

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
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December 21, 2021

John Miller, Senior Planner
Humboldt County Planning & Building Dept.
3015 H Street
Eureka, CA 95501

RE: Local Coastal Program Amendment (LCPA) Application No. LCP-1-HUM-21-0030-1 proposing amendments to the Humboldt Bay Area Plan (HBAP) and the Implementation Plan (IP) for the Samoa Peninsula Wastewater Project (SPWP).

Dear Mr. Miller:

The purpose of this letter is to formally notify you of the Coastal Commission's action on the LCP amendment for the proposed Samoa Peninsula Wastewater Project referenced above. By a series of unanimous votes, at a public hearing on December 16, 2021 the Commission: (1) rejected the amendment to the LUP as submitted; (2) approved the LUP amendment with suggested modifications; (3) rejected the amendment to the IP as submitted; and (4) approved the IP amendment with suggested modifications. The modifications were detailed in the staff report dated December 3, 2021. The resolutions of certification and the suggested modifications are listed in Attachment 1 to this letter.

Pursuant to Section 13544 of Title 14 of the California Code of Regulations, effective certification of the LCP amendment will occur after:

1. The County of Humboldt acknowledges receipt of the enclosed resolutions as adopted by the Commission, and within six months of the December 16, 2021 action (i.e., **by June 14, 2022**) through an adopted resolution:
 - A. accepts and agrees to the modifications that are suggested;
 - B. takes whatever formal action is necessary to implement the modifications;
and
 - C. agrees to issue coastal development permits subject to the approved Local Coastal Program;
2. The Commission does not object to the Executive Director's determination that the resolution by the Board of Supervisors is legally adequate; and
3. That determination is filed with the Secretary of Resources by the Coastal Commission staff.

Alternatively, the County has the option to resubmit a different LCP amendment without the Suggested Modifications that would then be subject to future Commission review.

John Miller

Re: Approval of LCPA Application No. LCP-1-HUM-21-0030-1 (SPWP)

If we can provide any assistance in completing the final steps outlined above to achieve effective certification of the amendment, please don't hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Melissa B. Kraemer". The signature is written in a cursive, flowing style.

Melissa B. Kraemer
North Coast District Supervisor

Encl. Attachment 1: *Resolutions and Suggested Modifications*

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**ATTACHMENT 1****LCP-1-HUM-21-0030-1****(SAMOA PENINSULA WASTEWATER PROJECT)****RESOLUTIONS****ADOPTED BY THE COASTAL COMMISSION ON DECEMBER 16, 2021**

Resolution 1: The Commission hereby denies certification of the Land Use Plan Amendment No. LCP-1-HUM-21-0030-1 as submitted by the County of Humboldt and adopts the findings set forth below on the grounds that the submitted land use plan amendment fails to meet the requirements of and does not conform to the policies of Chapter 3 of the California Coastal Act. Certification of the land use plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the land use plan amendment.

Resolution 2: The Commission hereby certifies the Land Use Plan Amendment No. LCP-1-HUM-21-0030-1 for the County of Humboldt if modified as suggested and adopts the findings set forth below on the grounds that the land use plan amendment with the suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the land use plan amendment if modified.

Resolution 3: The Commission hereby denies certification of Implementation Program Amendment No. LCP-1-HUM-21-0030-1 as submitted by the County of Humboldt on grounds that the implementation program amendment as submitted does not conform with, and is inadequate to carry out the provisions of the certified land use plan as amended. Certification of the implementation program amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the implementation program amendment as submitted.

Resolution 4: The Commission hereby certifies the Implementation Program Amendment No. LCP-1-HUM-21-0030-1 for the County of Humboldt if modified as suggested on grounds that the implementation program, as amended, conforms with

and is adequate to carry out the provisions of the certified land use plan as amended. Certification of the implementation program amendment will comply with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the implementation program amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

LUP AMENDMENT SUGGESTED MODIFICATIONS

Language of the currently certified LUP is shown in plain text.

The County's proposed additions are shown in underlined text, and the County's proposed deletions are shown in ~~strike-out text~~.

Suggested modification additions and deletions are shown in **bold double-underlined text** and ~~**bold double-strike-out text**~~, respectively.

I. **Amend Humboldt Bay Area Plan Chapter 3 [Rural Development Policies and Standards] policy 3.22-B-1, Public Services-Rural as follows:**

B. **DEVELOPMENT POLICIES**

1. **Extension of Services**

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

- a. Sewer service extensions outside the urban limit line may be provided to industrial uses, including to Interim Conditionally Permitted Uses in the MC - Industrial/Coastal-Dependent zone, and to coastal dependent uses.
- b. **To protect health and water quality from septic systems that are failing or may fail in the foreseeable future due to sea level rise or coastal hazards in a manner that does not induce more development in areas subject to coastal hazards, s**~~Sewer service may be extended outside the Urban Limit Line established by the Samoa Town Master Plan and within the boundaries of the Peninsula Community Services District (as~~

configured in 2020) hereafter referred to as the Samoa Peninsula Wastewater Project (SPWP) (as described in the Final Environmental Impact Report adopted for the SPWP by the County on October 6, 2020) in compliance with the following:

- (1) Design and Construction of the Public Sewer System. The SPWP shall be designed and constructed in conformance with specific recommendations contained in a geotechnical report that considers high groundwater levels, projected sea level rise, the effects of seismic events including strong ground shaking, liquefaction, other ground failure and tsunami inundation, to prevent damage to, or flotation of, pipelines, pump stations, and other wastewater facilities subject to these hazards, and to prevent sanitary sewer overflows.
- (2) Eligible Connections. In addition to uses identified in section 3.22-B-1-a, and in compliance with below subsections (3) through (5), sewer service may only be provided to (i) structures and uses that were legally existing as of October 6, 2020 and (ii) to new single-family residences on legal lots in the portion of Fairhaven planned Residential/Exurban located within 300 feet of a SPWP sewer main (excluding Accessory Dwelling Units, which shall be prohibited to minimize risks to life and property from tsunami and sea-level rise hazards).
- (23) Public Sewer Service to Existing ~~Structures~~ Development. The immediate provision of public sewer service by the SPWP to structures and uses that were legally existing as of ~~January 4~~ October 6, 2020 that are served by onsite septic systems shall be allowed and shall not be deemed to encourage or facilitate development nor constitute or be construed to be an amendment or extension of any mapped Urban Limit Line. As a condition of approval for a coastal development permit to construct the SPWP, the Peninsula Community Services District shall be required to disclose to each property within the portion of Fairhaven planned Residential/Exurban receiving a sewer connection and containing existing development all of the requirements of subsection 5 below and that the connection to sewer service does not convey or imply any entitlement or commitment for coastal development permit authorization to be granted for any expansion or replacement of the existing development on the subject property. In addition, the District shall be required to provide a plan for providing such notice to any successors and assigns of such existing development.
- (34) No Further Extension of Sewer Mains ~~in Residential/Exurban Areas~~. Further extensions of the public sewer mains beyond the project boundary as mapped in Figures 1-3, 3-3, 3-7, and 3-9 of the Draft Environmental Impact Report for the SPWP dated January 2019 (SCH #2018042083) within that portion of Fairhaven planned Residential/Exurban, aside from what is constructed as part of the

SPWP, shall not be allowed without an amendment to the Humboldt Bay Area Plan, except as allowed under section 3.22-B-1(a).

(45) Public Sewer Service to New Residential Development. Upon the extension of sewer service to the portion of Fairhaven planned Residential/Exurban as part of the SPWP, permits for new residential development including Accessory Dwelling Units in the Fairhaven area that is located within 300 feet of a SPWP sewer main and no further, may only be approved after the Humboldt Bay Area Plan has been amended consistent with the Coastal Act to ensure new infill development is sited and designed to the greatest extent feasible to protect life, property and coastal resources from sea level rise and tsunami inundation hazards, and to protect Environmentally Sensitive Habitats. Exception: Permits for new residential development that is located within 300 feet of a SPWP sewer main may be approved before the above Humboldt Bay Area Plan Amendments subject to the following:

- (i) conformance with all performance standards, adopted by ordinance, that will ensure that such development will be protective of public health, safety and welfare, and coastal resources relative to hazards from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, tsunami inundation, and other geologic and flood hazards sea level rise and tsunami inundation, and will be protective of Environmentally Sensitive Habitats, based on site-specific investigations prepared by qualified experts; and
- (ii) the requirement that property owners execute and record a deed restriction in form and content acceptable to the County/decision-making authority that acknowledges and agrees, on behalf of themselves and all successors and assigns: (a) the current and future projected geologic and flood hazards sea level rise and tsunami hazards to which their development is exposed and will be exposed over the economic life of the development, (b) assume the risks of developing in hazardous locations subject to geologic and flood hazards from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, tsunami inundation, and other geologic and flood hazards, (c) and acknowledge that, as new development, the property owners do not have any right to shoreline protection armoring structures will not be necessary to protect the proposed development from such flood hazards under the LCP or the Coastal Act, and (d) further acknowledge the possibility that no such protective structures would be granted approval for construction in the future that shoreline protection is unlikely to be authorized for the development due to inconsistencies with LCP and

**Coastal Act policies protecting public access, recreation,
beach and water quality, among others.**

- c. ~~In addition, e~~ Extension of water service outside of the urban limit line as defined in the plan shall be permitted provided that:
- i)a- service along the extension will not remove capacity necessary to serve future development on undeveloped lots within the existing serviced areas, whether within the urban limit line or not, to the uses permitted in the plan;
 - ii)b- developments to be serviced are compatible with the plan;
 - iii)e- the extension of water service will be paid for only by the users of that service;
 - iv)d- the existing system is in no way degraded and
 - v) ~~that fire protection~~ the water service extension is found to be in conformance with the resource protection policies of this plan; or
 - vi)f- it is necessary for agricultural or timber operations.

~~In addition, sewer connections may be provided to industrial uses.~~

II. Amend Humboldt Bay Area Plan Chapter 4 policy Samoa Town Master Plan (STMP) New Development Policy 9, as follows:

STMP (New Development) Policy 9:

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

IP AMENDMENT SUGGESTED MODIFICATIONS

The amendments to the Implementation Plan adopted by the County under Ordinance 2665 consist of a zoning map change for lands in Fairhaven where special restrictions would apply. The zoning map change reclassifies the lands in Fairhaven that are zoned Residential Single Family\No Further Subdivision Allowed (RS\X) to Residential Single Family\No Further Subdivision Allowed with a Qualified (Q) combining zone (RS\X-Q). As specified in the ordinance, the special restrictions apply to all lands that both are part of the RS\X-Q zone and within 300 feet of Samoa Peninsula Wastewater Project sewer mains.

The special restrictions proposed by the County, adopted in Section 4 of Ordinance 2665, are shown below in single underlined text.

Suggested modification additions and deletions are shown in bold double-underlined text and ~~black bold double strike out text~~, respectively.

Ord. 2665 Section 4 – Special Restrictions:

~~Principally and conditionally permitted uses~~ Development on legal lots parcels that are undeveloped as of January 1, 2020, and all Accessory Dwelling Units, shall ~~be subject to conform with the performance following~~ 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.
- ~~ab.~~ 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 sea level rise development policies, or absent such policies, and 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.

bc. A condition of ~~Upon~~ 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 themself 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(bc)(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), n**o 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 sea 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.

~~**c. 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.**~~