, exposed to the threats of drug dealers, pit bulls and possibly guns protecting their crops. I hope you will consider changing this regulation for the sake of our neighborhood.

David & Susan Formenti



777 Summit Drive
Bonny Doon, CA 95060
831-469-8694

Alicia Murillo

From: cdbosmail@co.santa-cruz.ca.us
Sent: Friday, September 12, 2014 9:05 AM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 9/16/2014

Meeting Type : County Board of Supervisors

Item Number : 42.00

Name : Rachele Weiss

Email : weissra@yahoo.com

Address : Not Supplied

Phone : Not Supplied

Comments :

I am writing to express my support for enforcement of the county's cannabis regulations as they are currently written.

Alicia Murillo

From: cdbbosmail@co.santa-cruz.ca.us
Sent: Thursday, September 11, 2014 11:01 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 9/16/2014

Meeting Type : County
Board of Supervisors

Item Number : 42.00

Name : Russ Mackey

Email : Rmackey411@comcast.net

Address : Bonny Doon

Phone : Not Supplied

Comments :

I appreciate the efforts of County Staff in enforcing county cannabis regulations.

The dangers to the environment and the public have been well documented in the staff report.

The dangers will continue to exist unless there is strict and continuous enforcement because of the huge potential profit to be made by violating the county regulations.

Please accept the staff report and direct staff to continue their efforts.

I will be supporting the cannabis tax measure on the November ballot

Russ Mackey
Bonny Doon



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
777 Sonoma Avenue, Room 325
Santa Rosa, California 95404-4731

September 15, 2014

County of Santa Cruz
Board of Supervisors
701 Ocean Street
Santa Cruz, California 95060

Dear Board of Supervisors:

NOAA's National Marine Fisheries Service (NMFS) is writing to express our support for the County of Santa Cruz (County) Planning Department's efforts to curtail ongoing land and water-use practices that result in degradation to streams and rivers in Santa Cruz County, California (Item #42 on your September 16, 2014 Agenda). NMFS encourages and supports further efforts by your Planning Department to help curtail the recent increase in degradation to streams and rivers in Santa Cruz County because these waterways support populations of salmon and steelhead listed under the federal Endangered Species Act (ESA), specifically: Central California Coast (CCC) steelhead, South-Central California Coast (S-CCC) steelhead (*O. mykiss*), and CCC coho salmon. NMFS listed CCC and S-CCC steelhead as threatened species, and CCC coho salmon as an endangered species. The County plays an important role in the conservation and recovery of these species through establishment and implementation of various ordinances (particularly the Riparian Corridor Protection Ordinance) which were designed to protect County streams and rivers.

Unfortunately, despite protections afforded to salmon and steelhead under the federal and State of California ESAs, their populations continue to decline. CCC coho salmon, for example, are at a higher risk of extirpation in the Santa Cruz Mountains now than when listing petitions were submitted in 1993 (by the County Fish and Game Commission to both the State of California and NMFS). Today coho salmon are restricted to two streams whereas under historical conditions they were distributed throughout most of the coastal streams in Santa Cruz and coastal San Mateo counties. To help address these declines, NMFS finalized the recovery plan for CCC coho salmon in 2012 (NMFS 2012). The CCC coho salmon recovery plan targets seven populations (watersheds)¹ as priorities for recovery in Santa Cruz County. The recovery plan outlines numerous threat abatement, conservation, and restoration recommendations for each of these watersheds and identifies the effective implementation of the County's existing ordinances as a high priority action.

Unlike many other listed species in the western United States with ranges overlapping onto public lands managed by state and federal agencies, the majority of the range of CCC coho

¹ Waddell Creek, Scott Creek, San Vicente Creek, Laguna Creek, San Lorenzo River, Soquel Creek, and Aptos Creek.



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salmon and CCC steelhead occurs on private lands. Without public lands to rely upon, recovery of these species will depend on balancing their basic life history requirements with the needs and rights of private property owners. A key to this goal is the effective implementation of local ordinances protective of streams and waterways. Regarding coho salmon in the Santa Cruz Mountains, many of the watersheds critical for recovery have a high degree of residential development and ground disturbance located adjacent to key watercourses compared to other key watersheds in the Evolutionarily Significant Unit (ESU). Enclosure 1 and 2 illustrate two watersheds, both essential for CCC coho salmon recovery, and the relative difference in residential development. It is interesting to note that while the primary land use in the Ten Mile River (Mendocino County, California) is timber harvest on an industrial scale, coho salmon still persist there, whereas in the San Lorenzo River (where the rate of timber harvest is significantly less than the Ten Mile River) coho salmon were effectively extirpated by 1982.²

The reasons for the loss of coho salmon in the San Lorenzo River are varied, but urban and rural residential development practices have likely substantially contributed to their decline. Addressing these impacts by minimizing the proximity of development and disturbance to watercourses through establishment of adequately sized riparian buffers is an important tool, and sometimes the only tool appropriate for conservation and protection of salmonid habitats. The County's Riparian Corridor Protection Ordinance, when properly and consistently implemented, is an important example of an ordinance that can help protect coho salmon and steelhead and their habitats.

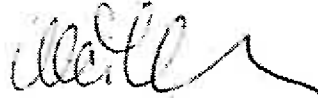
In a letter dated August 28, 2012, to the County's Fish and Game Advisory Commission, NMFS expressed concern regarding the lack of available resources necessary for effective enforcement of the Riparian Corridor Protection Ordinance. That letter was in response to our observations of numerous violations of the Riparian Corridor Protection Ordinance that had gone unaddressed due, in large part, to County staffing limitations. Partially in response to our August 28, 2012, letter, the County convened the Santa Cruz County Code Compliance Roundtable in early 2013. The Roundtable is composed of representatives from various branches of County government as well as resource agencies such as the California Department of Fish and Wildlife, CalFire, and U.S. Fish and Wildlife Service. Through participation in the Roundtable, NMFS has learned that the rate of unauthorized land conversion (including vegetation clearing and hillside grading) and water diversions is increasing with significant adverse impacts to Santa Cruz's streams and rivers.

Impacts from unauthorized land conversion and water diversions will likely adversely affect ongoing salmonid conservation and recovery efforts across the County. NMFS encourages you to thoroughly evaluate the issues and, as appropriate, adopt additional measures for protection of the habitats of steelhead and coho salmon.

² Coho salmon were detected in 2005 in Zayante and Bean creeks, a year with good runs throughout the ESU.

NMFS thanks the Board of Supervisors for their efforts to protect the streams and rivers of Santa Cruz County. If you have any questions or concerns regarding this letter, please contact Mr. Jonathan Ambrose of my staff at (707) 575-6091 or jonathan.ambrose@noaa.gov.

Sincerely,



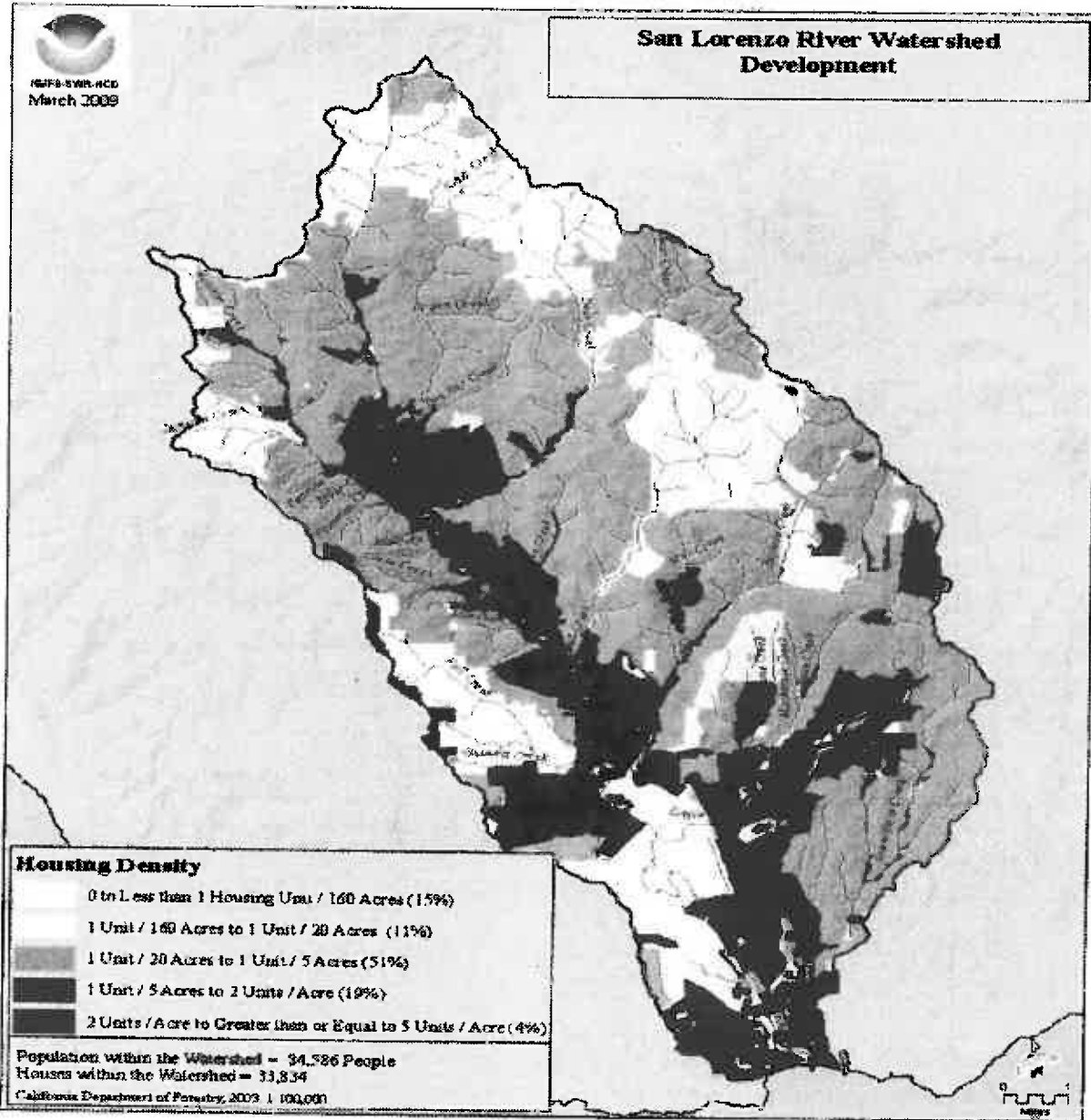
Lisa Van Atta
North Central Coast Office Supervisor
California Coastal Area Office

Enclosures

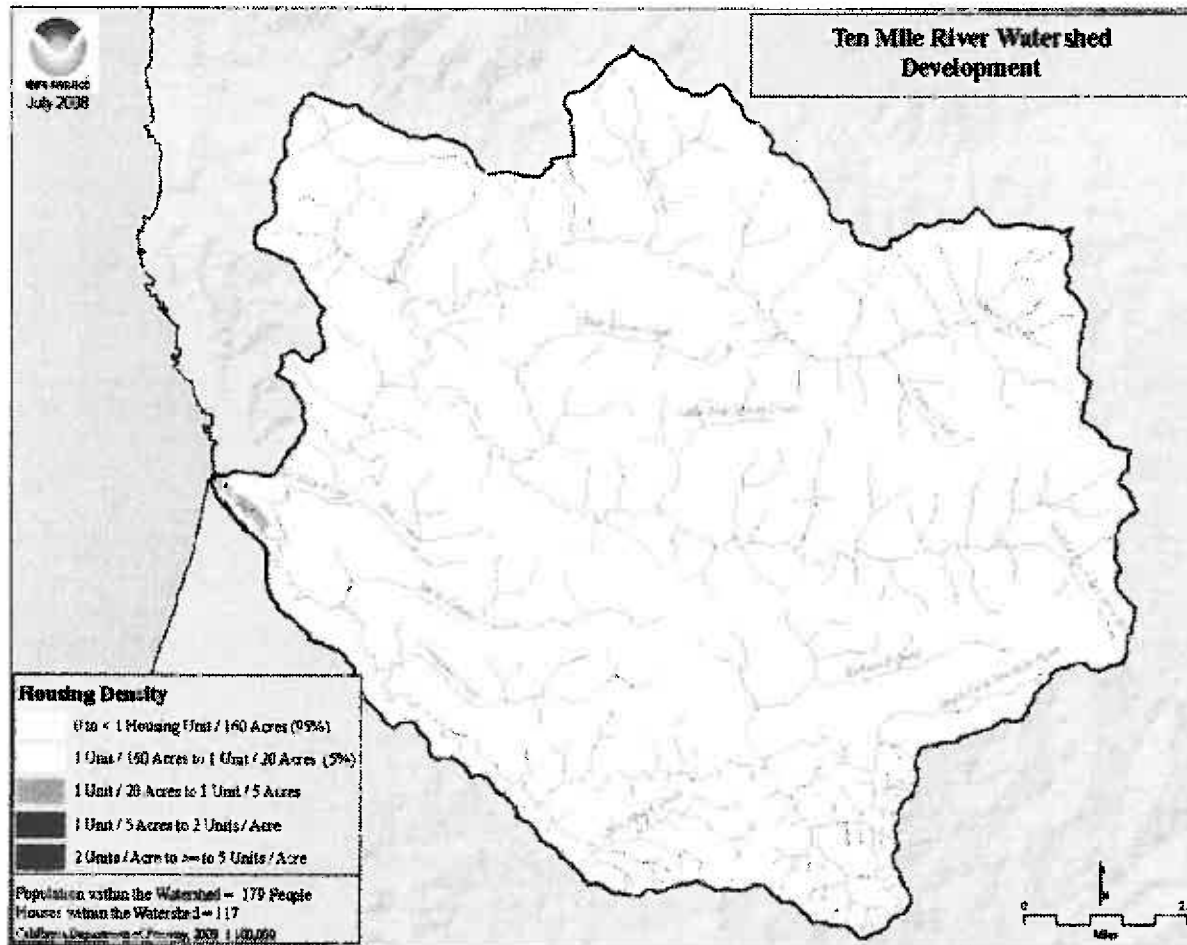
References Cited

NMFS (National Marine Fisheries Service). 2012. Final recovery plan for Central California Coast coho salmon Evolutionarily Significant Unit. National Marine Fisheries Service, Southwest Region, Santa Rosa, California.

Enclosure 1: Watershed development in the 88,763 acre San Lorenzo River watershed, Santa Cruz County, California. Note the high housing density in proximity to Class 1 watercourses (194 miles) along the mainstem and numerous tributaries in this key recovery watershed for CCC coho salmon. CCC coho salmon were extirpated from the San Lorenzo River in approximately 1982. One of the most significant forms of protection to salmonids and their habitat in this highly developed watershed comes from proper implementation, administration, and oversight of the County of Santa Cruz's Riparian Corridor Protection Ordinance as administered by the County of Santa Cruz's Planning Department.



Enclosure 2: Watershed development in the 76,579 acre Ten Mile River watershed (near the City of Fort Bragg), Mendocino County, California. Note the low housing density in proximity to the Class 1 watercourses (104 miles) along the mainstem and numerous tributaries in this key recovery watershed for CCC coho salmon. The Ten Mile River maintains an extant run of CCC coho salmon despite a high rate of past and current timber harvest on privately owned lands throughout the watershed. The primary form of protection to salmonids and their habitat comes from proper implementation, administration, and oversight of the California Forest Practice Rules as administered by CALFIRE.



Alicia Murillo

From: cdbosmail@co.santa-cruz.ca.us
Sent: Monday, September 15, 2014 10:19 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 9/16/2014

Meeting Type : County Board
of Supervisors

Item Number : 42.00

Name : James and Linda
Holliday

Email : starcats10@msn.com

Address : 18360 Las Cumbres
Rd
Los Gatos

Phone : 4083546724

Comments :

Hello, We live in Santa Cruz County, we are up in the mountains, above Deer Creek Rd. So far there has been 5 fires from kids that wander in on that road. Also they shoot guns. My husband found out that the owners of the property live elsewhere and so the people down t here are squatters and renters with drug hang outs - Cannabis and Meth.

Do you realize how much it costs for Cal Fire to put these fires out?....luckily they put them out fast before they spread.

The dirt fire road that leads down from Las Cumbres to Deer Creek also those kids come up and rob. My neighbors trailer was stollen one night. Please patrol this area, before things get much worse.

sincerely,

James and Linda Holliday

Alicia Murillo

From: cdbbosmail@co.santa-cruz.ca.us
Sent: Monday, September 15, 2014 10:51 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 9/16/2014

Meeting Type : County Board
of Supervisors

Item Number : 42.00

Name : William Green

Email : wmmgreen@verizon.net

Address : 22110 Miller Ridge
Road
Los Gatos, Ca 95033

Phone : 4083954846

Comments :

Regarding item 42: I hope that tax income from the Cannabis Ordinance can be used to police the Deer Creek/Lost Valley Road area. I am a resident of Las Cumbres, a PUD community of 122 homes adjacent to this area. In recent months there have been a series of explosion s, gunfire, and forest fires within a half mile of our homes. We maintain an emergency exit to Bear Creek Road through this area, and four times in recent months Residents of the Lost Valley Rd have broken through our locked gates to gain access to Highway 35 through our community. I have no doubt this activity is drug related. We are in danger, I ask for your help.

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Alicia Murillo

From: cbdbosmail@co.santa-cruz.ca.us
Sent: Monday, September 15, 2014 11:01 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 9/16/2014

Meeting Type : County Board
of Supervisors

Item Number : 42.00

Name : Christine Green

Email : cgreen46@verizon.net

Address : 22110 Miller Ridge
Road
Los Gatos, CA 95033

Phone : 4083954846

Comments :

Board of Supervisors:

Please support the cannabis cultivation ordinance for the area of Lost Valley and Hartman Road. I live in the planned unit development of Las Cumbres (122 home sites on 1200 acres) that is directly above this area within 1/2 mile and we have suffered through the lawlessness of many of the derelicts that hang out in this valley. We need law enforcement protection NOW! For example, we have had three very scary fires in just the last year that had to be extinguished by Cal Fire using helicopters, bombers, and many ground crews at great expense and hazard to firefighters and to our community. We are most thankful to Cal Fire, but we know this could lead to great loss of life under bad fire conditions, even though we have spent much effort, money, and time on clearing all around our homes. We hear the repeated use of automatic weapons, lots of arguing and screaming, as well as many explosions that lead us to believe there are meth labs. From our prospective, we pay a great deal of taxes to Santa Cruz County and receive very few services here at the north boundary of the county. Increasingly, we feel our safety and security is in jeopardy since we can not get law enforcement support to even come to our area. We are told they are too busy in Watsonville, and yet we feel we need support, too. We have had enough and are writing to let you know that something must be done. Please do try to find a solution to improve this situation. We appreciate any efforts you will make and will be watching for improvements. Thank you very much.
Christine Green, retired elementary school teacher

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Alicia Murillo

From: cbdbosmail@co.santa-cruz.ca.us
Sent: Tuesday, September 16, 2014 6:08 AM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 9/16/2014

Meeting Type : County
Board of Supervisors

Item Number : 42.00

Name : Terry Moore

Email : drdavidtorrez@yahoo.com

Address : Not Supplied

Phone : Not Supplied

Comments :

I appreciate County Council's attempt at spelling out the real problems relative to pot cultivation. We urge that you, the Board, request from Planning/Code Enforcement/Sheriff/CalFire a more in-depth report on day to day issues and solutions that they feel are appropriate. Let's get their take on the real impact these cultivation sites have on the local neighborhoods and environment. What is discussed in the letter from County Council is just the tip of the ice berg. As Council and Planning have stated, many of these parcels do not have approved fire access or proper electrical installation. By requiring that a legal, permitted home be on site would eliminate the illegal wiring, illegal grading and insure approved site and fire access. Let's not let the opportunity for viable, reasonable solutions pass us by.