

SUPPLEMENTAL INFORMATION #1

For Board of Supervisors Agenda of:
January 25, 2022

- Consent Agenda Item
- Continued Hearing Item
- Public Hearing Item
- Department Report
- Old Business

**Re: Adoption of Coastal Commission Modifications to Amendments to the Humboldt Bay Area Plan and Zoning Maps to Allow the Samoa Peninsula Wastewater Project
Case Number: PLN 2020-16734**

Attached for the Board's record and review is the following supplementary information item:

1. Resolution of Approval – strikethrough and underline removed.
2. Zoning Map Amendments Ordinance – strikethrough and underline removed.

ATTACHMENT 1

Resolution of Approval

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on _____

RESOLUTION NO. _____ - _____ OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT REPEALING AND REPLACING RESOLUTION 21-19 WHICH WAS APPROVED FEBRUARY 9, 2021, MAKING FINDINGS THE HUMBOLDT BAY AREA PLAN AND ZONING MAP AMENDMENTS ARE EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AND MAKING ALL THE REQUIRED FINDINGS FOR CONSISTENCY WITH THE GENERAL PLAN, ZONING ORDINANCE AND THE COASTAL ACT, APPROVING HUMBOLDT BAY AREA PLAN AMENDMENTS, ACKNOWLEDGING RECEIPT OF, ACCEPTING, AGREEING TO AND APPROVING MODIFICATIONS AS ADOPTED BY THE CALIFORNIA COASTAL COMMISSION ON DECEMBER 16, 2021; AND TRANSMITTING THEM ALONG WITH THE AMENDMENT TO THE ZONING MAP TO THE CALIFORNIA COASTAL COMMISSION FOR THEIR REVIEW AND CERTIFICATION TO ALLOW THE SAMOA PENINSULA WASTEWATER PROJECT TO PROCEED

WHEREAS, California Government Code Section 65850, and following, authorizes counties to regulate land use, and to adopt and amend general plans and zoning and building ordinances for such purposes, and sets forth procedures governing the adoption and amendment of such ordinances; and

WHEREAS, on February 9, 2021, by Resolution No. 21-19, the Board of Supervisors approved an Amendment to the Humboldt Bay Area Plan and Ordinance No. 2665 amending Section 311-7 of Chapter 1, Division 1, Title III of the Humboldt County Code to Rezone Property in Fairhaven to allow the Samoa Peninsula Wastewater Project to proceed forward to construction; and

WHEREAS, the Local Coastal Plan Amendment to the Humboldt Bay Area Plan and Implementation Program amendment to the Humboldt County Zoning Maps to Allow the Samoa Peninsula Wastewater Project application was transmitted to the Coastal Commission and received on March 2, 2021 as LCP-1-HUM-21-0030-1, and deemed "submitted" on June 14, 2021; and

WHEREAS, on December 16, 2021, the California Coastal Commission adopted a resolution denying certification of LUP Amendment LCP-1-HUM-21-0030-1 as submitted by the County, and adopted a resolution certifying LUP Amendment LCP-1-HUM-21-0030-1 if it is modified as suggested by the Coastal Commission as provided by Suggested Modifications Appendix A of the Coastal Commission staff report dated December 3, 2021, and attached hereto as Exhibit B; and

WHEREAS, on December 16, 2021, the California Coastal Commission adopted a resolution denying certification of IP Amendment LCP-1-HUM-21-0030-1 as submitted by the County, and adopted a resolution certifying IP Amendment LCP-1-HUM-21-0030-1 if it is modified as suggested by the Coastal Commission as provided by Suggested Modifications in Appendix B, and attached hereto as Exhibit B; and

WHEREAS, the Coastal Commission's certification is also contingent upon the Board of Supervisors' acknowledged receipt of resolutions adopted by the Coastal Commission on December 16, 2021, and acceptance of and agreement to the suggested modifications by June 14, 2021; and

WHEREAS, the Coastal Commission's certification is further contingent upon the Board of Supervisors agreeing to issue coastal development permits subject to the approved Local Coastal Program; and

WHEREAS, Resolution 21-19 directs that modifications to the Samoa Peninsula Wastewater Project Local Coastal Program Amendment required by the Coastal Commission for certification shall first be brought back to the Board of Supervisors for consideration prior to certification by the Coastal Commission; and

WHEREAS, the Suggested Modifications may be approved if all of the required findings described below for approving amendments to the General Plan and Zoning Regulations, contained herein, can be made; and

WHEREAS, Pursuant to Sections 21080.5 and 21080.9 of the Public Resources Code and Sections 15250, 15251(f) and 15265 of the California Environmental Quality Act (CEQA) Guidelines, CEQA does not apply to the activities of a local government for the preparation and adoption of a Local Coastal Program; the County's action for the Samoa Peninsula Wastewater Project Local Coastal Program Amendment is statutorily exempt from CEQA. Further, the certification of a Local Coastal Program Amendment by the California Coastal Commission is exempt from the requirement for preparation of EIRs, Negative Declarations, and Initial Studies because their certification process has been certified by the Secretary of Resources as being the functional equivalent of the environmental review process required by CEQA; and

WHEREAS, this Resolution is intended to accept and implement the Coastal Commission's Suggested Modifications to the Local Coastal Program Amendment for the Samoa Peninsula Wastewater Project.

Now, THEREFORE BE IT RESOLVED, that the Board of Supervisors makes all the following findings:

CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

1. **FINDING:** The proposed HBAP and Coastal Zoning Regulation amendments incorporating the Coastal Commission's Suggested Modifications (hereafter LCP amendment) are exempt from environmental review.
- EVIDENCE:** a) Public Resources Code Section 21080.5 and 21080.9 and Sections 15250, 15251(f) and 15265 of the CEQA Guidelines identify that CEQA does not apply to the activities of a local government for the preparation and adoption of a Local Coastal Program, and therefore the County adoption of the LCP Amendment is statutorily exempt from environmental review. Approval of the LCP amendment by the California Coastal Commission is the functional equivalent of the environmental review process required by CEQA.

CONSISTENCY WITH THE GENERAL PLAN.

2. **FINDING:** Humboldt County General Plan states the General Plan may be amended if base information or physical conditions have changed. The base information and physical conditions underlying the General Plan has changed.
- EVIDENCE:** a) The purpose of the LCP amendment is to allow the SPWP to be implemented is to eliminate an ongoing threat to the public health, safety and welfare associated with significant water quality impacts to groundwater and Humboldt Bay caused by failing onsite septic systems. Since the HBAP was drafted, several on-site sewage disposal systems in Fairhaven have failed, resulting in repair work that cannot meet current standards of the Regional Water Quality Control Board.
- b) The change in base physical conditions resulting from current and projected increases in mean sea level were not known at the time that the HBAP was certified containing policies that prohibit the extension of municipal wastewater systems to address failing onsite septic systems. Projected sea level rise will exacerbate this public health hazard and water pollution. The proposed LCP Amendment with the Coastal Commission's modifications would provide essential exceptions to public services related policies to address the worsening public health and water quality problems that would occur due to projected changes in sea level.

3. FINDING: Humboldt County General Plan and state General Plan Law stipulates the General Plan Amendment must be in the public interest. The proposed LCP amendment is in the public interest. The suggested modifications by the California Coastal Commission add requirements to further minimize risk to life and property from significant geologic and flood hazards which strengthen the finding that the proposed LCP amendment is in the public interest.

- EVIDENCE:**
- a) The purpose of the LCP amendment is to allow the SPWP to be implemented is to eliminate an ongoing threat to the public health, safety and welfare associated with significant water quality impacts to groundwater and Humboldt Bay caused by failing onsite septic systems. An amendment to the Local Coastal Program to allow public infrastructure improvements to address threats to health and water pollution, and environmental impacts that would otherwise become worse over time without such amendments, is in the public interest.
 - b) The suggested modifications by the California Coastal Commission increase requirements for the disclosure of the presence of coastal hazards to current and future landowners and limit the uses that may be developed in Fairhaven which would further minimize risk to life and property from significant geologic and flood hazards which strengthen the finding that the proposed LCP amendment is in the public interest.

CONSISTENCY WITH STATE GENERAL PLAN LAW.

4. FINDING: Government Code Section 65302.8 requires any General Plan Amendment that operates to limit the number of housing units which may be constructed on an annual basis to contain findings which justify reducing the housing opportunities of the region. The proposed LCP amendment and suggested Coastal Commission modifications do not limit the number of housing units which may be constructed on an annual basis.

- EVIDENCE:**
- a) The proposed LCP amendment will allow construction of a public wastewater collection system to eliminate an ongoing threat to the public health, safety and welfare associated with significant water quality impacts to groundwater and Humboldt Bay caused by failing onsite septic systems. No changes to the General Plan will limit new housing. The proposed amendments to the Zoning Maps will continue the status quo by allowing new housing to be constructed if it is served by on-site wastewater systems that meet current standards. New homes may be constructed and connected to the new public wastewater system homes where they can meet prescribed

performance standards related to mitigating hazards from sea level rise and tsunami and impacts to environmentally sensitive habitats.

- b) The suggested modifications by the California Coastal Commission increase requirements for the disclosure of the presence of coastal hazards to current and future landowners, limit allowable uses, and require performance standards for substantial remodels or replacement of existing homes, but would allow new homes in the same manner as the original LCP amendment.

CONSISTENCY WITH THE ZONING ORDINANCE.

5. FINDING: Section 312-50.3.1 of the Zoning Regulations requires changes to the Zoning Regulations to be in the public interest. The proposed Ordinance amending the Zoning Regulations is in the public interest. The suggested modifications by the California Coastal Commission add requirements to further minimize risk to life and property from significant geologic and flood hazards which strengthen the finding that the proposed LCP amendment is in the public interest.

- EVIDENCE:**
- a) The purpose of the proposed amendments to the Zoning Map is to ensure new infill development in Fairhaven is consistent with the coastal resource and hazard policies of the HBAP and the Coastal Act, including but not limited to those policies addressing wetlands, Environmentally Sensitive Habitats, flooding, sea level rise and tsunami risk. Protecting new development in Fairhaven from coastal inundation hazards and ensuring that such development is protective of Environmentally Sensitive Habitats, and consistent with the Coastal Act and HBAP, is in the public interest.
 - b) The suggested modifications by the California Coastal Commission increase requirements for the disclosure of the presence of coastal hazards to current and future landowners, require performance standards for substantial remodels or replacement of existing homes, and limit the uses that may be developed in Fairhaven which would further minimize risk to life and property from significant geologic and flood hazards which strengthen the finding that the proposed LCP amendment is in the public interest.

6. FINDING: Section 312-50.3.2 of the Zoning Regulations requires changes to the Zoning Regulations to be consistent with the General Plan. The proposed Ordinance amendment along with the suggested modifications by the California Coastal Commission are consistent with the General Plan.

- EVIDENCE:**
- a) The proposed amendments to the Zoning Map are consistent with, and implement, the proposed amendments to HBAP Section 3.22.B,

Development Policies, (1) Extension of Services, by applying specified performance standards by ordinance that ensure that new development in Fairhaven will be protective of public health, safety and welfare, and coastal resources relative to sea level rise and tsunami inundation, and will be protective of Environmentally Sensitive Habitats, based on site-specific investigations prepared by qualified experts.

- b) The suggested modifications to the Zoning Regulations apply requirements that implement the proposed LCP amendments which increase requirements for the disclosure of the presence of coastal hazards to current and future landowners, require performance standards for substantial remodels or replacement of existing homes, and limit the uses that may be developed in Fairhaven to further ensure that new development in Fairhaven will be protective of public health, safety and welfare, and coastal resources relative to sea level rise and tsunami inundation, and will be protective of Environmentally Sensitive Habitats, based on site-specific investigations prepared by qualified experts.

7. FINDING:

Section 312-50.3.4 of the Zoning Regulations requires changes to the Zoning Regulations to not reduce the residential density for any parcel below that utilized by the State Department of Housing and Community Development (HCD) in determining compliance with housing element law. The proposed amendment and the suggested modifications by the California Coastal Commission do not reduce the residential density for any parcel below that utilized by the State Department of Housing and Community Development (HCD) in determining compliance with housing element law.

EVIDENCE:

- a) There are no parcels in the Community of Fairhaven or within the Peninsula Community Services District (CSD) boundaries outside the Samoa Town Master Plan (STMP) Overlay Zone that are part of the 2019 Housing Element Housing Inventory. Parcels in the STMP Overlay Zone that are part of the 2019 Housing Element Housing Inventory are not a part of this project, and this project does not affect the capacity of the wastewater system for those parcels. Therefore, the proposed changes to the Local Coastal Program would not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law (the mid point of the density range specified in the plan designation).

8. FINDING:

Zoning Regulations Section 312-50.3.3 specifies that any changes to the Zoning Regulations that require an LCP amendment, the

amendment is in conformity with the policies of Chapter 3 (commencing with Section 30200) of the Coastal Act. Chapter 3 of the Coastal Act sets forth policies regarding the following issues:

- a) **Access** (including provisions for access with new development projects, public facilities, lower cost visitor facilities, and public access)
- b) **Recreation** (including protection of water-oriented activities, ocean- front land protection for recreational uses, aquacultural uses, and priority of development purposes)
- c) **Marine Resources** (including protecting biological productivity, prevent hazardous waste spills, diking, filling and dredging, fishing, revetments and breakwaters, and water supply and flood control)
- d) **Land Resources** (including environmentally sensitive habitats, agricultural lands, timberlands, and archaeological resources)
- e) **Development** (including scenic resources, public works facilities, safety, and priority of coastal dependent developments)
- f) **Industrial Development** (including location and expansion, use of tanker facilities, oil and gas development and transport (both onshore and off), and power plants).

EVIDENCE: a) **Access**

The HBAP Access Inventory (Section 3.50(C)) shows ten Coastal Access Points within the boundaries of the Peninsula CSD (#14 Samoa Beach Power Pole (deleted); #16 USS Milwaukee Marker; #15 Samoa Beach (deleted); #17 Samoa Beach (2); #19 North Coast Export Company; #20 Realignment of New Navy Base Road; #26 Fairhaven/Park Street; #21 Eureka Airport/Dragstrip; #21A City Wallflower Mitigation Bank; and the # 24 Samoa Boat Launch. The proposed amendments would allow the construction of an underground wastewater system to serve existing structures with failing onsite wastewater systems and to expand an already permitted wastewater treatment plant within the STMP a site that is already permitted for such development.

The wastewater system improvements include underground wastewater pipelines installed in-road, three pump stations

(Fairhaven, Finntown, and the Humboldt County Park at the Samoa Boat Launch), and the expansion the approved STMP wastewater treatment plant. The proposed wastewater improvements would not have any effect on public access to and along the shoreline, either directly or indirectly. The development of proposed wastewater improvements would not affect access to the mapped public access points identified above, either directly or indirectly, and would be subject to the approval of a Coastal Development Permit by Humboldt County.

The suggested modifications by the California Coastal Commission add requirements to disclose coastal hazards to current and future property owners, limit allowable uses, and require performance standards for substantial remodels or replacement of existing homes in Fairhaven to further minimize risk to life and property from significant geologic and flood hazards which have no additional affect on access to the mapped public access points identified above.

b) **Recreation**

The proposed Samoa Peninsula Wastewater project will provide feasible wastewater service to existing structures on the Samoa Peninsula to address public health and water quality problems, including to visitor serving uses at the Eureka Samoa Field airport and recreation uses such as the Samoa Boat Launch County Park. Public wastewater service, as opposed to on-site wastewater systems, will protect public health and water quality for recreation uses along Humboldt Bay including for water-based activities such as surfing, kayaking, and canoeing.

Upon certification of the proposed HBAP amendments and construction of the wastewater system, public wastewater service would be available to new industrial uses, coastal-dependent uses, and to Interim Conditionally Permitted uses in the Industrial/Coastal Dependent Zone, and available to new residential development in Fairhaven on lots planned and zoned for residential use based on the certified HBAP and located within 300 feet of a Samoa Peninsula Wastewater Project sewer main, subject to performance standards, adopted by ordinance, that will ensure that such development will be protective of public health, safety and welfare, and coastal resources relative to sea level rise and tsunami inundation, and will be protective of Environmentally Sensitive Habitats, based on site-specific investigations prepared by qualified experts.

The Draft EIR for the Samoa Peninsula Wastewater Project assumed that up to 62 new single-family residences may connect to the public sewer system in Fairhaven, based on ESHA constraints and proximity to the sewer main. The assumption that 62 new single-family residences may connect was not based on a rigorous analysis on population growth within the unincorporated area and the likely absorption of such growth within the Samoa Peninsula.

Rather, this assumption was solely based on the lots proximate to the public sewer line that were not believed to be constrained by potential ESHA. New residential development may occur overtime in Fairhaven; however, the State Department of Finance (DOF) projects that there will be no appreciable population growth within Humboldt County in the foreseeable future. As a result, significant population growth is not expected to occur in Fairhaven in the foreseeable future, and the Draft EIR prepared for the project determined that any growth that may occur would not have a significant effect on existing recreation facilities within the Samoa Peninsula (Samoa Peninsula Wastewater Project Draft EIR, Section 4.12 Public Services and Recreation). In addition, for all allowed uses that may connect in the future to the proposed Samoa Peninsula Wastewater project, a Coastal Development Permit is required that would assesses recreation impacts in accordance with the local coastal plan. Therefore, the proposed wastewater system will have no direct effect on the availability of recreation.

The suggested modifications by the California Coastal Commission add requirements to disclose coastal hazards to current and future property owners, limit allowable uses, and require performance standards for substantial remodels or replacement of existing homes in Fairhaven which have no additional effect on the availability of recreation.

c) **Marine Resources**

The proposed amendments to the Humboldt Bay Area Plan would allow the extension of public wastewater service outside the Urban Limit Line to connect to existing structures served by failing OWTS in order to address existing public health and water pollution problems. Therefore, the amendments to the HBAP and construction of the proposed wastewater system would improve water quality and biological productivity within Humboldt Bay.

The wastewater system would rely on wastewater treatment using the approved STMP wastewater treatment plant (including treatment, disinfection, and solids removal), and would discharge treated effluent using the HBHRCD Ocean Outfall. The Approved Samoa WWTF has obtained a permit from the RWQCB which specifies the acceptable level of a pollutant or pollutant parameter including physical properties, solids, biologicals, and chemicals in a discharge to ensure that the state's mandatory standards for clean water are met. These are the regulated standards that would be required to be met during operation, prior to discharge through the ocean outfall pipe, and would require monitoring to determine compliance with established effluent limitations, establish a basis for enforcement actions, assess treatment efficiency, characterize effluents, and characterize the receiving water.

Because the ocean outfall is regulated by existing standards established for the purpose of protecting the ocean, and the additional flow from the project would contribute a small fraction of the existing discharge and Approved Samoa WWTF discharge, the Samoa Peninsula Wastewater Project EIR determined that the impact to the ocean environment from increased discharge from the project would not be significant.

The suggested modifications by the California Coastal Commission add requirements to disclose coastal hazards to current and future property owners, limit allowable uses, and require performance standards for substantial remodels or replacement of existing homes in Fairhaven which have no additional effect on marine resources.

d) **Land Resources**

The proposed project site includes active roadways, and many areas are covered with old asphalt, fractured concrete, compacted gravel on former log decks, and railroad infrastructure. Installation of the wastewater collection system is proposed to occur within the existing roadways to minimize impacts to sensitive coastal habitat, although ground disturbance may occur out to 10 feet beyond existing edge of pavement.

The Peninsula CSD is required by mitigation measures in the project EIR to protect jurisdictional wetlands during construction.

Prior to the start of construction, where construction activities occur within close proximity (100 feet) to delineated wetlands, high visibility construction fencing shall be erected to establish a no-disturbance buffer that would be adequate for the protection of the wetlands, determined by a qualified biologist. The fencing shall be checked weekly by a biological monitor to ensure its continued correct placement and stability.

The potential for the project to have a significant effect related to biological resources has been mitigated to a less than significant level with incorporation of mitigation measures in the EIR. Impacts to biological resources will be minimized by mitigation measures in the EIR implemented prior to and during construction to avoid permanent impacts to wetlands and Environmentally Sensitive Habitat Areas, to restore pre-project conditions for temporary wetland and ESHA impacts, and to identify the locations of biological resources and establish and maintain protective buffers around them through the duration of the project activities. (DEIR pages 4.3-27 to 4.3-42 and FEIR pages 2-26 and 2-27).

In accordance with Senate Bill 18 and Government Code 65352.3, Assembly Bill 52, and Public Resources Code (PRC) 21080.3.2, the County requested a list of Tribal Organization contacts from the Native American Heritage Commission and sent notifications of the project on October 16, 2017, to the appropriate tribal organizations in compliance with SB 18 and AB 52, inviting the tribes to consult on the project and soliciting comments and suggestions.

On March 9, 2018, Humboldt County met with Tribal representatives who requested consultation to present the project and solicit input and comments. Tribal consultation resulted in comments on the Notice of Preparation, and a request to include in project mitigations, the Humboldt Bay Harbor District's Protocols for Inadvertent Archaeological Discoveries for Ground Disturbing Project Permits, Leases and Franchises Issued by The Humboldt Bay Harbor, Recreation and Conservation District, Humboldt Bay, California (adopted in May 2015).

Potentially significant impacts to cultural and tribal cultural resources, including historic resources within the town of Samoa historic district, undiscovered archaeological, paleontological resources and human remains, and tribal cultural resources, have been mitigated to less than significant levels with the incorporation

of mitigation measures in the project EIR.

Impacts to cultural and tribal cultural resources will be minimized by mitigation measures in the EIR requiring consistency with the STMP “D” Design Control Combining Zone design requirements; should an archaeological resource be inadvertently discovered during ground-disturbing activities, by immediately notifying Tribal Historic Preservation Officers and retaining a qualified archaeologist with local experience to consult with the Peninsula CSD to protect unknown archaeological resources and if avoidance is not feasible, implementing a mitigation plan in accordance with the Harbor District’s Standard Operating Procedures; should a paleontological resource be inadvertently discovered during ground-disturbing activities, by notifying a qualified paleontologist to document the discovery as needed, evaluate the potential resource, and assess the significance of the find under the criteria set forth in CEQA Guidelines Section 15064.5; should human remains inadvertently be encountered during construction, by halting work immediately, contacting the Peninsula CSD and County Coroner, and following the Harbor District’s Standard Operating Procedures, consistent with Public Resources Code § 5097.9 and Health and Safety Code § 7050.5. (DEIR pages 4.4-16 to 4.4-26 and FEIR page 2-47 and 2-65).

There are no agricultural or timber lands within the Peninsula Community Services District Boundary; therefore, there is no potential for impacts to agricultural or timber lands.

The suggested modifications by the California Coastal Commission add requirements to disclose coastal hazards to current and future property owners, limit allowable uses, and require performance standards for substantial remodels or replacement of existing homes in Fairhaven which have no additional effect on land resources.

e) **Development**

The proposed Samoa Peninsula Wastewater Project does not involve new residential, commercial, or industrial development nor does the proposed project involve a change to existing planned land uses or land divisions. However, the project would improve public service capacity for existing development and planned uses consistent with the certified HBAP. Although not a component of the wastewater project, the wastewater system may provide service to the following use types, to the extent that the such uses are

consistent with the HBAP and their development is approved through a Coastal Development Permit: new industrial uses; Interim Conditionally Permitted Uses in the MC - Industrial/Coastal-Dependent zone; and to coastal-dependent and to other uses that are consistent with the HBAP and located within 300 feet of a Samoa Peninsula Wastewater Project sewer main subject to the approval of a Coastal Development Permit.

The proposed project would not affect coastal scenic or visual qualities. Aside from construction of new wastewater treatment facilities at the Approved Samoa Town Master Plan Wastewater Treatment Facility (STMP WWTF), the project involves only underground construction that would not result in impacts to coastal scenic or visual qualities. Improvements to the STMP WWTF would be subject to the "D" combining zone design review requirements to ensure the conformance of new development with the policies and standards of the of the STMP and to provide for a design review process where neighborhoods within the same zone district desire to preserve or enhance the area's historical, cultural or scenic values.

Potentially significant impacts to geology, soils, and seismicity have been mitigated by the project EIR to a less than significant level through mitigation measures that would reduce significant impacts from strong seismic ground shaking and ground failure to a less-than-significant level by implementing design and construction measures identified in a site-specific geotechnical study. (DEIR pages 4.5-10 to 4.5-15).

Portions of the project area are subject to sea level rise. As identified in the Draft EIR (Sections 3.3.1, 3.5.3, and 4.14.1) and PER, the project area has a high groundwater table. The project pipelines would be designed to account for infiltration and liquefaction from this condition. New "tight" C900 PVC piping with rubber gasketed push-on joints would be utilized to prevent the infiltration of groundwater as much as possible. Pipes would be bedded and buried at appropriate depths to prevent flotation and minimize the impact of fluidization of the sand during an earthquake on the slope of the pipes.

As noted in Response to Comment 2-14, the Approved Samoa WWTF is located well above estimated sea level rise for year 2070. Furthermore, "future impaired functionality" due to erosion, etc., as exacerbated by sea level rise would be speculative.

The proposed wastewater project is specifically designed to

accommodate needs generated by existing development served by failing OWTS and will accommodate planned uses consistent with the HBAP, in particular Industrial, Coastal-Dependent uses which are priority coastal uses and essential for the regional economy.

The suggested modifications by the California Coastal Commission add requirements to disclose coastal hazards to current and future property owners, and require performance standards for substantial remodels or replacement of existing homes in Fairhaven similar to the performance standards that apply to the development of new homes. These additional requirements will not significantly affect development in the area.

The suggested modifications by the Coastal Commission will eliminate conditionally permitted uses from the list of allowed uses in the area subject to the Q-Qualified Zone, and will not allow Accessory Dwelling Units in that area. Conditionally permitted uses no longer allowed are:

- Manufactured Home Parks,
- Guest Houses,
- Community Assembly,
- Public and Private Recreation and Open Space,
- Bed and Breakfast Establishments,
- Neighborhood Commercial; and
- Private Institutions.

Although property owners will no longer be able to seek approval for the development of these uses in Fairhaven, based on Planning and Building Department files there no record of any Conditional Use Permit applications being submitted in Fairhaven in the past 30 years or more, so this modification is unlikely to have any significant impact on new development in the area.

Permitting ADUs is similarly unlikely in Fairhaven under the current regulatory framework, so deleting that use from the list of allowable uses is also not likely to have any significant impact on new development. Currently, ADUs may only be approved in tsunami runup areas of the HBAP if a licensed professional civil engineer with substantial experience evaluating tsunami hazards concludes the ADU will be safe from catastrophic failure or inundation caused by a local great Cascadia Subduction Zone earthquake event and accompanying tsunami. To date, there have

been no ADUs approved anywhere in the HBAP tsunami runup area, including Fairhaven. Realistically, due to the extensive HBAP standards required for the development of ADUs, there may be no real expectation that one would be feasibly constructed in Fairhaven.

The Draft Environmental Impact Report (EIR) for the Samoa Peninsula Wastewater Project certified by the Board of Supervisors on October 6, 2020 (Item I-2) described the amendments to the HBAP relating to coastal hazards occurring in two phases. The first phase, which is the proposed LCP amendments with the modifications suggested by the Coastal Commission, is intended to be an interim step to allow connection of existing homes to the new sewer line. After the first phase is completed, and following comprehensive amendments to the HBAP addressing sea level rise and tsunami hazard issues, Planning and Building Department staff will initiate Phase II, which will delete the Q-Zone and restore the conditionally permitted use allowances of the RS Zone and the allowance for ADU's to those properties.

f) **Industrial Development.**

An objective of the proposed Samoa Peninsula Wastewater Project is to facilitate Coastal-Dependent, Industrial and Port of Humboldt development consistent with HBAP land use designations and policies, and with zone classifications. The proposed project does not involve oil or gas development, nor is such development anticipated in the near future. However, the Samoa Peninsula Wastewater Project is intended to support new port development which could include projects such as new tanker facilities. The proposed wastewater project anticipates serving the DG Fairhaven Powerplant and could serve additional power plants in the event such new uses are approved.

The suggested modifications by the California Coastal Commission add requirements to disclose coastal hazards to current and future property owners, limit allowable uses, and require performance standards for substantial remodels or replacement of existing homes in Fairhaven which have no additional effect on to further minimize risk to life and property from significant geologic and flood hazards and which have no additional effect on industrial development.

NOW THEREFORE, be it resolved that the Board of Supervisors hereby:

1. Orders this Resolution repeals and replaces Resolution No. 21-19, approved on February 9, 2021;
2. Adopts the findings contained herein;
3. Acknowledges receipt of the Resolutions adopted by the California Coastal Commission on December 16, 2021, and accepts and agrees to Coastal Commission suggested modifications contained in Appendix A, LUP Amendment Suggested Modifications, and in Appendix B, IP Amendment Suggested Modifications, to the report prepared on December 3, 2021, for the December 16, 2021, for Hearing item Th8a, and attached hereto as Exhibit B;
4. Finds that the proposed amendments to the Zoning Map and Coastal Commission suggested modifications conform to and appropriately carry out the policies of the Humboldt Bay Area Plan, as amended, and Chapter 3 of the Coastal Act, and further finds that the proposed Humboldt Bay Area Plan and Zoning Map Amendments will be carried out in accordance with the Coastal Act, and that the Board of Supervisors agrees to issue coastal development permits subject to the approved Local Coastal Program;
5. Finds the project is exempt from the California Environmental Quality Act and directs Planning Department staff to prepare and file a Notice of Exemption with the County Clerk and Office of Planning and Research;
6. Adopts the Humboldt Bay Area Plan Amendments and Coastal Commission suggested modifications as shown in Exhibit A of this Resolution;
7. Finds that the changes to the Humboldt Bay Area Plan and Zoning Maps will become effective immediately upon certification by the Coastal Commission;
8. Authorizes and directs Planning staff to transmit the amended Local Coastal Program Amendment to Allow the Samoa Peninsula Wastewater Project to the California Coastal Commission for their review and certification;
9. Directs the Clerk of the Board to publish the Post-Adoption Summary of the Ordinances within fifteen (15) days after its passage.
10. Directs the Clerk of the Board to give notice of the decision to any interested party.
2. The foregoing Resolution is hereby passed and adopted by the Board of Supervisors on January 25, 2022, by the following vote:

Adopted on motion by Supervisor _____, seconded by Supervisor _____ and the following vote:

AYES: Supervisors:

NAYS: Supervisors:

ABSENT: Supervisors:

ABSTAIN: Supervisors:

_____,
CHAIRPERSON,
HUMBOLDT COUNTY BOARD OF
SUPERVISORS

(SEAL)

ATTEST:

Kathy Hayes, Clerk of the Board of Supervisors
of the County of Humboldt, State of California

By: _____

Nicole Turner, Deputy Clerk

Date:

EXHIBIT A

AMENDMENTS TO THE HUMBOLDT BAY AREA PLAN CHAPTER 3 DEVELOPMENT AND RESOURCE POLICIES

3.22.B. DEVELOPMENT POLICIES

1) Extension of Services

It is the intent of this chapter that extensive rural public service systems, such as water and sewer, not be developed. This is exclusive of public service systems such as roads, electric, gas, telephone, and fire protection systems appropriate to planned levels of development. No permit shall be issued by any agency of the County to a special district or private utility or mutual system proposing to provide such services outside an urban limit line, except for the following:

a) Sewer service extensions outside the urban limit line may be provided to industrial uses, including to Interim Conditionally Permitted Uses in the MC - Industrial/Coastal-Dependent zone.

b) To protect health and water quality from septic systems that are failing or may fail in the foreseeable future due to sea level rise or coastal hazards in a manner that does not induce more development in areas subject to coastal hazards, sewer service may be extended outside the Urban Limit Line established by the Samoa Town Master Plan and within the boundaries of the Peninsula Community Services District (as configured in 2020) hereafter referred to as the Samoa Peninsula Wastewater Project (SPWP), (as described in the Final Environmental Impact Report adopted for the SPWP by the County on October 6, 2020) in compliance with the following:

(1) **Design and Construction of the Public Sewer System.** The SPWP shall be designed and constructed in conformance with specific recommendations contained in a geotechnical report that considers high groundwater levels,

projected sea level rise, the effects of seismic events including strong ground shaking, liquefaction, other ground failure and tsunami inundation, to prevent damage to, or flotation of, pipelines, pump stations, and other wastewater facilities subject to these hazards, and to prevent sanitary sewer overflows.

(2) Eligible Connections. In addition to uses identified in section 3.22-B-1-a, and in compliance with below subsections (3) through (5), sewer service may only be provided to (i) structures and uses that were legally existing as of October 6, 2020 and (ii) to new single-family residences on legal lots in the portion of Fairhaven planned Residential/Exurban located within 300 feet of a SPWP sewer main (excluding Accessory Dwelling Units, which shall be prohibited to minimize risks to life and property from tsunami and sea-level rise hazards).

(3) **Public Sewer Service to Existing Development.** The immediate provision of public sewer service by the SPWP to structures and uses that were legally existing as of October 6, 2020 that are served by onsite septic systems shall be allowed, and shall not be deemed to encourage or facilitate development nor constitute or be construed to be an amendment or extension of any mapped Urban Limit Line. As a condition of approval for a coastal development permit to construct the SPWP, the Peninsula Community Services District shall be required to disclose to each property within the portion of Fairhaven planned Residential/Exurban receiving a sewer connection and containing existing development all of the requirements of subsection 5 below and that the connection to sewer service does not convey or imply any entitlement or commitment for coastal development permit authorization to be granted for any expansion or replacement of the existing development on the subject property. In addition, the District shall be required to provide a plan for providing such notice to any successors and assigns of such existing development.

(4) No Further Extension of Sewer Mains. Further extensions of the public sewer mains beyond the project boundary as mapped in Figures 1-3, 3-3, 3-7, and 3-9 of the Draft Environmental Impact Report for the SPWP dated January 2019 (SCH #2018042083) shall not be allowed without an amendment to the Humboldt Bay Area Plan, except as allowed under section 3.22-B-1(a).

(5) Public Sewer Service to New Residential Development . Upon the extension of sewer service to the portion of Fairhaven planned Residential/Exurban as part of the SPWP, permits for new residential in the Fairhaven area that is located within 300 feet of a SPWP sewer main and no further, may only be approved subject to the following:

- (i) conformance with all performance standards, adopted by ordinance, that will ensure that such development will be protective of public health, safety and welfare, and coastal resources relative to hazards from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, tsunami inundation, and other geologic and flood hazards, and will be protective of Environmentally Sensitive Habitats, based on site-specific investigations prepared by qualified experts; and
- (ii) the requirement that property owners execute and record a deed restriction in form and content acceptable to the County/decision-making authority that acknowledges and agrees, on behalf of themselves and all successors and assigns: (a) the current and future projected geologic and flood hazards to which their development is exposed and will be exposed over the economic life of the development, (b) assume the risks of developing in hazardous locations subject to geologic and flood hazards from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, tsunami inundation, and other geologic and flood hazards, (c), acknowledge that, as new development, the property owners do not have any right to shoreline

protection to protect the proposed development from such flood hazards under the LCP or the Coastal Act, and (d) further acknowledge that shoreline protection is unlikely to be authorized for the development due to inconsistencies with LCP and Coastal Act policies protecting public access, recreation, beach and water quality, among others.

- c) Extension of water service outside of the urban limit line as defined in this Plan shall be permitted provided that:
- (1) service along the extension will not remove capacity necessary to serve future development on undeveloped lots within the existing serviced areas, whether within the urban limit line or not, to the uses permitted in the plan that;
 - (2) developments to be serviced are compatible with the plan;
 - (3) the extension of water service will be paid for only by the users of that service;
 - (4) the existing system is in no way degraded; and
 - (5) the water service extension is found to be in conformance with the resource protection policies of this plan; or
 - (6) it is necessary for agricultural or timber operations.

HUMBOLDT BAY AREA PLAN
CHAPTER 4 STANDARDS FOR PLAN DESIGNATIONS

STMP (New Development) Policy 9:

Waste water treatment provided for the lands subject to the STMP-LUP shall be limited to provision of service for development authorized pursuant to the STMP-LUP only. No lands or development outside the STMP-LUP shall be served by wastewater treatment facilities provided for the lands subject to the STMP-LUP except as allowed under the listed exceptions in Section 3.22, Public Services-Rural, subsection B. No pipeline connections to collect or transfer waste water to or from off-site to or through the STMP-LUP lands shall be installed on or adjacent to the lands subject to the STMP-LUP, except for the purpose of transferring treated waste water effluent for disposal to the Redwood Marine Terminal Manhole 5 ocean outfall, and except for the collection of waste water from service connections established in a manner consistent with Section 3.22, Public Services-Rural, subsection B.

ATTACHMENT 3

**Ordinance Repealing and Replacing Ordinance 2665
Adding a Q – Qualified Zone to Properties in the Fairhaven Area**

AN ORDINANCE AMENDING SECTION 311-7 OF CHAPTER 1, DIVISION 1,
TITLE III OF THE HUMBOLDT COUNTY CODE TO REZONE PROPERTY IN
FAIRHAVEN

The Board of Supervisors of the County of Humboldt do ordain as follows:

SECTION 1. REPEALING PRIOR ORDINANCE. This ordinance hereby repeals in its entirety Ordinance 2665, which was approved on February 9, 2021

SECTION 2. ZONE AMENDMENT. Section 311-7 of the Humboldt County Code is hereby amended by reclassifying lands in the Fairhaven area from Residential Single Family\No Further Subdivision Allowed (RS\X) to Residential Single Family\No Further Subdivision Allowed with a Qualified combining zone (RS\XQ). The area described is also shown on the Humboldt County zoning maps for the Humboldt Bay Area Plan Area and on the map attached as Exhibit A.

SECTION 3. ZONE QUALIFICATION. The special restrictions and regulations set forth in Section 4 herein are hereby made applicable to the property reclassified from “RS\X” to “RS\X-Q” (described in Exhibit A), and that is located within 300 feet of Samoa Peninsula Wastewater Project sewer mains, in accordance with Humboldt County Code Section 313-32.1, which authorizes restriction of the RS zone regulations by application of the “Q” (Qualified Combining Zone).

SECTION 3. PURPOSE OF QUALIFICATIONS. Construction of the Samoa Peninsula Wastewater Project places public sewer mains within 300 feet of vacant residential parcels in the Fairhaven area, triggering a requirement for new development on these parcels to connect to the wastewater system, the SPWP would make these lots appear more desirable for development when in fact there are many other coastal resource protection requirements which must first be addressed. The purposes of the special restrictions and regulations herein imposed on the property described in Exhibit A and that is within 300 feet of a Samoa Peninsula Wastewater Project public sewer main

are:

- a. to address a health hazards and water quality problems and not to encourage or facilitate development, and
- b. to restrict principally and conditionally permitted uses on parcels that are undeveloped as of January 1, 2020, and are within 300 feet of a Samoa Peninsula Wastewater Project public sewer main to which they would be required to connect to public sewer to ensure such development is consistent with the coastal resource and hazard policies of the Humboldt Bay Area Plan and Coastal Act, including but not limited to those policies addressing wetlands, Environmentally Sensitive Habitats, flooding, sea level rise and tsunami risk.

SECTION 4. SPECIAL RESTRICTIONS. Development on legal lots shall conform with the following standards.

- a. To minimize risks from tsunami inundation and sea-level rise hazards, no permit shall be granted for an Accessory Dwelling Unit (ADU) on any lot or for any of the following conditional uses normally allowed in the RS zone: guest house, manufactured home park, bed and breakfast establishment, community assembly, neighborhood commercial, private institution, and private recreation.
- b. Coastal Development Permits may be granted for Principal Permitted Uses, including for new residential development (excluding ADUs) and for improvements to existing legal residential structures, in accordance with the general rules and supplemental application procedures and required findings of the Humboldt County Code applicable to Coastal Development Permits, with all applicable policies of the certified Humboldt Bay Area Plan, and with the following special findings:

- (1) There is no less environmentally damaging feasible alternative, adverse environmental effects have been mitigated to the extent feasible, and required mitigation will maintain or enhance the functional capacity of the wetlands or Environmentally Sensitive Habitats to the extent feasible, if present.
- (2) The proposed development is consistent with the Humboldt Bay Area Plan hazard policies related to flooding, tsunamis, and other geologic and flood hazards and a qualified professional with expertise in coastal resources has prepared site-specific geologic and flood hazard analyses for the proposed development that include among other analyses, an evaluation of a range of sea level rise projections; that consider how sea level rise may impact the development and how the development may impact coastal resources considering sea level rise; and that demonstrate that the proposed development will be sited and designed to minimize risk, assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area.
- (3) The proposed development is consistent with the Coastal Act and consistent with the adopted Humboldt Bay Area Plan tsunami hazard policies revised based on the Guidelines for Evaluating and Mitigating Tsunami Hazards in California adopted by the State Mining and Geology Board in accordance with the Seismic Hazards Mapping Act of 1990, or absent such policies, the proposed development meets the requirements of Humboldt Bay Area Plan Section 3.17 Hazards, B. Development Policies, 3. Tsunamis, subsections 1 through 4.

(4) Evidence has been presented to demonstrate lot legality including, but not limited to, research of title history and deeds.

b. A condition of approval of a Coastal Development Permit for new residential development and for replacement or redevelopment of 50 percent or more of an existing structure shall be a requirement that the applicant shall execute and record a deed restriction in a form and content acceptable to the County/decision-making authority acknowledging and agreeing to the following on behalf of themselves and all successors and assigns:

(1) the applicant acknowledges that the site may be subject to geologic and flood hazards, including, but not limited to, hazards from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, and tsunami inundation and that the landowner assumes any and all liability from such hazards; and

(2) the applicant shall indemnify, defend, and hold the County/decision making authority harmless and its officers, officials, agents, and employees or other third parties with respect to the County's/decision making authority's grant of the Coastal Development Permit from and against any and all loss, liability, damage, expense, costs (including without limitation costs and fees of litigation) and any amounts paid in settlement arising from any injury or damage arising out of or in connection to related to the hazards identified in Section 4(c)(1), the performance of work hereunder, or its failure to comply with any of its obligations contained in this agreement; and

(3) the applicant unconditionally waives any claims of damage or liability against the County/decision making authority and its

officers, officials, agents, and employees for injury or damage related to the hazards identified in Section 4(b)(1) ; and

- (4) the applicant agrees to assume any and all risks of injury or damage to themselves, their heirs, assigns and successors-in-interest in connection with the permitted development on the property that is the subject of this Coastal Development Permit; and
- (5) Except as allowed under Coastal Act Section 30235 (codified in Humboldt Bay Area Plan section 3.30-B-8), no shoreline armoring structures are approved now, nor are such structures authorized in the future for the protection of development within the community of Fairhaven against future hazards that may arise due to the coastal setting of the Fairhaven lands, and the prospect of increased sea level rise in the future, and the present landowners have taken future seal level rise into consideration and have warranted that no such protective structures will be necessary to protect the proposed development within the community of Fairhaven, and further, acknowledges the possibility that no such protective structures would secure approval for construction.

SECTION 6. EFFECTIVE DATE. This ordinance shall take effect immediately upon certification of the proposed amendments to the Local Coastal Program by the California Coastal Commission.

PASSED, APPROVED AND ADOPATED this 25th day of January 2022, by the following vote, to wit:

AYES:
NOES:
ABSENT:

_____, CHAIRPERSON,
HUMBOLDT COUNTY BOARD OF
SUPERVISORS

(SEAL)
ATTEST:
Kathy Hayes, Clerk of the Board of Supervisors
of the County of Humboldt, State of California

By: _____
Nicole Turner, Deputy Clerk
Date:

“EXHIBIT A” TO AN ORDINANCE AMENDING
SECTION 311-7 OF THE HUMBOLDT COUNTY CODE TO REZONE PROPERTY
IN FAIRHAVEN



ZONING MAP

Samoa Peninsula Wastewater Project
"Q-Qualified" Combining Zone
Fairhaven Community



 Zoning Reclassification Boundary

