

ATTACHMENT 3

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

(Modifications to Ordinance 2665 approved by the California Coastal Commission on December 16, 2021 are shown in underline text and deletions are shown in ~~strikeout~~ text):

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

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

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

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

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

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

are:

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

SECTION 4. SPECIAL RESTRICTIONS. Development Principally and conditionally permitted uses on legal lots ~~parcels that are undeveloped as of January 1, 2020, and all Accessory Dwelling Units,~~ shall conform with ~~be subject to~~ the following performance standards below.

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

the certified Humboldt Bay Area Plan, and with ~~as well as~~ the following special findings:

- (1) There is no less environmentally damaging feasible alternative, adverse environmental effects have been mitigated to the extent feasible, and required mitigation will maintain or enhance the functional capacity of the wetlands or Environmentally Sensitive Habitats to the extent feasible, if present.
- (2) The proposed development is consistent with the Coastal Act and consistent with adopted Humboldt Bay Area Plan hazard policies related to flooding, tsunamis, and other geologic and flood hazards and sea level rise development policies, or absent such policies, a qualified professional with expertise in coastal resources has prepared a site-specific sea level rise geologic and flood hazard analyses for the proposed development that includes among other analyses, an evaluation of a range of sea level rise projections; that shows consider how sea level rise may impact the development and how the development may impact coastal resources considering sea level rise; and that demonstrates that the proposed development will be sited and designed to minimize risk, assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area not create a hazard to life, health, safety, the general welfare, or coastal resources for the life of the project.
- (3) The proposed development is consistent with the Coastal Act and consistent with the adopted Humboldt Bay Area Plan tsunami hazard policies revised based on the Guidelines for Evaluating and Mitigating Tsunami Hazards in California adopted by the State

Mining and Geology Board in accordance with the Seismic Hazards Mapping Act of 1990, or absent such policies, the proposed development meets the requirements of Humboldt Bay Area Plan Section 3.17 Hazards, B. Development Policies, 3. Tsunamis, subsections 1 through 4.

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

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

- (1) the applicant acknowledges that the site may be subject to geologic and flood hazards, as well as including, but not limited to, hazards from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, and tsunami inundation and that the landowner assumes any and all liability from such hazards; and
- (2) the applicant shall indemnify, defend, and hold the County/decision making authority harmless and its officers, officials, agents, and employees or other third parties with respect to the County's/decision making authority's grant of the Coastal Development Permit from and against any and all loss, liability, damage, expense, costs (including without limitation costs and fees of litigation) and any amounts paid in settlement arising from any injury or damage arising out of or in connection to related to the

hazards identified in Section 4(b)(1), the performance of work hereunder, or its failure to comply with any of its obligations contained in this agreement; and

- (3) the applicant unconditionally waives any claims of damage or liability against the County/decision making authority and its officers, officials, agents, and employees for injury or damage related to the hazards identified in Section 4(b)(1) ; and
- (4) the applicant agrees to assume any and all risks of injury or damage to themselves, their heirs, assigns and successors-in-interest in connection with the permitted development on the property that is the subject of this Coastal Development Permit; and
- (5) Except as allowed under Coastal Act Section 30235 (codified in Humboldt Bay Area Plan section 3.30-B-8), nNo shoreline armoring structures are approved now, nor are such structures authorized in the future for the protection of development within the community of Fairhaven against future hazards that may arise due to the coastal setting of the Fairhaven lands, and the prospect of increased sea level rise in the future, and the present landowners have taken future seal level rise into consideration and have warranted that no such protective structures will be necessary to protect the proposed development within the community of Fairhaven, and further, acknowledges the possibility that no such protective structures would secure approval for construction.

~~e. Coastal Development Permits may be granted for Principal Permitted Uses in accordance with the general rules and supplemental application procedures and required findings of the Humboldt County Code applicable to such permits as well as the performance standards of 4(a) above.~~

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

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

AYES:
NOES:
ABSENT:

_____, CHAIRPERSON,
HUMBOLDT COUNTY BOARD OF
SUPERVISORS

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

By: _____
Nicole Turner, Deputy Clerk
Date:

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



ZONING MAP

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



 Zoning Reclassification Boundary

