



COUNTY OF HUMBOLDT

AGENDA ITEM NO.
L-4

For the meeting of July 19, 2016

Date: July 12, 2016

To: Board of Supervisors

From: Robert S. Wall, Interim Director, Planning and Building Department

Subject: **Interim Use Local Coastal Program Amendment** *RSW*
 Case Numbers GPA-16-001 and OR-16-001
 Assessor Parcel Numbers: N/A
 Samoa Peninsula, King Salmon and Fields Landing

RECOMMENDATIONS

That the Board of Supervisors:

1. Reopen the continued public hearing, receive and consider this staff report, all previous staff reports, and the Planning Commission's input and accept public comment.
2. Close the public hearing and deliberate.
3. Make the necessary findings as prepared by staff to approve the Interim Use Local Coastal Program Amendment.

Prepared by *Lisa D. Shikany*
 Lisa D. Shikany, Advance Planning Division

CAO Approval *Chester D. Higgins*

REVIEW: Auditor _____ County Counsel *JRS* Personnel _____ Risk Manager _____ Other _____

TYPE OF ITEM:
 Consent
 Departmental
 Public Hearing
 Other _____

PREVIOUS ACTION/REFERRAL:
 Board Resolution No. 13-81, Meeting of: November 12, 2013
 Item L-1, Meeting of July 5, 2016

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT
 Upon motion of Supervisor *Bass*
 Seconded by Supervisor *Sundberg*
 Ayes *Sundberg, Fennell, Lovelace, Bass*
 Nays *Bonn*
 Abstain
 Absent

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.
 Dated: *July 19, 2016*
 By: *Kathy Hayes*
 Kathy Hayes, Clerk of the Board

4. Adopt Resolution No. 16-87 (Attachment 1), A Resolution of the Board of Supervisors of the County of Humboldt making the required findings for certifying compliance with the California Environmental Quality Act and approving the Interim Use Local Coastal Program Amendment consisting of text amendments to the Humboldt County General Plan/Coastal Land Use Plan (Humboldt Bay Area Plan) adding Section 3.13.B.1.c. and amending Chapter 4, Section 4.10.A MC Industrial/Coastal-Dependent, and text amendments to the Coastal Zoning Regulations/Coastal Implementation Plan amending Title III, Division 1, Chapter 3, Section A, Part 1, Section 313-3.4 and Section B: Regulations in all or Several Zones, part 3: Development Standards Index, and adding Title III, Division 1, Chapter 3, Section B, Part 3, Section 313-104.1. et seq.; directing Planning staff to transmit the Interim Use Local Coastal Program Amendment to the California Coastal Commission for review and consideration; and certifying the Board of Supervisors intends to carry out the Humboldt County Local Coastal Program in a manner fully in conformity with the California Coastal Act; Case Numbers GPA-16-01 and OR-16-01.
5. Adopt Ordinance No. 2555 (Attachment 2), An Ordinance of the Board of Supervisors of the County of Humboldt Amending Title III, Division 1, Chapter 3, Section A, Part 1, Section 313-3.4 and Section B: Regulations in all or Several Zones, Part 3: Development Standards Index, of the Humboldt County Code/Coastal Implementation Plan; and adding Title III, Division 1, Chapter 3, Section B, Part 3, Section 313-104.1 et seq. to the Humboldt County Code/Coastal Implementation Plan; providing for Interim uses in the Industrial/Coastal-Dependent Zone.
6. Direct the Clerk of the Board to give notice of the decision to the County Assessor's Office, and any other interested party.
7. Direct the Clerk of the Board to publish a Post Adoption Summary of the Ordinance (Attachment 3) within 15 days after adoption by the Board, along with the names of those Supervisors voting for and against the ordinance, and to post in the Office of the Clerk of the Board of Supervisors a certified copy of the full text of the adopted ordinance.

SOURCE OF FUNDING:

Coastal Commission Local Coastal Grant funds: Humboldt County Local Coastal Programs – Areas of Deferred Certification & Interim Use of Coastal Dependent Industrial Land, and General Fund.

DISCUSSION

Reasons for the Proposed Amendments

The matter before the Board is a continued public hearing to consider adopting the Interim Use Local Coastal Amendment (Amendment). The Amendment consists of text amendments to the Humboldt Bay Area Plan (HBAP) and to the Coastal Zoning Regulations which would expand the uses allowed in the Industrial/Coastal-Dependent (MC) zone district by providing for certain conditionally permitted noncoastal-dependent interim uses (interim uses) in the MC district on a temporary short-term basis, subject to performance standards designed to protect and prioritize coastal-dependent industrial (CDI) uses. The purpose of the Amendment is to increase the potential for the use of vacant and underutilized MC zoned land around Humboldt Bay while at the same time protecting current and future long term CDI uses.

Until such time as there is a higher demand for the use of MC zoned land for its primary designated purpose of supporting CDI uses, defined in the County's Coastal Zoning Regulations as uses which require a maintained navigable channel to function, it is important to preserve and improve infrastructure that supports CDI uses. The proposed Amendment provides opportunities not currently available to MC landowners to temporarily utilize their vacant or underutilized land to generate revenues that could be used to repair, maintain, and improve infrastructure for future CDI use. These new land use opportunities would be provided by increasing the variety of uses in the MC zone district through the allowance of

interim uses. Allowing for interim uses will increase the opportunity for productive utilization of vacant and underutilized MC zoned land, thereby increasing the potential for these lands to generate revenue and increasing the likelihood that CDI infrastructure will be maintained and ultimately increasing the potential to attract future CDI uses. Interim uses will also increase the opportunity for vacant and underutilized MC zoned land to provide economic development opportunities, including jobs.

Response to Comments, Questions and Suggestions

The public hearing for the Amendment was opened at the July 5, 2016 Board meeting and was continued to July 19, 2016. The Board heard public testimony, which resulted in a number of comments, questions and suggestions. The Board also had some questions and suggestions, and asked that these, as well as those raised during public testimony, be addressed at the July 19th Board meeting. Substantive comments, questions and suggestions are addressed below.

- 1. Does the Amendment require removal of coastal-dependent industrial (CDI) uses:** No, on the contrary, the Amendment requires that interim uses must be compatible with and not interfere with any existing CDI uses, and cannot inhibit the future use of MC zoned land for CDI uses.
- 2. What is the process for the relocation of an interim use:** This question was asked in the context of concern regarding hardships on an interim use that might be required to relocate, and whether these hardships would be a deterrent for the establishment of an interim use. There is discussion beginning on page 6 of the initial Board report dated June 2, 2016 regarding the removal or relocation of interim uses. Following is additional discussion specific to this question.

An interim use would be required to be removed or relocated if the permits for the interim use expire, or if a landowner requires the removal or relocation. As part of the removal or relocation process and prior to the expiration date of interim use permits, the site of an interim use must be restored to pre-project condition or to a condition that would preserve or enhance the utility of the site for future CDI or other priority use. As part of the permitting for an interim use, a site restoration plan is required. The site restoration work will therefore be included in the permitting for an interim use through the site restoration plan. If an interim use is to be relocated within the MC zone district, new interim use permits would be required. If the use is to be relocated outside the MC zone district (i.e. will no longer be an "interim use"), then whatever permits may be required for the new location would need to be obtained.

While the Amendment is designed to allow for interim uses in the MC zone district, the stringent regulations posing potential "hardships" for an interim use are designed to discourage uses that are of a more long term permanent nature, and to help insure that interim uses do not evolve into permanent uses and are treated only as placeholder uses until such time as the MC zone district is once again in demand for CDI uses. The requirement to use existing improvements to the extent feasible, and the consideration of project cost, amortization period, and lead time required for site restoration when permitting an interim use, are required to discourage significant investment and permanence for an interim use, with the intent being to permit the kinds of businesses that will not suffer significant hardship associated with a short permit term or potential need for relocation.

- 3. Is there a particular interest that requires this Amendment to happen now:** The primary interest driving this amendment is a long-standing concern on the part of landowners, the County, and the Coastal Commission regarding the vacant and underutilized condition of the MC zone district resulting from declining CDI uses around Humboldt Bay. The County was awarded grant funding by the Coastal Commission in 2014 to help address this concern, but the issue has persisted for many years prior, some would say for decades.

Cannabis was raised as a potential driving force for this Amendment; this is not the case. The commercial medical marijuana land use ordinance (CMMLUO) has not yet been submitted to the

Coastal Commission for certification; thus, cannabis related development is not allowed in the coastal zone at this time.

If the CMMLUO were to be certified, several use types proposed as interim conditionally permitted uses would allow for medical cannabis related development. However, these same use types are already allowed in the MG zone district, which has a significant presence adjacent to the MC zone district on the Samoa Peninsula and in Fields Landing. Thus, even without the interim use ordinance, there is a potential for medical cannabis development in these areas. Of note, the Harbor District has indicated that cannabis related development would not be viable for their properties regardless of whether the zoning regulations would allow it due to their federal funding and loan covenants and the continuing federal illegal status of cannabis.

4. **Should there be a 2 or 3 year "cooling off" period between the time a CDI use vacates a site and the time an interim use is permitted to occupy the same site:** The goal of this suggestion is to discourage a landowner from forcing out a CDI use in order to accommodate an interim use. While an understandable concern, this seems an unlikely scenario for a number of reasons.

(1) There is very little CDI use occurring in the MC district at this time which is the why interim uses are being proposed. Therefore, there is currently no need to remove a CDI use in order to accommodate an interim use.

(2) The CDI use at the Harbor District's Redwood Dock 2 property is an aquaculture use on the dock and since interim uses are not allowed on docks, there is no displacement concern.

(3) The California Redwood Company CDI use is a shipping use utilizing their dock. Generally, CDI uses that require docks are more lucrative than other uses that might occupy an MC site as an interim use, decreasing the potential for displacement. Also, interim uses would not be allowed on the dock.

(4) CDI uses do not have the permit term limits that interim uses are subject to, making it an unattractive option to displace a long term CDI use for a short term interim use with all the other restrictions applicable to interim uses.

(5) MC properties are already suffering vacancy and underutilization due to the lack of CDI uses wishing to locate on Humboldt Bay. If a landowner loses a CDI use because of market conditions and is forced to wait years before bringing in any business other than another CDI use, the property owner would likely be forced to leave the site vacant given the current lack of CDI uses interested in locating on the bay, further contributing to the vacancy or underutilization of MC zoned land the Amendment is attempting to address.

For all these reasons, staff does not recommend including a requirement for a "cooling off" period in the interim use ordinance. However, if the Board wishes to include such a requirement, the following language could be added:

"104.1.3.4.4 No interim use shall be permitted on a project site within two years of the site having been occupied by a coastal-dependent industrial use."

5. **Government leases should not undercut private leases for interim uses:** This issue, focused on the Harbor District's leasing of land for interim uses, is addressed on page 58 of the initial Board report (Attachment 5). The Amendment does not address the issue of property ownership, and does not differentiate between public and private land. The lease amount charged by either a public or private entity is not governed by the County's land use regulations; Harbor District lease amounts would be determined by the District. Further, the potential for the Harbor District to lease their property and compete with private sector MC landowners already exists and is not a new circumstance created by the Amendment, as the District can and does lease land for CDI uses.

6. **What infrastructure needs will potentially be addressed by allowing interim uses:** Existing infrastructure in the MC zone district consists of utilities (gas, electricity, sewer, and water supply infrastructure), an outfall pipe, buildings, docks, roads, and pavement. It is common knowledge that lack of use, not to mention lack of repair and maintenance, results in deterioration of infrastructure.

Unmaintained pavement can crumble and revert back to dune habitat, requiring imposition of standards required to protect environmentally sensitive habitat area (ESHA) which can be extremely costly or in some cases preclude CDI or other priority use development. If docks fall into disrepair, as has occurred for several docks already, the cost and process for repair or reconstruction are significant. Anecdotally, staff has received comments that buildings have been or will be demolished because it is less expensive to remove them than to maintain them unoccupied. The loss of the Humboldt Bay Municipal Water District's industrial customer base, notably pulp mills on the Samoa Peninsula as stated in their July 1, 2016 letter to the Board, has had detrimental impacts to the District, as they indicated to the County in a General Plan Update comment letter dated November 26, 2014. This has resulted in a District revenue loss and a significant cost shift to municipal customers, as well as underutilization of the District's appropriative water rights which puts those rights at risk. Both water and the infrastructure that supplies it are at risk through underutilization. These are just some examples of potential infrastructure concerns that interim uses could help address.

7. **Did forest products mills exist in the MC zone district:** Much of the Samoa Peninsula was historically occupied by forest products mills such as lumber and pulp mills. Under today's regulations, these mills would not have been allowed in their historic location because they are not considered a CDI use and thus would not be an allowable use in the MC zone district, with the exception that the alteration, improvement, and relocation of existing Heavy Industrial uses, which would include these kinds of mills, are conditionally permitted. These mills were located on the bay to take advantage of the opportunity the bay offered to export their logs on ships, and although the mills themselves would not be either a coastal-dependent or coastal-related use, the export component of their activities was a CDI use. It is difficult to discern how much of an old mill site was associated with export (i.e. CDI) activities, and how much was strictly mill operations. Therefore, for the purpose of the Amendment, the acreages of historic CDI use were estimated very conservatively by determining the MC acreage that, based on aerial photos, contained evidence of historic use such as pavement, buildings, docks, and so forth. The land area devoted to past or present CDI use is likely significantly less than the 361 acres estimated in the July 5th staff report.
8. **Interim uses will rob businesses from other areas of the County:** This issue is addressed beginning on the bottom of page 69 (Attachment 5) of the initial Board report, with additional follow-up on page 8, item #4 of the report regarding industrial property throughout the County. Given the various constraints and requirements for interim uses within the MC zone district versus the requirements those same uses would face in a different zone district, and particularly a zone district outside the coastal zone, staff is not expecting businesses from other areas to locate short-term on the bay as an interim use unless there is an overriding benefit for such relocation, such as having an import/export component or needing to locate close to a business already in the MC district.
9. **Permit term should be longer or shorter:** The permit term is addressed beginning on page 66 of the initial Board report (Attachment 5) under item #5. Longer and shorter permit terms were considered, with the ultimate selection of a normal 7-year term that can be up to 3 years longer if an interim use can be shown to be able to coexist with existing or future CDI uses, or if the interim use provides structural repair, maintenance or upgrades of existing infrastructure, or provides new infrastructure, that supports CDI uses. The permit term was selected to balance the needs of interim uses with the need to minimize the impacts to the long term use of MC zoned land for CDI and other priority uses.
10. **Capital investment should be limited so taxpayers do not pay to remove interim uses:** The ordinance discourages construction of new improvements for interim uses unless those improvements would support CDI or other priority uses, in which case they would not need to be removed. Any interim use

improvements that would need to be removed would be identified in a site restoration plan that is part of the interim use permits. Further, a bond may be required, depending on project and site specific circumstances, to insure such removal.

11. **Several months of analysis is required to determine the current state of shipping and the amount of land needed for general cargo:** There does not seem to be any dispute that at present, CDI uses seeking to locate on Humboldt Bay are not sufficient to utilize the hundreds of acres of vacant or underutilized MC zoned land. In fact, as discussed in item #7 above, actual CDI uses may historically have occupied very little of the MC zone district. A number of reports citing the decline in shipping have been prepared over the years, some of which are cited beginning on page 54 (Attachment 5) of the initial Board report in the *Decline of CDI Uses* section. A detailed economic assessment is not needed at this time. The County is beginning the process to determine if some MC zoned land should be rezoned to another use as part of our Humboldt Bay Area Plan Update (2014 Coastal Commission LCP Grant). That assessment will require some level of analysis regarding future CDI opportunities and the need for area to support these CDI uses to ultimately determine the long term need for MC zoning.
12. **What are other ports doing with their vacant coastal-dependent industrial land:** As discussed on page 53 (Attachment 5) of the initial Board report dated June 2, 2016, there are only four ports in California governed under Coastal Act, and specifically Chapter 8 Ports: the Ports of Hueneme, Long Beach, Los Angeles and San Diego. These four ports are required to have port master plans certified by the Coastal Commission, which function similarly to Local Coastal Programs in that they govern land use, and provide permitting authority to the port.

Humboldt Bay is unique in that it is also subject to the Coastal Act but is not subject to the Chapter 8 Port regulations (i.e. it is not governed as a port and is not eligible to have a master plan), with the exception that Chapter 8 states that California ports, including Humboldt Bay, constitute one of California's primary economic and coastal resources, are an essential element of the national maritime industry, and existing ports are encouraged to modernize and construct necessary facilities within their boundaries in order to minimize or eliminate the necessity for future dredging and filling to create new ports in new areas of the state. It is thus difficult to make a direct comparison between Humboldt Bay and the other four ports governed under the Coastal Act in terms of regulations, as the Coastal Act views them very differently.

Staff conducted some research regarding California ports that allow interim uses, and provided information in the initial June 2, 2016 Board report regarding interim uses in San Francisco Bay, where interim uses are allowed for the purpose of generating revenues to maintain facilities owned by the Port of San Francisco. (San Francisco Bay is not governed under the Coastal Act.) Coastal Commission staff are unaware of any ports governed under the Coastal Act that provide for interim uses. They spoke with Coastal Commission staff from areas of the state where the Chapter 8 ports are located, and the feedback they received was that there was really no need for interim uses as these ports are not experiencing the vacancy issues that occur on Humboldt Bay. As an example, the total 2015 tonnage for Humboldt Bay was approximately 230,000 while the Port of Long Beach 2015 tonnage was almost 163,000,000. The Ports of Los Angeles and Long Beach are considered "megaports", and Los Angeles is ranked first in the U.S. for container volume. The tonnage for the smaller Port of Hueneme was over 1.4 million metric tons in 2014, and is considered a niche market port for autos, produce, general cargo, bulk liquids and fish. These ports are diversified and very active as compared to Humboldt Bay, and as indicated by Coastal Commission staff, would not appear to be suffering from the same vacancy issues that are triggering the need for interim uses.

13. **How many acres include railroad property or easements:** Within the MC zone district on the Samoa Peninsula, there are approximately 5.5 acres of railroad ownership. In Fields Landing, there are approximately 3.5 acres of railroad ownership in the MC zone district.

14. Does the Amendment send a negative message regarding shipping: Shipping is not the sole focus of the MC zone district. The Coastal-Dependent use type is the principally permitted use in the MC zone district, and includes not just shipping related uses, but many other uses including public docks, ship building and boat repair, commercial fishing facilities, fish processing, and aquaculture among other uses. Conditionally permitted priority uses allowed in the MC district include Coastal-Related (coastal-related industrial uses, including but not limited to fish waste processing and fish processing of products for other than human consumption; gas or oil processing and treatment facilities; electrical generating facilities or other facilities which require an ocean intake, outfall, or pipeline; and alterations, improvements, and relocations of existing general industrial uses); Coastal-Dependent Recreation (visitor serving recreational facilities which require channel access, such as marinas serving other than solely commercial vessels; fishing piers; boat launching facilities; bait shops; and marine hardware); and Coastal Access Facilities (development of coastal access facilities consistent with the Coastal Access Development Requirements contained in the Coastal Zoning Regulations.) Thus, the MC zone district does not exist strictly for the purpose of supporting shipping. There are other uses, many of which are also priority uses pursuant to the Coastal Act, that are supported by the MC zone district.

The Amendment makes it clear that CDI uses and other Coastal Act priority uses remain the focus and the priority within the MC zone district. The purpose statement in the interim use ordinance also makes it clear that the purpose of allowing interim uses is to generate revenues that can be used to maintain and improve infrastructure to support future CDI use.

Conformance with the California Environmental Quality Act

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 to adopt the Interim Use LCP 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.

Staff Recommendation

Planning staff continues to support the Interim Use LCP Amendment because the required findings can be made. The Amendment is in the public interest as it reflects the fact that base information or physical conditions have changed, community values and assumptions have changed, and the amendment is necessary to maintain established uses otherwise consistent with a comprehensive view of the General Plan. The proposed Amendment is consistent with the General Plan policies, including the Humboldt Bay Area Plan and the Framework Plan, and with the development capabilities of the property. The Amendment is consistent with Chapter 3 as well as Chapter 8 of the Coastal Act, and will not reduce residential density on a parcel used in the County's Housing Inventory. The Amendment will improve the potential for the repair, maintenance and improvement of infrastructure that supports CDI uses by providing greater opportunity for MC landowners to generate revenue from interim uses while protecting the current and long term use of MC zoned land for CDI uses. Maintaining CDI infrastructure, particularly docks, is an important element in attracting new CDI uses. The Amendment will also provide potential economic development opportunities, including jobs.

FINANCIAL IMPACT

The cost of preparing this staff report is borne by the General Fund through the Planning and Building Department, Advance Planning Division's FY 2015-2016 budget and the General Plan User Fees Trust Fund 3698. This item supports the Board's Strategic Framework by proactively encouraging new local enterprise and facilitating establishment of local revenue sources to address local needs.

OTHER AGENCY INVOLVEMENT

The Coastal Commission must certify the proposed Interim Use Local Coastal Program Amendment. The Commission presented detailed written comments, which are included in Attachment 16. Their comments reflect some of the same concerns expressed by the Planning Commission. Staff will be meeting with the Commission to try to address some of their concerns before the July 5th Board meeting, and will provide a supplemental item for the Board's consideration at that meeting.

ALTERNATIVES TO STAFF RECOMMENDATIONS

There are several alternatives to the adoption of the proposed HBAP text amendments and interim use ordinance provided below:

1. Not allowing Interim Uses (denial of the Amendment): The Board of Supervisors can deny the proposed Amendment which would maintain the status quo. Staff does not recommend this alternative because with no change in the allowable uses in the MC zone district, landowners would continue to experience limitations on the types of uses allowed on their property which limits lease and other income potential. Without adequate income, CDI infrastructure cannot be maintained and costs to reestablish deteriorated infrastructure could further discourage future CDI uses. The issues associated with underutilized or vacant land would continue to exist until such time as CDI use on Humboldt Bay increased, and/or until they are potentially partially addressed during the update of the Humboldt Bay Area Plan when consideration will be given to rezoning some MC zoned land. While this may help lands that are zoned out of MC, it will not help land that remains in MC zoning, absent new CDI uses. Further, the likelihood of land with CDI related infrastructure (particularly docks) being rezoned out of MC is expected to be low, leaving these properties in a continuing vacant, underutilized and deteriorating state after the Humboldt Bay Area Plan is updated.
2. Add or eliminate Use Types: Various use types were considered for interim uses as discussed in Attachment 5 under the heading *Development of the Interim Use LCP Amendment*. To minimize potential conflicts between land uses and preserve as much as possible the industrial nature of the MC zone district, staff's recommendation limits interim uses to those uses allowed in other industrial zone districts (the MG and ML zone districts). The Board could consider adding land uses from other zone districts or deleting certain proposed land uses. Staff does not recommend this alternative because the proposed mix of uses appears to both meet the needs of the property owners and be potentially approvable by the Coastal Commission according to the local Commission staff.
3. Longer permit term: Attachment 5 under the heading *Development of the Interim Use LCP Amendment* contains a lengthy discussion of the proposed permit term. In our discussions over the past several months, Coastal Commission staff have been very clear that a short permit term is one of the key considerations for the establishment of interim uses in the MC zone district in order to minimize impacts to the long term use of the site for CDI use. At the same time, the Planning Department has received comments from landowners that a short permit term could pose problems for businesses that must obtain loans, for example, and could limit the number of interim uses.

The Board could adopt either a shorter or longer time period for allowing CDI uses to continue. Staff does not recommend this alternative because the proposed permit term appears to both meet the needs of the property owners and be potentially approvable by the Coastal Commission according to the local Commission staff.

4. Permit extension or modification: As discussed under Item #5 of Attachment 5 under the heading *Development of the Interim Use LCP Amendment*, the permits for an interim use would expire at the end of the permit term, at which time they become null and void, and all permitted development not authorized to remain by permit would need to have been removed and operation of the interim use

ceased. In order to continue an interim use beyond the permit expiration date, a new permit would be required. An alternative the Board could consider is to allow interim uses to be extended rather than requiring a new permit.

Staff does not recommend this alternative because it could allow interim uses to become more entrenched and more permanent, increasing the potential for displacement of CDI uses. Requiring new permits rather than allowing permits for interim uses to be extended makes it clear that interim uses are intended as only temporary uses with a finite term. This approach also provides the opportunity for a new public hearing and reassessment of the interim use relative to all performance standards, and generally provides greater control over interim uses, thereby insuring maximum protection of priority coastal-dependent industrial uses in the MC zone district.

5. Exclude certain properties from interim uses: This alternative is discussed in detail in Attachment 5, Item #4 under the heading *Development of the Interim Use LCP Amendment*. Several options were considered for excluding properties from having interim uses, including environmental constraints, the existence of onsite CDI uses, and the HBAP Priority Rating. The Board could consider excluding certain properties from having interim uses based on one or more of these criteria, or some other criteria of the Board's choosing.

Staff does not recommend this alternative because all MC zoned properties, and specifically those with docks and other CDI infrastructure, could benefit from the allowance for interim uses. Staff could not identify any criteria needed to geographically protect MC zoned properties for CDI uses; thus, excluding any MC zoned property is determined to be unnecessary for the protection of CDI uses, and would therefore arbitrarily and needlessly limit the scope of interim uses. Furthermore, the use permit and coastal development permit requirement for an interim use would allow for factors such as priority status and environmental constraints to be considered in the review of the application. Finally, the properties that would likely be excluded from interim uses are those properties with CDI infrastructure, and therefore also the properties that could most benefit from those uses and the revenue they generate.

6. Exclude certain areas within properties from interim uses: This alternative is discussed in detail in Attachment 5 under Item #4 under the heading *Development of the Interim Use LCP Amendment*. The Board could consider not allowing interim uses within certain defined areas, for example, within so many feet of a dock. Staff does not recommend this alternative because it would arbitrarily and unnecessarily restrict the interim use of target properties while still not meeting the goal of the restriction, being to reserve the unencumbered space required for a yet to be identified future CDI use.
7. All interim use permits to be heard by the Planning Commission: The areas with MC zoning on the Samoa Peninsula, and in King Salmon and Fields Landing are located either in state jurisdiction or in state appeal jurisdiction in regard to the issuance of coastal development permits. This means that pursuant to our zoning regulations, public hearings for coastal development permits would be conducted by either the Zoning Administrator (ZA) or the Planning Commission, which is also the case for conditional use permits. The Planning Director has the discretion to determine whether a project is heard by the ZA or Planning Commission, but the standard practice is that the ZA would generally conduct the hearings unless a project is recommended for denial or is controversial, in which case they would be heard by the Planning Commission. ZA decisions that are appealed bypass the Planning Commission and go directly to the Board of Supervisors for the appeal hearing.

Given the level of concern regarding interim uses expressed by the Planning Commission, the Board could require that all permits for interim uses be heard by the Planning Commission, removing the Planning Director's discretion to have the ZA hear the permits. Appeals would still be heard by the Board. Staff would recommend following standard protocol by allowing the Planning Director to determine the appropriate hearing body, and does not recommend this alternative.

8. The Board can add a "cooling off" period as provided in Discussion item #4 of this Board report. Staff does not support this alternative for the reasons provided in above referenced item #4. If the Board wishes to include such a requirement, staff suggests the following section be added the interim use ordinance:

"104.1.3.4.4 No interim use shall be permitted on a project site within two years of the site having been occupied by a coastal-dependent industrial use."

9. Refer the Amendment back to the Planning Commission: The Board can choose to not take action on the Amendment, and instead refer it back to the Planning Commission. This may be an option the Board would consider if modifications are made by the Board that were not considered by the Planning Commission. If this alternative is selected, staff would recommend the Board provide clear direction to the Planning Commission regarding what specifically the Commission needs to address. Absent changes that would legally require the Board to send the Amendment back to the Planning Commission, staff does not recommend this option as the Planning Commission has already considered the Amendment.

ATTACHMENTS

NOTE: The attachments supporting this report have been provided to the Board of Supervisors; copies are available for review in the Clerk of the Board's Office.

- Attachment 1: Resolution No. 110-87 adopting the Interim Use Local Coastal Program Amendment and authorizing transmittal of the Amendment to the California Coastal Commission
- Attachment 2: Ordinance No. 2555 amending the Coastal Zoning Regulations
- Attachment 3: Post-Adoption Summary of Ordinance
- Attachment 4: Public comment summary from July 5, 2016 public hearing
- Attachment 5: Report to the Board of Supervisors dated June 2, 2016 together with all attachments thereto; Supplemental Information providing a revised resolution, revised ordinance, and revised analysis of evidence supporting the required findings for approving the Amendment together with all attachments thereto; Supplemental Information providing additional public comment; and public comment letters provided at the July 5, 2016 public hearing; all incorporated herein and attached hereto by reference

Attachment 1

Revised Resolution No. ¹¹⁶⁻⁸⁷ ___ adopting the Interim Use LCP Amendment
and
authorizing transmittal of the Amendment to the Coastal Commission

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA
Certified copy of portion of proceedings, Meeting of July 19, 2016

RESOLUTION NO. 16-87

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT MAKING THE REQUIRED FINDINGS FOR CERTIFYING COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND APPROVING THE INTERIM USE LOCAL COASTAL PROGRAM AMENDMENT CONSISTING OF TEXT AMENDMENTS TO THE HUMBOLDT COUNTY GENERAL PLAN/ COASTAL LAND USE PLAN (HUMBOLDT BAY AREA PLAN) ADDING SECTION 3.13.B.1.c, AND AMENDING CHAPTER 4, SECTION 4.10.A MC INDUSTRIAL/COASTAL-DEPENDENT, AND TEXT AMENDMENTS TO THE COASTAL ZONING REGULATIONS/COASTAL IMPLEMENTATION PLAN AMENDING TITLE III, DIVISION 1, CHAPTER 3, SECTION A, PART 1, SECTION 313-3.4 AND SECTION B: REGULATIONS IN ALL OR SEVERAL ZONES, PART 3: DEVELOPMENT STANDARDS INDEX, AND ADDING TITLE III, DIVISION 1, CHAPTER 3, SECTION B, PART 3, SECTION 313-104.1 ET SEQ.; DIRECTING PLANNING STAFF TO TRANSMIT THE INTERIM USE LOCAL COASTAL PROGRAM AMENDMENT TO THE CALIFORNIA COASTAL COMMISSION FOR REVIEW AND CERTIFICATION; AND CERTIFYING THE BOARD OF SUPERVISORS INTENDS TO CARRY OUT THE HUMBOLDT COUNTY LOCAL COASTAL PROGRAM IN A MANNER FULLY IN CONFORMITY WITH THE CALIFORNIA COASTAL ACT; CASE NUMBERS GPA-16-01 AND OR-16-01

WHEREAS, coastal-dependent industrial uses around Humboldt Bay have been in a state of decline for many years; and

WHEREAS, land use planning for coastal-dependent industrial uses was done in the 1970's, when demand for land to accommodate these types of uses was much higher than it is today; and

WHEREAS, there is currently a significant amount of vacant and underutilized land zoned MC: Industrial/Coastal Dependent around Humboldt Bay, located on the Samoa Peninsula, and in King Salmon and Fields Landing; and

WHEREAS, the principal use of the MC zone district is for coastal-dependent industrial uses that require access to a maintained navigable channel in order to function, and secondary or conditional uses also require channel access or are limited to coastal-related industrial uses, which significantly restricts the types of uses that can occupy MC zoned land; and

WHEREAS, some vacant or underutilized lands zoned MC contain infrastructure necessary to support coastal-dependent industrial uses that is deteriorating, absent adequate revenue to maintain and upgrade the infrastructure that could be derived from those lands if they were leased or otherwise utilized; and

WHEREAS, due to the current low demand for coastal-dependent industrial uses and the resulting overabundance of vacant or underutilized MC zoned land around Humboldt Bay, it is desirable and beneficial to allow certain noncoastal-dependent industrial uses in the MC zone district on an interim basis to help support coastal-dependent industrial uses; and

WHEREAS, the Board of Supervisors adopted Resolution 13-81 on November 12, 2013 authorizing the submittal of a grant application to the California Coastal Commission for several tasks, including development of policies to allow for interim use of Industrial/Coastal-Dependent land, and identification of protections for priority sites and the range of allowable uses for non-priority sites; and

WHEREAS, grant funding for interim uses was received from the California Coastal Commission, with a grant term from April 30, 2014 through April 30, 2016 ; and

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings, Meeting of July 19, 2016

RESOLUTION NO. 16-87

WHEREAS, State law provides for local governments to amend their General Plans up to four (4) times per year, and their Local Coastal Programs up to three (3) times per year; and

WHEREAS, the Planning Division prepared and made available to the public a draft Interim Use Local Coastal Program Amendment consisting of text amendments to the Humboldt County General Plan/Coastal Land Use Plan (Humboldt Bay Area Plan) adding Section 3.13.B.1.c and amending Chapter 4, Section 4.10.A MC Industrial/Coastal-Dependent; and text amendments to the Coastal Zoning Regulations/Coastal Implementation Plan amending Title III, Division 1, Chapter 3, Section A, Part 1, Section 313-3.4 and Section B: Regulation in all or Several Zones, Part 3: Development Standards Index, and adding Title III, Division 1, Chapter 3, Section B, Part 3, Section 313-104.1 et seq.; attached as Exhibit A and incorporated herein, and which will become effective upon certification by the California Coastal Commission; Case Numbers GPA-16-01 and OR-16-01; and

WHEREAS, the Interim Use Local Coastal Program Amendment allows more flexible use of MC zoned lands with the goal of increasing their use while minimizing impacts to any existing CDI uses and to the long term CDI use of these lands; and

WHEREAS, invitations to consult were sent to local Native American tribes with potential interest in the project as determined by the Native American Heritage Commission and Planning Division knowledge, with the Blue Lake Rancheria, Wiyot Tribe and Bear River Band of Rohnerville Rancheria accepting the invitation to consult; and

WHEREAS, the draft Interim Use Local Coastal Program Amendment was developed with input from the public, including public comments provided at a workshop held February 23, 2016 and public comments provided at the April 21, 2016 Planning Commission meeting, from local Native American tribes who accepted the County's invitation to consult on the Amendment, from the Planning Commission, and from Coastal Commission staff; 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 to adopt the Interim Use 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, on April 3, 2016, the Planning Division caused to be published in the Eureka Times-Standard, a newspaper of general circulation in Humboldt County, and caused to be mailed to all owners of land zoned Industrial/Coastal-Dependent, to all owners of land within 300 feet of properties zoned Industrial/Coastal-Dependent, and to all relevant parties listed in 14 CCR §13515(a), a Notice of Public Hearing on the proposed Interim Use Local Coastal Program Amendment, which also serves as the 45-day public notice prior to the County's final action on the Amendment required for Local Coastal Program amendments pursuant to 14 CCR §13515(c); and

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA
Certified copy of portion of proceedings, Meeting of July 19, 2016

RESOLUTION NO. 16-87

WHEREAS, the Planning Division prepared, posted for public review, and filed with the Planning Commission a report dated April 21, 2016, incorporated herein by reference, which contains evidence, findings, analysis, and conclusions in support of making the required findings for approving the Interim Use Local Coastal Program Amendment as provided to the Planning Commission; and

WHEREAS, the Humboldt County Planning Commission held a duly noticed public hearing on the proposed Interim Use Local Coastal Program Amendment on April 21, 2016, and received said Planning Commission report and supplements to the report, an oral staff report, as well as written and spoken evidence and testimony; and

WHEREAS, the Planning Commission reviewed and considered said Planning Commission report and supplements thereto, together with any other written and spoken evidence and testimony presented to the Planning Commission during the public hearing; and

WHEREAS, the Planning Commission, voted 5 to 1 (with one Commissioner absent) against a motion to recommend approval of the Interim Use Local Coastal Program Amendment to the Board of Supervisors, thereby making no recommendation to the Board; and

WHEREAS, the Planning Division prepared, posted for public review, and filed with the Board of Supervisors a report dated June 2, 2016 for the Board of Supervisors meeting of July 5, 2016, incorporated herein by reference, which contains evidence, analysis, findings, and conclusions in support of making the required findings described below in the attached Findings for Approval, Exhibit B, which is incorporated herein, for approving the Interim Use Local Coastal Program Amendment in Exhibit A, Case Numbers GPA-16-001, OR-16-001; and

WHEREAS, the Board of Supervisors reviewed and considered the Board of Supervisors report, including all the information considered by the Planning Commission, for the Interim Use Local Coastal Program Amendment, including the public testimony received during the public hearing on April 21, 2016 and testimony provided by the Planning Commission, and any other written and spoken evidence and testimony presented to the Board of Supervisors during a duly noticed public hearing on July 5, 2016; and

WHEREAS, the Board of Supervisors report dated June 2, 2016, including all attachments thereto, herein incorporated by reference, includes evidence in support of making all of the required findings described below in the attached Findings for Approval, Exhibit B, which is incorporated herein, for approving the proposed Interim Use Local Coastal Program Amendment in Exhibit A, Case Numbers GPA-15-001 and OR-16-001; and

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Board of Supervisors, based on Planning and Building Department – Planning Division staff reports and all attachments thereto, supplemental reports, testimony presented at public hearings, and having considered testimony from the Planning Commission, that:

1. The Interim Use Local Program Amendment is exempt from CEQA pursuant to Sections 15250, 15251(f) and 15265 of the CEQA Guidelines.
2. The Board of Supervisors makes all the required findings described below in the attached Findings for Approval, Exhibit B, based on the described evidence found in the staff report and all attachments thereto dated June 2, 2016 for the Board of Supervisors July 5, 2016 meeting, and finds that the proposed Interim Use Local Coastal Program Amendment conforms to the

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings, Meeting of July 19, 2016

RESOLUTION NO. 16-87

- policies contained in Chapter 3 of the Coastal Act, and further finds that the Amendment will be carried out in accordance with the Coastal Act.
3. The Board of Supervisors finds the Interim Use Local Coastal Program Amendment is in conformity with and appropriately carries out the policies of Humboldt County's Local Coastal Program, and certifies its intent to carry out the Local Coastal Program in a manner fully consistent with the California Coastal Act.
 4. The Board of Supervisors approves the amendment to the Humboldt County Local Coastal Program- Humboldt Bay Area Plan adding Section 3.13.B.1.c, and amending Chapter 4, Section 4.10.A MC Industrial/Coastal-Dependent. These changes will become effective upon certification of the amendment by the Coastal Commission.
 5. The Board of Supervisors hereby directs Planning staff to transmit the approved Interim Use Local Coastal Program Amendment to the California Coastal Commission for their review and certification.
 6. The Board of Supervisors directs and hereby provides notice to the California Coastal Commission and its staff that modifications to the Interim Use Local Coastal Program Amendment required by the Coastal Commission for certification shall first be brought back to the Board of Supervisors for consideration at a future public hearing prior to certification by the Coastal Commission, with the exception that the Board authorizes the Coastal Commission to modify Section 313-3.4 as follows (deletions shown with strikethrough, and additions shown with underline) without returning the Amendment to the Board prior to Coastal Commission certification: *Any use not specifically enumerated in this Division if it is similar to and compatible with the uses, ~~excepting Interim Conditionally Permitted Uses~~, permitted in the MC zone. ~~The determination of uses similar to Interim Conditionally Permitted Uses shall be made by the Planning Director in consultation with Coastal Commission staff.~~*
 7. The Board of Supervisors directs the Clerk of the Board to give notice of the decision to the County Assessor's Office and any other interested party.
 8. The Board of Supervisors directs the Clerk of the Board to publish a summary of the Ordinance within 15 days after its adoption.

Dated: July 19, 2016



MARK LOVELACE, Chair
Humboldt County Board of Supervisors

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

AYES:	Supervisors	Sundberg, Fennell, Lovelace, Bohn, Bass
NAYS:	Supervisors	--
ABSENT:	Supervisors	--
ABSTAIN:	Supervisors	--

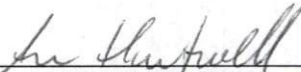
BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA
Certified copy of portion of proceedings, Meeting of July 19, 2016

RESOLUTION NO. 16-87

STATE OF CALIFORNIA)
County of Humboldt)

I, KATHY HAYES, Clerk of the Board of Supervisors, County of Humboldt, State of California, do hereby certify the foregoing to be an original made in the above-entitled matter by said Board of Supervisors at a meeting held in Eureka, California.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Board of Supervisors.



By ANA HARTWELL
Deputy Clerk of the Board of Supervisors of the
County of Humboldt, State of California

Exhibit A

CDI INTERIM USE AMENDMENTS TO HBAP

3.13 COASTAL-DEPENDENT DEVELOPMENT

- *** 30255. Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.
- *** 30234. Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.
- *** 30224. Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

A. PLANNED USES

Exclusive of coastal-dependent industrial, recreational, commercial development located within the cities of Eureka and Arcata, such developments within the urban limit line are located just south of Eureka in King Salmon and Fields Landing. Coastal-dependent developments along the bayfront are essential to the economy of the Humboldt Bay area. The fishing facilities and timber export/import facilities in King Salmon and Fields Landing are located along the deepwater draft Hookton Channel. Recreational facilities in both King Salmon and Fields Landing offer local residents and visitors access to the Bay for passive recreation, and active recreation such as salmon fishing.

Outside of urban limit lines, coastal dependent developments are proposed in several rural areas. An extensive area of coastal dependent industrial development is located along the North Spit south of the Samoa Bridge and east of New Navy Base Road. Commercial Recreational Uses are planned near the intersection of New Navy Base Road and the Samoa Bridge, at several scattered locations in the King Salmon-Fields Landing area, and at Table Bluff. Expansion of the aquaculture industry presents a tremendous opportunity for the expansion of coastal-related industrial development within the upcoming five years. The North Bay already produces 70% of California's total oyster production, and expansion of this industry into other products could add to the local economy.

The recent construction of the Woodley Island Marina added a significant amount of berth capacity for the commercial fishing fleet. If, at some time in the near future, it becomes necessary to further expand the berth capacity within Humboldt Bay, expansion into the channel at Woodley Island would be the preferred choice for expansion, then the extension of the marina along the channel eastward to the Samoa Bridge. The Shipwreck area near King Salmon, although having substantial habitat value in its present condition, may qualify as a degraded wetland; it thus may receive study under Section 30411 for a restoration project in conjunction with the development of a boating facility.

Dredge spoils disposal sites are essential to the maintenance of the coastal dependent industry and recreational opportunities around the Bay. Dredge spoil disposal sites have been identified along the North Spit west of New

Navy Base Road, in surf zone disposal areas along the North Spit, and as identified in the National Wildlife Refuge Plan for the construction of a nesting island at Sand Island in the North Bay.

B. DEVELOPMENT POLICIES

1. Industrial:

- a. within areas designated Coastal Dependent Industrial (MC), the principal uses shall be any coastal-dependent industrial use that requires access to a maintained navigable channel in order to function, including, but not limited to: public docks, water-borne carrier import and export operations, ship building and boat repair, commercial fishing facilities, including berthing and fish receiving, and fish processing when product is for human consumption (fish waste processing and fish processing of products for other than human consumption are considered coastal-related uses), marine oil terminals, OCS service or supply bases, ocean intake, outfall or discharge pipelines serving offshore facilities, and aquaculture and aquaculture support facilities.
 - b. as conditional uses within MC designations, visitor-serving recreational facilities that require channel access, including, but not limited to marinas serving other than solely commercial vessels, fishing piers, and boat-launching facilities; coastal-related industrial uses, including but not limited to fish-waste processing and fish processing of products for other than human consumption, gas and/or oil processing and treatment facilities, electrical generating facilities or other facilities which require an ocean intake, outfall, or pipeline. Such facilities shall not be sited on sites with channel access unless associated with a terminal. Alterations, improvements, and relocations of existing general industrial uses within the MC designation may also be permitted.
 - c. as interim conditional uses within MC designations to allow greater use of underutilized MC lands, certain uses allowed in the MG: Industrial/General land use designation and in the ML: Light Industrial zone district (Section 313-3.2 of the Coastal Zoning Regulations) subject to interim use performance standards to avoid impacts to coastal-dependent industrial uses and other priority uses including visitor-serving recreational facilities that require channel access and coastal-related industrial uses.
 - ed. within areas designated Resource Dependent (MR), the principal use shall be resource-dependent activities, including but not limited to, aquaculture, wetland restoration projects carried out under Coastal Act Section 30233(a)(7), nature study facilities, and minor alterations or repairs to existing structures. Conditionally permitted uses in the MR designation are as described in the Land Use Designation Chapter 4, page 4-4.
 - de. permitting of developments included in this subsection shall be according to the policies of 3.14 et seq., or 3.26 et seq., as applicable.
2. Recreational: any active or passive recreational activity requiring use of open water, the water-beach interface, or other natural features which in Humboldt County exist only or predominantly at near-shore areas.
 3. Commercial: visitor-serving facilities which accommodate or facilitate public use of the shoreline for coastal-dependent recreational purposes, when provision of such services is best provided at shoreline areas and does not interfere with access to the coast.
 4. Where coastal-dependent uses conflict among themselves, priority shall be given to industrial over recreational or commercial uses, and to recreational over commercial uses; except that industrial, recreational, and visitor serving use of private lands shall not displace existing agricultural use where the Area Plan or zoning protect the use.
 5. In reviewing projects requiring channel access, it is recognized that the channel adjacent to the Samoa Spit is naturally scoured and generally provides the best opportunity for deeper draft uses.

6. U.S. Coast Guard facilities shall be considered a priority among coastal-dependent uses.
7. Dredge spoils disposal sites identified on the Resource Protection Maps shall be protected for spoils disposal.

Spoils disposal at Sand Island, if any, are encouraged for restoration of elevations sufficient to reestablish tern nesting on the islands. Any dredge spoils disposal at King Salmon should be designed to minimize erosion and include mitigation measures to protect water quality and existing uses.

It is the policy of the County to encourage island building as a dredge spoils disposal alternative that may be used to create or restore elevations beneficial to the overall productivity of Humboldt Bay. Past disposal projects have created elevations suitable for the establishment of salt marsh and upland habitat. The County encourages the consideration of island building as a reasonable alternative in each application reviewed by agencies with jurisdiction for dredge spoils disposal projects.

From Chapter 4 of the HBAP

MC: INDUSTRIAL/COASTAL-DEPENDENT

PURPOSE: to protect and reserve parcels on or near the sea for industrial uses dependent on, or related to, the harbor.

PRINCIPAL USE: any coastal-dependent industrial use that requires access to a maintained navigable channel in order to function, including, but not limited to: public docks, water-borne carrier import and export operations, ship building and boat repair, commercial fishing facilities, including berthing and fish receiving, and fish processing when product is for human consumption (fish waste processing and fish processing of products for other than human consumption are considered coastal-related uses) marine oil terminals, OCS service or supply bases, ocean intake, outfall or discharge pipelines and pipelines serving offshore facilities, aquaculture and aquaculture support facilities.

CONDITIONAL USES: visitor-serving recreational facilities that require channel access, including, but not limited to marinas serving other than solely commercial vessels, fishing piers, and boat launching facilities; coastal-related industrial uses, including, but not limited to fish waste processing and fish processing and treatment facilities, electrical generating facilities or other facilities which require an ocean intake, outfall, or pipeline. Such facilities shall not be sited on sites with channel access unless associated with a terminal. Alterations, improvements, and relocations of existing general industrial uses within the MC designation. Interim uses that will allow for greater use of underutilized MC lands while at the same time avoiding impacts to their long term coastal-dependent industrial use and other priority uses conditionally permitted on MC designated lands, including for visitor-serving recreational facilities that require channel access and coastal-related industrial uses.

COASTAL ZONING REGULATIONS, TITLE III, DIVISION 1, CHAPTER 3, SECTION A, PART 1, SECTION 313-3.4

313-3.4	MC: Industrial/Coastal-Dependent
Use Type	Principal Permitted Use
Civic Use Types Industrial Use Types*	Minor Utilities Coastal-Dependent; subject to the Coastal-Dependent Industrial Development Regulations Aquaculture; subject to the Coastal-Dependent Industrial Regulations
Use Type	Conditionally Permitted Use
Residential Use Types Civic Use Types	Caretaker's Residence Solid Waste Disposal; subject to the Solid Waste Disposal Regulations Oil and Gas Pipelines; subject to the Oil and Gas Pipelines Regulations Major Electrical Distribution Lines; subject to the Electrical Distribution Lines Regulations
Commercial Use Types Industrial Use Type*	Coastal-Dependent Recreation Coastal-Related; subject to the Coastal-Dependent Industrial Regulations Heavy Industrial, limited to alteration, improvement, and relocation of existing facilities
Extractive Use Type	Surface Mining - 1; subject to Surface Mining Regulations Surface Mining - 2; subject to Surface Mining Regulations Oil and Gas Drilling Processing; subject to Oil and Gas Drilling and Processing Regulations
Natural Resource Use Type	Coastal Access Facilities
Use Type	Interim Conditionally Permitted Use
	Certain uses Principally and Conditionally permitted in Section 313-3.2 <u>ML: Light Industrial and Section 313-3.3 MG: Industrial General not listed above; subject to the Interim Uses in the Coastal-Dependent Industrial Zone Performance Standards contained in Section 313-104.1. Pursuant to Section 313-104.1, certain uses included in the following use types would not be allowed due to their inability to be removed or relocated in a feasible manner.</u>
<u>Civic Use Types</u>	<u>Extensive Impact Civic Uses</u> <u>Minor Generation and Distribution Facilities</u>
<u>Commercial Use Types</u>	<u>Heavy Commercial</u> <u>Retail Sales</u> <u>Retail Service</u>
<u>Industrial Use Types</u>	<u>Warehousing, Storage and Distribution</u> <u>Heavy Industrial</u> <u>Research/Light Industrial</u> <u>Timber Product Processing</u>
<u>Agricultural Use Type</u>	<u>General Agriculture</u>
Use Types Not Listed in This Table**	Any use not specifically enumerated in this Division if it is similar to and compatible with the uses permitted in the MC zone. <u>The determination of uses similar to Interim Conditionally Permitted Uses shall be made by the Planning Director in consultation with Coastal Commission staff.</u>

*See, Industrial Performance Standards, Section 313-103.1.

**See, "Classifying Uses Not Specifically Mentioned in Use Type Descriptions," Section 313-165.

COASTAL ZONING REGULATIONS, TITLE III, DIVISION 1, CHAPTER 3, SECTION B: REGULATIONS IN ALL OR SEVERAL ZONES, PART 3: DEVELOPMENT STANDARDS INDEX

**Section B: Regulations That Apply In All Or Several Zones
Part 3: Development Standards**

313-95.1	Access Dedication Requirements for New Developments	137
313-95.2	Access Dedication Requirements for New Developments in Shelter Cove	140
313-95.3	Access Protection.....	142
	<i>313-96-98: Sections Reserved for Future Use</i>	
313-99.1	Exceptions to the Development Standards	143
	<i>313-100-102: Sections Reserved for Future Use</i>	
313-103.1	Industrial Performance Standards	145
	<i>313104-10-5: Sections Reserved for Future Use</i>	
<u>313-104.1</u>	<u>Interim Uses in the Coastal-Dependent Industrial Zone (MC)</u> <u>Performance Standards</u>	
	<i><u>313104-10-5: Sections Reserved for Future Use</u></i>	
313-106.1	Agriculture Exclusive Sixty Acre Minimum (AE-60) Land Division.....	146
313-106.2	Agriculture Exclusive One Hundred Sixty Acre Minimum (AE-160) Land Division	147
313-106.3	Agriculture Exclusive Six Hundred Acre Minimum (AE-600) Land Division...	148
313-106.4	Coastal Recreational (CR) Land Division	149
313-106.5	Rural Residential Agriculture (RA) Land Division	149
313-106.6	Commercial Timber (TC) and Timber Production Zone (TPZ) Land Division ..	150
313-107.1	Manufactured Home Park Development	151
313-107.2	Merger of Substandard Lots.....	154
	<i>313-108: Section Reserved for Future Use</i>	
313-109.1	Off-Street Parking.....	155
313-110.1	Parkland Dedication.....	164
313-111.1	Residential Density Bonus	168
312-112.1	Road Construction	177
312-113.1	Special Occupancy Parks	178
	<i>313-113-120: Sections Reserved for Future Use</i>	

313-104.1 INTERIM USES IN THE COASTAL-DEPENDENT INDUSTRIAL ZONE PERFORMANCE STANDARDS

104.1.1 Purpose. There is a substantial inventory of vacant and underutilized land zoned MC: Coastal-Dependent Industrial around Humboldt Bay. Until such time as there is a higher demand for the use of MC zoned land for its designated purpose of supporting coastal-dependent industrial uses, defined as uses which require a maintained navigable channel to function, it is desirable and beneficial to generate revenues that can be used to maintain and improve infrastructure for future coastal-dependent industrial use. This is accomplished by increasing the variety of conditionally permitted uses in the MC zone district by allowing noncoastal-dependent interim uses, thereby increasing the potential for the use of vacant and underutilized MC zoned land.

The purpose of these regulations is to establish minimum standards for interim noncoastal-dependent development in the MC zone district while simultaneously protecting the current and long term use of MC zoned land for coastal-dependent industrial use as defined in 104.1.3.1 below, and other priority uses conditionally permitted in the MC zone district including coastal-dependent recreation, coastal-related, and coastal access facilities as defined in Section D: Use Types, Part 2: Glossary of Use Types, of the Coastal Zoning Regulations (hereinafter "other priority use" or "other priority uses"). To allow greater use of underutilized MC zoned lands, certain uses allowed in the ML-Light Industrial and MG-Industrial General zone districts not otherwise allowed in the MC zone district may be allowed in the MC district as conditionally permitted interim uses ("interim uses") subject to the following performance standards which avoid detrimental impacts to the long term coastal-dependent industrial use, or other priority use, of MC zoned lands.

104.1.2 Applicability. The provisions of this section shall apply to all qualified interim uses in the MC zone district. Certain uses included under the various Interim Conditionally Permitted Use Types in Section 313-3.4 of the Coastal Zoning Regulations would not qualify as allowable interim uses at the outset due to their inability to be removed or relocated in a feasible manner. Uses that could not plausibly qualify as interim uses include, but are not limited to, most of the Extensive Impact Civic Uses with the possible exception (where structures that may be needed are either existing or removable) of helistops, publicly operated parking garages, bus depots, and sites for storage, repair and processing of materials and equipment and vehicles operated by governmental entities; and automobile gas or filling stations under Retail Service Uses.

104.1.3 Performance Standards.

104.1.3.1 In order to avoid detrimental impacts to coastal-dependent industrial uses, including public docks; water-borne carrier import and export operations; ship building and boat repair; commercial fishing facilities, including storage and work areas, berthing and fish receiving, and fish processing for human consumption; marine oil terminals; Outer Continental Shelf service or supply bases; ocean intake, outfall or discharge pipelines and pipelines serving offshore facilities; and aquaculture and aquaculture support facilities; and in order to avoid detrimental impacts to other priority uses, interim uses shall :

- 104.1.3.1.1 be compatible with, and not interfere with, the operation of existing onsite and offsite coastal-dependent industrial uses or other priority uses;
- 104.1.3.1.2 allow the site where they are located to be converted back to a coastal-dependent industrial use or other priority use when the site is needed for such use;
- 104.1.3.1.3 use existing improvements where feasible;
- 104.1.3.1.4 be located in the areas least likely to be required by a future coastal-dependent industrial use or other priority use on a particular site to the extent feasible;
- 104.1.3.1.5 provide improvements that are nonpermanent, and removable or relocatable in a feasible manner, or improvements that would preserve or enhance the utility of the project site for future coastal-dependent industrial use or other priority use, if new improvements are required; and
- 104.1.3.1.6 not inhibit the eventual use of MC zoned land for coastal-dependent industrial use or other priority use.
- 104.1.3.2 Compliance with Section 104.1.3.1 shall be determined considering at a minimum all of the following factors:
 - 104.1.3.2.1 the amount of area required for an interim use;
 - 104.1.3.2.2 the type, intensity and location of the interim use;
 - 104.1.3.2.3 maintenance of priority access to roads, bay frontage and infrastructure for existing coastal-dependent industrial uses or other priority uses.
 - 104.1.3.2.4 the priority rating of the site pursuant to section 3.14.B.3.a. of the Humboldt Bay Area Plan;
 - 104.1.3.2.5 the current and projected level of demand for coastal-dependent industrial uses, and the land and infrastructure available to accommodate the demand, as determined in consultation with appropriate public and private agencies or organizations, and appropriate publications;
 - 104.1.3.2.6 the cost and amortization period of investments associated with the proposed use; and
 - 104.1.3.2.7 the lead time necessary to return the site to coastal-dependent industrial use or other priority use.
- 104.1.3.3 Interim uses do not have the priority status of coastal-dependent industrial uses or other priority uses, shall be located in upland areas, shall not be allowed to fill wetlands or coastal waters, shall be located at least 100 feet from environmentally sensitive habitat areas, and shall not be located on any dock or within 100 feet of a dock as measured from the center of the dock at the point where the dock joins the shore.

104.1.3.4 Interim uses shall require both a use permit and coastal development permit, the terms of which shall coincide, and shall be subject to the following standards:

104.1.3.4.1 If interim uses occupy seventy-five (75) percent or more of the total land area zoned MC within the Humboldt Bay Area Plan planning area that either currently supports or has supported coastal-dependent industrial development as determined by the Planning Director, no additional permits for interim uses shall be issued.

104.1.3.4.2 The Hearing Officer shall set the term for the permits, which shall normally be between one (1) and seven (7) years. The permit term shall be set in consideration of the factors listed in section 104.1.3.2 so as to provide a viable time frame for an interim use while avoiding impacts to long term coastal-dependent industrial uses.

104.1.3.4.3 If interim uses occupy fifty (50) percent or more of the total land area zoned MC within the Humboldt Bay Area Plan planning area that either currently supports or has supported coastal-dependent industrial development as determined by the Planning Director, the permit term for any subsequent interim use shall be limited to no more than two (2) years.

104.1.3.4.4 A term of between one (1) and three (3) additional years above the maximum seven (7) years (for a total term not to exceed ten (10) years) may be considered under limited circumstances, but shall not be considered for interim uses subject to the permit term established by 104.1.3.4.3. In addition to the factors provided in section 104.1.3.2, the longer term may be considered for:

104.1.3.4.4.1 interim uses that can coexist with existing or future coastal-dependent industrial uses.

104.1.3.4.4.2 interim uses that provide structural repair, maintenance or upgrades of existing infrastructure, or install new infrastructure, that supports coastal-dependent industrial uses.

104.1.3.4.5 The existence of a use permit and coastal development permit for an interim use shall not prevent the application for and approval of any required land use permits for a non-interim principally or conditionally permitted use in the MC zone district for the same parcel, even if for the same location on the parcel, subject to the condition that the permits for any non-interim use that would conflict with an interim use shall not become effective until the expiration of the interim use permit term set by the Hearing Officer, the abandonment of the interim use during the permit term of the interim use, or the rescission of the lease for the interim use and the removal or relocation of the interim use in accordance with Section 104.1.3.10.

104.1.3.5 An interim use permit and coastal development permit shall not confer any land use entitlement or property right to the holder of the permits beyond the permit expiration date set forth in the use permit and coastal development permit. Interim permits shall expire at the end of the term set by the Hearing Officer, at which time they become null and void. Interim uses shall cease operation and all permitted development not authorized to remain

by permit shall be removed by the permit expiration date. Approval of a new use permit and coastal development permit prior to the expiration date of the existing use permit and coastal development permit authorizing the interim use shall be required in order to continue an interim use uninterrupted beyond the expiration date of the existing permit.

104.1.3.6 An interim use must commence within one (1) year after all applicable appeal periods have lapsed. Extensions of the initial permit vesting period (the period by which the interim use must begin) may be approved in accordance with Section 312-11.3 of the Zoning Ordinance (“Extension of a Permit or Variance”).

104.1.3.7 Interim uses shall utilize existing improvements where feasible. If new improvements are required, they shall be nonpermanent, and removable or relocatable in a feasible manner, or shall be improvements that would preserve or enhance the utility of the project site for future coastal-dependent industrial use or other priority use. A project site shall be restored to pre-project condition, or to a condition that would preserve or enhance the project site for future coastal-dependent industrial use or other priority use, on or before the expiration date of a use permit and coastal development permit for an interim use. An application for a use permit and coastal development permit for interim uses shall include a plan detailing how and when the project site will be restored. A bond in the amount necessary to complete the required restoration may be required at the discretion of the Hearing Officer.

104.1.3.8 Prior to any development occurring that is authorized by an interim use permit and coastal development permit, a Development Plan shall be submitted for review and approval by the Planning Director, and a Notice of Development Plan shall be recorded on all properties where the interim use permit will be located. The Development Plan shall identify the term and all other applicable development restrictions that apply to the interim use, including the plan for restoring the project site to pre-project condition, or to a condition that would preserve or enhance the project site for future coastal-dependent industrial use or other priority use.

104.1.3.9 Coastal-dependent industrial uses and other priority uses are considered priority uses pursuant to the County’s Local Coastal Program and California Coastal Act and as such, shall be given priority over interim uses in evaluating potential land use conflicts between the two uses. Operation of coastal-dependent industrial uses or other priority uses in conformance with all applicable laws and regulations shall not constitute a nuisance pursuant to the Humboldt County Code of Regulations.

104.1.3.10 Any lease for an interim use shall include a provision for rescission of the lease and mandatory relocation or removal of the interim use within six months in the event a coastal-dependent industrial use or other priority use is identified by the property owner for the space occupied by an interim use on terms acceptable to the property owner. A copy of the lease showing compliance with this provision shall be provided to the Planning Division prior to permit issuance. A property owner shall prioritize coastal-dependent industrial uses and other priority uses over interim uses and may exercise the lease rescission provision if a coastal-dependent industrial use or other priority use attempting to occupy the site would be prohibited from doing so due to the existence of one or more interim uses.

104.1.3.11 The Coastal-Dependent Industrial Development regulations contained in Section 313-45.1 of the Coastal Zoning Regulations shall continue to apply to coastal-dependent industrial development in the MC zone district, but shall not apply to noncoastal-dependent industrial interim uses.

104.1.3.12 The Industrial Performance Standards as provided in Section 313-103.1 of the Coastal Zoning Regulations shall apply to all Interim Conditionally Permitted Uses.

104.1.4 **Findings.** In addition to the required findings for all permits and variances pursuant to Chapter 2, Section 312-17 of the Humboldt County Zoning Regulations, the Hearing Officer may approve or conditionally approve an application for an interim use permit and coastal development permit only if a finding can be made that the interim use does not have a detrimental impact on existing coastal-dependent industrial uses or other priority uses, nor on the future long term use of MC zoned land for coastal-dependent industrial uses or other priority uses.

104.1.5 **Tribal Cultural Resources.** Ground disturbing activities will require review by local Native American tribes and may require a record search, a site visit, and/or an archaeological survey for Tribal cultural resources during the permitting process. If a likelihood of significant resources is identified, project redesign, mitigation, and/or monitoring during ground disturbing activities may be required for areas considered sensitive.

104.1.6 **Future Applicability.** If the County undertakes a reduction of MC zoned land, the continued applicability of these standards shall be reviewed and may potentially be modified as may be appropriate.

Exhibit B

Findings of Approval

A. Required Findings for General Plan Amendments

The General Plan of Humboldt County is a dynamic document that can be modified to reflect changing social, economic or environmental conditions, or changes in state law. Per State Planning and Zoning Law (Government Code Section 65000 et seq.) and the Framework Plan, Section 1452.2, *Findings Required*, a general plan amendment may be approved upon making the following findings:

- 1.a The amendment is in the public interest, and one or more of the following findings:
- 2.a. Base information or physical conditions have changed; or
- 2.b. Community values and assumptions have changed; or
- 2.c. There is an error in the plan; or
- 2.d. To maintain established uses otherwise consistent with a comprehensive view of the plan.

B. Required Findings for Amendments to the Zoning Maps and Regulations

State Planning and Zoning Law (Government Code Section 65000 et seq.), and Section 312-50 of the Humboldt County Code (HCC) state the following findings must be made to approve changes in the Zoning Maps and Regulations:

3. The proposed amendment is in the public interest;
4. The proposed amendment is consistent with the General Plan;
5. If the proposed amendment requires a Local Coastal Plan Amendment, the amendment is in conformity with the policies of Chapter 3 of the Coastal Act;
6. The proposed amendment does 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.

A. Required Findings for Consistency with the Coastal Act

Title 14, Section 13551 of the Coastal Commission's Administrative Regulations, Public Resources Code, Section 30200, and Section 312-50.3.3 HCC requires proposed amendments to conform to the policies contained in Chapter 3 of the Coastal Act, which sets forth policies regarding the following issues:

7. Access (including provisions for access with new development projects, public facilities, lower cost visitor facilities, and public access).
8. Recreation (including protection of water-oriented activities, ocean-front land protection for recreational uses, aquaculture uses, and priority of development purposes).
9. Marine Resources (including protecting biological productivity, preventing hazardous waste spills, diking, filling, dredging, fishing, revetments and breakwaters, and water supply and flood control).
10. Land Resources (including protection of environmentally sensitive habitats, agricultural lands, timberlands, and archaeological or paleontological resources).
11. Development (including placing new development within or close to existing developed areas, protection of scenic resources, maintenance of public access by encouraging public transit, providing for recreational opportunities within new development, protection of public safety, expansion of public works facilities and priority of coastal dependent developments).
12. Industrial Development (including location or expansion of coastal-dependent industrial facilities, Use and design of tanker facilities, oil and gas development, refineries or petrochemical facilities, thermal electric generating plants, offshore oil transportation and refining).

Attachment 2

Revised Ordinance No. ²⁵⁵⁵ ___ amending the Coastal Zoning Regulations

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA
 Certified copy of portion of proceedings, Meeting of July 19, 2016

ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT AMENDING TITLE III, DIVISION 1, CHAPTER 3, SECTION A, PART 1, SECTION 313-3.4 AND SECTION B: REGULATIONS IN ALL OR SEVERAL ZONES, PART 3: DEVELOPMENT STANDARDS INDEX, OF THE HUMBOLDT COUNTY CODE/COASTAL IMPLEMENTATION PLAN; AND ADDING TITLE III, DIVISION 1, CHAPTER 3, SECTION B, PART 3, SECTION 313-104.1 ET SEQ. TO THE HUMBOLDT COUNTY CODE/COASTAL IMPLEMENTATION PLAN; PROVIDING FOR INTERIM USES IN THE INDUSTRIAL/COASTAL-DEPENDENT ZONE DISTRICT

ORDINANCE NO. 2555

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

SECTION 1. COASTAL ZONING REGULATIONS AMENDMENT. Title III, Division 1, Chapter 3, Section A, Part 1, Section 313-3.4 is hereby amended by adding Interim Conditionally Permitted Uses (added language underlined):

313-3.4	MC: Industrial/Coastal-Dependent
Use Type	Principal Permitted Use
Civic Use Types	Minor Utilities
Industrial Use Types*	Coastal-Dependent; subject to the Coastal-Dependent Industrial Development Regulations
	Aquaculture; subject to the Coastal-Dependent Industrial Regulations
Use Type	Conditionally Permitted Use
Residential Use Types	Caretaker's Residence
Civic Use Types	Solid Waste Disposal; subject to the Solid Waste Disposal Regulations
	Oil and Gas Pipelines; subject to the Oil and Gas Pipelines Regulations
	Major Electrical Distribution Lines; subject to the Electrical Distribution Lines Regulations
Commercial Use Types	Coastal-Dependent Recreation
Industrial Use Type*	Coastal-Related; subject to the Coastal-Dependent Industrial Regulations
	Heavy Industrial, limited to alteration, improvement, and relocation of existing facilities
Extractive Use Type	Surface Mining - 1; subject to Surface Mining Regulations
	Surface Mining - 2; subject to Surface Mining Regulations
	Oil and Gas Drilling Processing; subject to Oil and Gas Drilling and Processing Regulations
Natural Resource Use Type	Coastal Access Facilities
Use Type	<u>Interim Conditionally Permitted Use</u>
	<u>Certain uses Principally and Conditionally permitted in Section 313-3.2 ML: Light Industrial and Section 313-3.3 MG: Industrial General not listed above; subject to the Interim Uses in the Coastal-Dependent Industrial Zone Performance Standards contained in Section 313-104.1. Pursuant to Section 313-104.1, certain uses included in the following use types would not be allowed due to their inability to be removed or relocated in a feasible manner.</u>
<u>Civic Use Types</u>	<u>Extensive Impact Civic Uses</u>
	<u>Minor Generation and Distribution Facilities</u>
<u>Commercial Use Types</u>	<u>Heavy Commercial</u>

<u>Industrial Use Types</u>	<u>Retail Sales</u> <u>Retail Service</u> <u>Warehousing, Storage and Distribution</u> <u>Heavy Industrial</u> <u>Research/Light Industrial</u>
<u>Agricultural Use Type</u>	<u>Timber Product Processing</u> <u>General Agriculture</u>
Use Types Not Listed in This Table**	Any use not specifically enumerated in this Division if it is similar to and compatible with the uses permitted in the MC zone. <u>The determination of uses similar to Interim Conditionally Permitted Uses shall be made by the Planning Director in consultation with Coastal Commission staff.</u>

*See, Industrial Performance Standards, Section 313-103.1.

**See, "Classifying Uses Not Specifically Mentioned in Use Type Descriptions," Section 313-165.

SECTION 2. COASTAL ZONING REGULATIONS AMENDMENT. Title III, Division 1, Chapter 3, Section B, Part 3, is hereby amended by adding Section 313-104.1, Interim Uses in the Industrial/Coastal-Dependent Zone Performance Standards:

Section B: Regulations That Apply In All Or Several Zones
Part 3: Development Standards

313-95.1	Access Dedication Requirements for New Developments.....	137
313-95.2	Access Dedication Requirements for New Developments in Shelter Cove.....	140
313-95.3	Access Protection	142
	<i>313-96-98: Sections Reserved for Future Use</i>	
313-99.1	Exceptions to the Development Standards	143
	<i>313-100-102: Sections Reserved for Future Use</i>	
313-103.1	Industrial Performance Standards.....	145
	<i>313104-10-5: Sections Reserved for Future Use</i>	
313-104.1	<u>Interim Uses in the Coastal-Dependent Industrial Zone (MC) Performance Standards</u> <u>.....</u>	
	<i>313104-10-5: Sections Reserved for Future Use</i>	
313-106.1	Agriculture Exclusive Sixty Acre Minimum (AE-60) Land Division	146
313-106.2	Agriculture Exclusive One Hundred Sixty Acre Minimum (AE-160) Land Division.....	147
313-106.3	Agriculture Exclusive Six Hundred Acre Minimum (AE-600) Land Division ..	148
313-106.4	Coastal Recreational (CR) Land Division.....	149
313-106.5	Rural Residential Agriculture (RA) Land Division.....	149
313-106.6	Commercial Timber (TC) and Timber Production Zone (TPZ) Land Division..	150
313-107.1	Manufactured Home Park Development	151
313-107.2	Merger of Substandard Lots	154
	<i>313-108: Section Reserved for Future Use</i>	
313-109.1	Off-Street Parking	155
313-110.1	Parkland Dedication	164
313-111.1	Residential Density Bonus	168
312-112.1	Road Construction.....	177
312-113.1	Special Occupancy Parks	178
	<i>313-113-120: Sections Reserved for Future Use</i>	

SECTION 3. COASTAL ZONING REGULATIONS AMENDMENT. Title III, Division 1, Chapter 3, Section B, Part 3, is hereby amended by adding Section 313-104.1 et seq., Interim Uses in the Industrial/Coastal-Dependent Zone Performance Standards:

313-104.1 INTERIM USES IN THE COASTAL-DEPENDENT INDUSTRIAL ZONE PERFORMANCE STANDARDS

104.1.1 Purpose. There is a substantial inventory of vacant and underutilized land zoned MC: Coastal-Dependent Industrial around Humboldt Bay. Until such time as there is a higher demand for the use of MC zoned land for its designated purpose of supporting coastal-dependent industrial uses, defined as uses which require a maintained navigable channel to function, it is desirable and beneficial to generate revenues that can be used to maintain and improve infrastructure for future coastal-dependent industrial use. This is accomplished by increasing the variety of conditionally permitted uses in the MC zone district by allowing noncoastal-dependent interim uses, thereby increasing the potential for the use of vacant and underutilized MC zoned land.

The purpose of these regulations is to establish minimum standards for interim noncoastal-dependent development in the MC zone district while simultaneously protecting the current and long term use of MC zoned land for coastal-dependent industrial use as defined in 104.1.3.1 below, and other priority uses conditionally permitted in the MC zone district including coastal-dependent recreation, coastal-related, and coastal access facilities as defined in Section D: Use Types, Part 2: Glossary of Use Types, of the Coastal Zoning Regulations (hereinafter "other priority use" or "other priority uses"). To allow greater use of underutilized MC zoned lands, certain uses allowed in the ML-Light Industrial and MG-Industrial General zone districts not otherwise allowed in the MC zone district may be allowed in the MC district as conditionally permitted interim uses ("interim uses") subject to the following performance standards which avoid detrimental impacts to the long term coastal-dependent industrial use, or other priority use, of MC zoned lands.

104.1.2 Applicability. The provisions of this section shall apply to all qualified interim uses in the MC zone district. Certain uses included under the various Interim Conditionally Permitted Use Types in Section 313-3.4 of the Coastal Zoning Regulations would not qualify as allowable interim uses at the outset due to their inability to be removed or relocated in a feasible manner. Uses that could not plausibly qualify as interim uses include, but are not limited to, most of the Extensive Impact Civic Uses with the possible exception (where structures that may be needed are either existing or removable) of helistops, publicly operated parking garages, bus depots, and sites for storage, repair and processing of materials and equipment and vehicles operated by governmental entities; and automobile gas or filling stations under Retail Service Uses.

104.1.3 Performance Standards.

104.1.3.1 In order to avoid detrimental impacts to coastal-dependent industrial uses, including public docks; water-borne carrier import and export operations; ship building and boat repair; commercial fishing facilities, including storage and work areas, berthing and fish receiving, and fish processing for human consumption; marine oil terminals; Outer Continental Shelf service or supply bases; ocean intake, outfall or discharge pipelines and pipelines serving offshore facilities; and aquaculture and

aquaculture support facilities; and in order to avoid detrimental impacts to other priority uses, interim uses shall :

104.1.3.1.1 be compatible with, and not interfere with, the operation of existing onsite and offsite coastal-dependent industrial uses or other priority uses;

104.1.3.1.2 allow the site where they are located to be converted back to a coastal-dependent industrial use or other priority use when the site is needed for such use;

104.1.3.1.3 use existing improvements where feasible;

104.1.3.1.4 be located in the areas least likely to be required by a future coastal-dependent industrial use or other priority use on a particular site to the extent feasible;

104.1.3.1.5 provide improvements that are nonpermanent, and removable or relocatable in a feasible manner, or improvements that would preserve or enhance the utility of the project site for future coastal-dependent industrial use or other priority use, if new improvements are required; and

104.1.3.1.6 not inhibit the eventual use of MC zoned land for coastal-dependent industrial use or other priority use.

104.1.3.2 Compliance with Section 104.1.3.1 shall be determined considering at a minimum all of the following factors:

104.1.3.2.1 the amount of area required for an interim use;

104.1.3.2.2 the type, intensity and location of the interim use;

104.1.3.2.3 maintenance of priority access to roads, bay frontage and infrastructure for existing coastal-dependent industrial uses or other priority uses.

104.1.3.2.4 the priority rating of the site pursuant to section 3.14.B.3.a. of the Humboldt Bay Area Plan;

104.1.3.2.5 the current and projected level of demand for coastal- dependent industrial uses, and the land and infrastructure available to accommodate the demand, as determined in consultation with appropriate public and private agencies or organizations, and appropriate publications;

104.1.3.2.6 the cost and amortization period of investments associated with the proposed use; and

104.1.3.2.7 the lead time necessary to return the site to coastal-dependent industrial use or other priority use.

104.1.3.3 Interim uses do not have the priority status of coastal-dependent industrial uses or other priority uses, shall be located in upland areas, shall not be allowed to fill wetlands or coastal waters, shall be located at least 100 feet from environmentally sensitive habitat areas, and shall not be located on any dock or within 100 feet of a dock as measured from the center of the dock at the point where the dock joins the shore.

104.1.3.4 Interim uses shall require both a use permit and coastal development permit, the terms of which shall coincide, and shall be subject to the following standards:

104.1.3.4.1 If interim uses occupy seventy-five (75) percent or more of the total land area zoned MC within the Humboldt Bay Area Plan planning area that either currently supports or has supported coastal-dependent industrial development as determined by the Planning Director, no additional permits for interim uses shall be issued.

104.1.3.4.2 The Hearing Officer shall set the term for the permits, which shall normally be between one (1) and seven (7) years. The permit term shall be set in consideration of the factors listed in section 104.1.3.2 so as to provide a viable time frame for an interim use while avoiding impacts to long term coastal-dependent industrial uses.

104.1.3.4.3 If interim uses occupy fifty (50) percent or more of the total land area zoned MC within the Humboldt Bay Area Plan planning area that either currently supports or has supported coastal-dependent industrial development as determined by the Planning Director, the permit term for any subsequent interim use shall be limited to no more than two (2) years.

104.1.3.4.4 A term of between one (1) and three (3) additional years above the maximum seven (7) years (for a total term not to exceed ten (10) years) may be considered under limited circumstances, but shall not be considered for interim uses subject to the permit term established by 104.1.3.4.3. In addition to the factors provided in section 104.1.3.2, the longer term may be considered for:

104.1.3.4.4.1 interim uses that can coexist with existing or future coastal-dependent industrial uses.

104.1.3.4.4.2 interim uses that provide structural repair, maintenance or upgrades of existing infrastructure, or install new infrastructure, that supports coastal-dependent industrial uses.

104.1.3.4.5 The existence of a use permit and coastal development permit for an interim use shall not prevent the application for and approval of any required land use permits for a non-interim principally or conditionally permitted use in the MC zone district for the same parcel, even if for the same location on the parcel, subject to the condition that the permits for any non-interim use that would conflict with an interim use shall not become effective until the expiration of the interim use permit term set by the Hearing Officer, the abandonment of the interim use during the permit term of the interim use, or the rescission of the lease

for the interim use and the removal or relocation of the interim use in accordance with Section 104.1.3.10.

104.1.3.5 An interim use permit and coastal development permit shall not confer any land use entitlement or property right to the holder of the permits beyond the permit expiration date set forth in the use permit and coastal development permit. Interim permits shall expire at the end of the term set by the Hearing Officer, at which time they become null and void. Interim uses shall cease operation and all permitted development not authorized to remain by permit shall be removed by the permit expiration date. Approval of a new use permit and coastal development permit prior to the expiration date of the existing use permit and coastal development permit authorizing the interim use shall be required in order to continue an interim use uninterrupted beyond the expiration date of the existing permit.

104.1.3.6 An interim use must commence within one (1) year after all applicable appeal periods have lapsed. Extensions of the initial permit vesting period (the period by which the interim use must begin) may be approved in accordance with Section 312-11.3 of the Zoning Ordinance (“Extension of a Permit or Variance”).

104.1.3.7 Interim uses shall utilize existing improvements where feasible. If new improvements are required, they shall be nonpermanent, and removable or relocatable in a feasible manner, or shall be improvements that would preserve or enhance the utility of the project site for future coastal-dependent industrial use or other priority use. A project site shall be restored to pre-project condition, or to a condition that would preserve or enhance the project site for future coastal-dependent industrial use or other priority use, on or before the expiration date of a use permit and coastal development permit for an interim use. An application for a use permit and coastal development permit for interim uses shall include a plan detailing how and when the project site will be restored. A bond in the amount necessary to complete the required restoration may be required at the discretion of the Hearing Officer.

104.1.3.8 Prior to any development occurring that is authorized by an interim use permit and coastal development permit, a Development Plan shall be submitted for review and approval by the Planning Director, and a Notice of Development Plan shall be recorded on all properties where the interim use permit will be located. The Development Plan shall identify the term and all other applicable development restrictions that apply to the interim use, including the plan for restoring the project site to pre-project condition, or to a condition that would preserve or enhance the project site for future coastal-dependent industrial use or other priority use.

104.1.3.9 Coastal-dependent industrial uses and other priority uses are considered priority uses pursuant to the County’s Local Coastal Program and California Coastal Act and as such, shall be given priority over interim uses in evaluating potential land use conflicts between the two uses. Operation of coastal-dependent industrial uses or other priority uses in conformance with all applicable laws and regulations shall not constitute a nuisance pursuant to the Humboldt County Code of Regulations.

104.1.3.10 Any lease for an interim use shall include a provision for rescission of the lease and mandatory relocation or removal of the interim use within six months in the event a

coastal-dependent industrial use or other priority use is identified by the property owner for the space occupied by an interim use on terms acceptable to the property owner. A copy of the lease showing compliance with this provision shall be provided to the Planning Division prior to permit issuance. A property owner shall prioritize coastal-dependent industrial uses and other priority uses over interim uses and may exercise the lease rescission provision if a coastal-dependent industrial use or other priority use attempting to occupy the site would be prohibited from doing so due to the existence of one or more interim uses.

104.1.3.11 The Coastal-Dependent Industrial Development regulations contained in Section 313-45.1 of the Coastal Zoning Regulations shall continue to apply to coastal-dependent industrial development in the MC zone district, but shall not apply to noncoastal-dependent industrial interim uses.

104.1.3.12 The Industrial Performance Standards as provided in Section 313-103.1 of the Coastal Zoning Regulations shall apply to all Interim Conditionally Permitted Uses.

104.1.4 **Findings.** In addition to the required findings for all permits and variances pursuant to Chapter 2, Section 312-17 of the Humboldt County Zoning Regulations, the Hearing Officer may approve or conditionally approve an application for an interim use permit and coastal development permit only if a finding can be made that the interim use does not have a detrimental impact on existing coastal-dependent industrial uses or other priority uses, nor on the future long term use of MC zoned land for coastal-dependent industrial uses or other priority uses.

104.1.5 **Tribal Cultural Resources.** Ground disturbing activities will require review by local Native American tribes and may require a record search, a site visit, and/or an archaeological survey for Tribal cultural resources during the permitting process. If a likelihood of significant resources is identified, project redesign, mitigation, and/or monitoring during ground disturbing activities may be required for areas considered sensitive.

104.1.6 **Future Applicability.** If the County undertakes a reduction of MC zoned land, the continued applicability of these standards shall be reviewed and may potentially be modified as may be appropriate.

SECTION 4. EFFECTIVE DATE. This ordinance shall become effective immediately upon certification of the proposed amendment to the Local Coastal Program by the California Coastal Commission. A summary shall be published at least five (5) days before the date set for adoption and again fifteen (15) days after passage of this ordinance. It shall be published at least once with the names of the Board of Supervisors voting for and against the ordinance in a newspaper of general circulation published in the County of Humboldt, State of California.

PASSED, APPROVED AND ADOPTED this 19th day of July, 2016 on the following vote, to wit:

AYES: Supervisors Sundberg, Fennell, Bohn, Bass
NOES: Supervisors Lovelace
ABSENT: Supervisors --



MARK LOVELACE, Chair
Board of Supervisors of the County of Humboldt,
State of California

(SEAL)

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

By: _____
Ana Hartwell, Deputy

Attachment 3

Post-adoption summary of ordinance

POST-ADOPTION SUMMARY OF ORDINANCE (For publication after adoption)

On July 19, 2016, the Humboldt County Board of Supervisors adopted Ordinance No. _____, which amends the Local Coastal Program - Coastal Zoning Regulations to expand the uses allowed in the Industrial/Coastal-Dependent (MC) zone district by providing for certain conditionally permitted noncoastal-dependent interim uses in the MC district on a temporary short-term basis, subject to performance standards designed to protect and prioritize coastal-dependent industrial (CDI) uses. The purpose of the Interim Use Local Coastal Program Amendment is to increase the potential for the use of vacant and underutilized MC zoned land around Humboldt Bay while at the same time protecting current and future long term CDI uses. The Amendment will become effective immediately upon certification by the California Coastal Commission. The names of the Supervisors voting for and against are as follows:

The names of the Supervisors voting for and against are as follows:

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

A copy of the Ordinance is posted in the office of the Clerk of the Board of Supervisors, 825 Fifth Street, Room 111, Eureka, California.

Attachment 4

Public comment summary from July 5, 2016 public hearing

July 5, 2016 Board of Supervisor's Meeting
Public Comment Summary

Note – This summary is a paraphrased version of public comment, and is not a transcription.

1. Chuck Ciancio
 - a. Commented that the Coastal Commission will not listen to you the Board, and the Board is not in control of their destiny
2. Scott Pesch
 - a. Represents the Harbor District in their attempt to lease buildings at Redwood Dock 2
 - b. As a broker, he is taking calls regarding warehouse and yard space for contractors, and notes the lack of such space
 - c. With cannabis, there is even more demand for warehouse space which is driving up prices, making warehouse space unaffordable for contractors
 - d. There is a lack of warehouse space, and what is available has to compete with cannabis
 - e. 1,200 to 5,000 sq. ft. is what most people are looking for
 - f. There is a lack of available land, particularly in Eureka, and cost of construction is too high to support reasonable rental pricing
 - g. Repurposing some of our old mill sites would be beneficial
 - h. Interest in warehouse space generally in Eureka and Arcata
3. Gary Rynearson – on behalf of Green Diamond
 - a. Supports the proposed Amendment
 - b. Notes forest products are our only export
 - c. Owns 80 acres on Samoa Peninsula and wants to see maximum flexibility
 - d. Would like to see forest products manufacturing as a principally permitted use
 - e. A 10-year permit term would be preferable to 7 years
4. Charles Benbow
 - a. Cannot see how anyone could oppose the Amendment if they have driven around out there (Samoa Peninsula)
 - b. Would provide the Harbor District with funding
 - c. Unless the Board has another idea, this should be supported
 - d. It will take 20 to 30 years if the railroad were to come back, at a cost of billions of dollars in public money
 - e. We need to put this land into production
 - f. The Board should adopt the Amendment as written
5. Pat Higgins – Harbor District Chairman
 - a. The Amendment is an important step to stimulating the economy
 - b. Off-shore oil is no longer a viable option
 - c. The Harbor District has worked to pursue international trade
 - d. To restrict the use of Redwood Terminal 2 would not protect the District's investment or reward them for undertaking the clean-up of that property
 - e. The Amendment can create jobs and diversify revenue
 - f. In the longer term, we can hopefully have a better plan

6. Karen Brooks

- a. What are other counties doing with vacant CDI lands, and are they allowing interim uses
- b. If we are not "all in" supporting shipping, will the ACOE still provide dredging funds or give them to someone else
- c. How much acreage is in rail easements in the MC district
- d. The infrastructure needs have not been adequately described
- e. Retail sales and general agriculture, particularly cannabis, should not be allowed

7. Leroy Zerlang

- a. We have done so much to bring shipping to Humboldt Bay
- b. The bay is too small and the entrance too shallow, we are beating a dead horse
- c. This has not been a seaport since the 1890s, we are a timber port.
- d. It is time to change course and let us do something different, let us get back to work
- e. Ships are getting larger, but the bay is not changing

8. Mike Wilson

- a. Mentioned a variety of infrastructure to answer Karen Brooks' question, including gas and electricity (power needs to be used or we lose it), outfall pipe, warehousing, docks
- b. We are "all in" – there are physical requirements to maintain the infrastructure
- c. Of the 350 acres (staff note – this is actually 390 acres on the Samoa Peninsula) identified as having past CDI use, were some of these uses mills and those types of activities, which were not CDI uses

9. Monty Provolt

- a. Not necessarily against the Amendment
- b. There are experts that think the east/west rail can happen. The study will determine feasibility
- c. The Amendment would show a lack of will to support fishing.
- d. Should postpone adoption of the Amendment until after the study is completed.
- e. 7 years is not temporary; interim uses should be revisited every 2 years.
- f. Should limit capital investment so taxpayers are not stuck removing interim uses.
- g. Interim uses on government property cannot undercut private leases
- h. This will not result in new businesses, but will rob businesses from other areas of the County.

10. William Bertain

- a. This is a momentous decision, and will affect us for years to come
- b. If Amendment is adopted, we will be putting up a big sign to port and rail developers that we do not want shipping here
- c. Harbor District is recognized as not being in favor of shipping, and attempted to undercut efforts to get rail
- d. It is ironic that the proposal for interim uses is being brought forward at the same time as the Caltrans study, a state agency that sees enough rail potential to fund a study
- e. Fact that Caltrans is willing to fund study should give Board pause in adopting Amendment.
- f. What is proposed is contrary to Harbor District's mandate
- g. Look at Appendix 2 Section 4, talks about main purpose of District, commerce and natural resources
- h. What is the current view of the shipping industry and the amount of land needed for general cargo; need to do several months of study

Board of Supervisors' Questions

Supervisor Bohn – Asked if there could be a “cooling off” period of 2 to 3 years from the time a CDI uses leaves until an interim use is allowed.

Supervisor Fennel – Asked if there is an urgent need to make this happen now, such as cannabis. Also asked about the relocation process for an interim use.

Chairman Lovelace – Asked for clarification that CDI uses were not required to relocate in order to accommodate an interim use.

Attachment 5

Report to the Board of Supervisors dated June 2, 2016 together with all attachments thereto; Supplemental Information providing a revised resolution, revised ordinance, and revised analysis of evidence supporting the required findings for approving the Amendment together with all attachments thereto; Supplemental Information providing additional public comment; and public comment letters provided at the July 5, 2016 public hearing; all incorporated herein and attached hereto by reference.