

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings, Meeting of December 8, 2020

RESOLUTION NO. 20-111

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT CERTIFYING COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND APPROVING THE DEVELOPMENT AGREEMENT BETWEEN THE SAMOA PACIFIC GROUP AND THE COUNTY OF HUMBOLDT, RECORD NO. DA-17-001.

WHEREAS, to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Government Code Sections 65864 et seq. (The “Development Agreement Statute”) which authorizes counties to enter into agreements for the development of real property with any person having a legal or equitable interest in such property in order to establish certain development rights in such property; and

WHEREAS, an application for a Development Agreement was submitted to the Humboldt County Planning and Building Department for the Samoa Town Master Plan (STMP); and

WHEREAS, in return for recognizing certain vested rights and avoiding future conflicting enactments that would limit or reduce density, expand developers obligations, alter the development standards for roads and improvements, among other terms, the developer has committed to certain public benefits including the sale of approximately 35 acres of coastal dune property to a non-profit land trust to be preserved in perpetuity as open space; the construction of additional parking and trail improvements to facilitate and encourage public coastal access; the formation of a the Peninsula Community Services District to provide for the provision of utilities, emergency medical services, road maintenance, storm drainage, parks, recreation and open space; the construction of additional affordable housing units within the Coastal Zone and project area; and the expansion of Tsunami evacuation education, signage and protocols to include areas outside of the STMP; and

WHEREAS, Planning for the Project began in 2001, when the Samoa Pacific Group, LLC purchased the historic town of Samoa. In 2002, a draft STMP was prepared. A revised STMP was prepared in 2005. The STMP was again revised in 2006 in response to concerns raised by the California Coastal Commission (“**Coastal Commission**”) regarding tsunami issues. Thereafter, the County Planning Division released a Draft Master EIR prepared pursuant to CEQA for public review and comment (State Clearinghouse No. 2003052054); and

WHEREAS, A draft Final EIR was prepared in April 2006, but the STMP was once again revised to address additional comments and concerns received. The revisions necessitated further environmental review. A Recirculated Draft 1 Master EIR was released for public review and comment in June 2006. In March 2007, a Recirculation Draft 2 Master EIR was also released for public review and comment, including information regarding the Tsunami Vulnerability Evaluation. In September 2007, a Recirculation Draft 3 Master EIR was circulated; and

WHEREAS, The County Planning Commission held numerous public hearings on the Project, including on March 16, 2006, April 6, 2006, April 13, 2006, and January 9, 2008. At its January 9, 2008 meeting, the Planning Commission adopted Resolution No. 08-01 recommending the Board approve the proposed Project and related entitlements; and

WHEREAS, On October 27, 2009, in Resolution No. 09-85, the County Board of Supervisors (“**Board**”) certified as adequate a Final Environmental Impact Report prepared for the Project pursuant to the California Environmental Quality Act (“CEQA”), and conditionally approved the proposed STMP, including the related General Plan Amendment, Zone Reclassification and Urban Limit Line Extension, subject to California Coastal Commission (“**Coastal Commission**”) review and approval. The Board also approved a resolution of submittal to the Coastal Commission; and

WHEREAS, at the Coastal Commission hearing of March 10, 2011, the Commission denied certification of the then proposed Humboldt County LCP Amendment No. HUM-MAJ-01-08, and recommended modifications to the County Approvals. The Coastal Commission held a public hearing and vote on the recommended modifications at its June 17, 2011 meeting and determined that its revised findings support its action on the LCP Amendment at the prior hearing on March 10, 2011; and

WHEREAS, on December 6, 2011, and upon review and acceptance of the Coastal Commission’s recommended modifications, the Board of Supervisors approved and adopted Resolution Number 11-95, approving the General Plan amendment of the Humboldt County General Plan (HBAP), and approved and adopted Ordinance Number 2466 amending Sections 313-15 and 313-34 to add a Samoa Town Special Area Combining Zone and Samoa Town Plan Standards, and amending Section 313-19, Design Review, of the Coastal Zoning Regulations to establish a Samoa Design Review Committee and add standards for protection of historic structures; and

WHEREAS, at its December 6, 2011 meeting, the Board of Supervisors also adopted Resolution Number 11-94, a Resolution of Transmittal to the Coastal Commission for the

proposed LCP Amendment and transmittal of the Local Coastal Program Amendments to the HBAP land use plan and implanting zoning maps and text changes to the Coastal Commission for certification in accordance with the California Coastal Act; and

WHEREAS, on July 17, 2012, and upon review and acceptance of the Coastal Commission's recommendations, the Board approved and adopted Resolution Number 12-63, approving LCP amendments to include revised land use and zone maps for the Project Site that incorporated the special modifications recommended by the Coastal Commission and Ordinance Number 2482 amending Section 311-7 of the Humboldt County Code for the approximate 171 acres making up the STMP by designating the boundary lines of the following zones and combining zones: Residential Single Family (RS), Residential Multi-Family (RM), Commercial General (CG), Commercial Recreation (CR), Natural Resources (NR), Public Recreation (PR), Public facilities (PF), and Coastal Dependent Industrial (MC) zones; and Planned Unit Development (P), Wetland (W), Archaeological Resource (A) and Design Review (D) combining zones, as generally depicted in the Samoa Town Master Plan Zoning Map; and

WHEREAS, at its July 17, 2012 meeting, the Board of Supervisors also adopted Resolution Number 12-62, directing Planning staff to submit the STMP amendments to the Coastal Commission for review and certification in accordance with the California Coastal Act; and

WHEREAS, at the August 10, 2012 Coastal Commission meeting, the Coastal Commission concurred with the Executive Director that the County fulfilled the requirements of Section 13544.5(a) of the California Code of Regulations, and in accordance with Sections 13544(b) and 13544.5(b) of the same, the Director determined that the County's actions were legally adequate. This completed the Coastal Commission's initial approval of the LCP Amendments needed for the Project; and

WHEREAS, in 2013-2014 the Developer proposed, through the County and Coastal Commission, amendments to the HBAP LCP and related zone reclassifications to allow revisions to the phasing provisions of the STMP previously adopted into the HBAP. The amendment was found to be in the public interest because they will facilitate obtaining an infrastructure grant to upgrade the wastewater treatment facility (WWTF) to serve low-income multi-family housing, funding which otherwise would be unavailable and would delay the improvement. The State of California's promotion of a grant therefore changed the timing of the Project's development; and

WHEREAS, The LCP Amendment (LCP-1-HUM-15-0004-1) included several changes to previous development phasing requirements of the Project, including requirements that any affordable housing that occurs in new Master Parcel 2 would be allowed to occur prior to: (a) the comprehensive subdivision of STMP lands; (b) the development of various public access and recreational improvements; (c) the development of low-cost visitor serving improvements; and (d) the renovation of the existing residences in the historic town; and

WHEREAS, as part of its adoption of Resolution No. 16-48, the Board of Supervisors agreed to issue coastal development permits (“CDPs”) subject to the approved LCP, including certification of the LCP Amendment No. LCP-1-HUM-15-0004-1; and

WHEREAS, On or about May 12, 2016, the Executive Director of the Coastal Commission found that County Board of Supervisors Resolutions No. 16-48 and 16-49 and Ordinance Number 2549 were legally adequate, thus completing the Commission’s approval of the LCP amendment process for LCP Amendment Number LCP-1-HUM-15-0004-1; and

WHEREAS, On July 16, 2019, the County Planning Division released a draft Supplemental Environmental Impact Report (SEIR) prepared pursuant to CEQA for public review and comment (State Clearinghouse No. 2003052054). The SEIR was prepared to address utilization of the Humboldt Bay Harbor, Recreation and Conservation District’s Marine Terminal II Ocean Outfall line for disposal of treated sewage effluent for the STMP lands among other changes to the project description. The public comment period closed on August 30, 2019 and responses to comments were prepared. On October 3, 2019, the Planning Commission following a duly noticed public hearing certified the SEIR and adopting a Statement of Overriding Considerations; and

WHEREAS, On February 20, 2020, the County Planning Commission held a duly noticed public hearing to approve the Tentative Map for the phased subdivision of Master Parcels 2 and 3 encompassing approximately 185 acres into 332 parcels and adopted Resolution Number 20-15; and

WHEREAS, on July 9, 2020, the County Planning Commission held a duly noticed public hearing (continued from June 18, 2020) to approve a Coastal Development Permit for the phased subdivision approved at the February 20, 2020 meeting and to consider this Agreement and issue a recommendation to the Board pursuant to Government Code Section 65867 and County Code section 2171-13. The Planning Commission adopted Resolution Number 20-39 approving the Coastal Development Permit and Resolution

Number 20-40 recommending that the Board of Supervisors approve the Development Agreement; and

WHEREAS, Humboldt County Code section 2171-14 specifies the required findings which must be made to approve a Development Agreement; and

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

1. **FINDING:** The Development Agreement is a discretionary project and subject to the California Environmental Quality Act (“CEQA”). Substantial evidence supports the conclusion that there will be no significant adverse effects on the environment.

EVIDENCE a) A Supplemental Master EIR was adopted by the Planning Commission at their October 3, 2019 hearing in compliance with the requirements of CEQA. This document analyzed all of the components included in the Development Agreement and found that there will be no significant adverse effects on the environment.

2. **FINDING:** The Development Agreement is consistent with the objectives, policies, general land uses and programs specified in the County’s general plan, any certified local coastal program, any applicable area plan, any applicable specific plan or such general plan amendments or changes in rules, regulations, ordinances, and official policies as are to be adopted concurrently with the adoption of the development agreement (H.C.C. §2171-14(d)(1)).

EVIDENCE a) The County General Plan does not apply to this area within the Coastal Zone as the Coastal Version of the General Plan has not been adopted by the Board of Supervisors or certified by the California Coastal Commission.

b) The Humboldt Bay Area Plan of the Humboldt County Local Coastal Program includes a number of policies specific to the Samoa Town Master Plan. Findings demonstrating compliance with these policies can be

found in the Planning Commission Staff Report (Attachment 4 of the Board Report).

3. **FINDING:** The Development Agreement is compatible with the uses authorized in, and the regulations prescribed for, the zoning district in which the real property is located (H.C.C. §2171-14(d)(2)).

EVIDENCE a) Zoning designations were established with approval of the Samoa Town Master Plan (STMP) General Plan Amendment with the division and future development to take place in accordance with STMP provisions and requirements. Findings demonstrating consistency with the zoning district in which the real property is located can be found in the Planning Commission Staff Report (Attachment 4 of the Board Report).

4. **FINDING:** The Development Agreement is in conformity with the public interest, general welfare and county land use planning policies (H.C.C. §2171-14(d)(3)).

EVIDENCE a) The Planning Commission Staff Report (Attachment 4 of the Board Report) including the Supplemental Final Master EIR provides evidence that the Development Agreement is in conformity with the public interest, general welfare and county land use planning policies.

5. **FINDING:** The Development Agreement will not be detrimental to the public health, safety and welfare of persons residing in the immediate area nor be detrimental or injurious to property or persons in the general neighborhood or to the general welfare of the residents of the County as a whole(H.C.C. §2171-14(d)(4)).

EVIDENCE a) The Planning Commission Staff Report (Attachment 4 of the Board Report) including the Supplemental Final Master EIR provides evidence that the Development Agreement is in conformity with the public interest, general welfare and county land use planning policies.

6. **FINDING:** The Development Agreement will not adversely affect the orderly development of property (H.C.C. §2171-14(d)(5)).

EVIDENCE a) The Development Agreement provides for orderly development as identified in the Samoa Town Master Plan policies of the Humboldt Bay Area Plan.

7. **FINDING:** The Development Agreement is consistent with the provisions of Government Code Sections 65864 through 65869.5, the State law governing development agreements (H.C.C. §2171-14(d)(6)).

EVIDENCE a) Development agreements are contracts negotiated between project applicants and public agencies that govern allowable land uses for development consistent with zoning and land use policies. These agreements are intended to serve as a tool to strengthen a community's commitment to comprehensive land use planning. The appropriate use of development agreements can provide the County with public benefits by requiring the developer to provide certain public improvements and benefits that would not otherwise be obtained through applicable development approval processes. The development agreement provides a developer with greater certainty in the development approval process by vesting certain development rights.

b) The applicant and the Planning Director have reached an agreement on the terms of the STMP Development Agreement. In return for recognizing certain vested rights and avoiding future conflicting enactments that would limit or reduce density, expand developers obligations, alter the development standards for roads and improvements, among other terms, the developer has committed to certain public benefits including the sale of approximately 35 acres of coastal dune property to a non-profit land trust to be preserved in perpetuity as open space; the construction of additional parking and trail improvements to facilitate and encourage public coastal access; the formation of a the Peninsula Community Services District to provide for the provision of utilities, emergency medical services, road maintenance, storm drainage, parks, recreation and open space; the construction of additional affordable housing units within the Coastal Zone and project area; and the


expansion of Tsunami evacuation education, signage and protocols to include areas outside of the STMP.

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

1. Adopts the findings contained herein; and
2. Finds that the Development Agreement is within the scope of the Supplemental Master EIR adopted by the Planning Commission on October 3, 2019; and
3. Finds that the Development Agreement is consistent with County Code Section 2171-14 and applicable provisions of state law; and
4. Authorizes and directs Planning Department staff to file and process a Notice of Determination for the project in accordance with CEQA and the CEQA Guidelines, and the findings set forth in this Resolution; and
5. Authorizes and directs the Clerk of the Board to record with the county recorder a copy of the Development Agreement no later than 10 days after the Board enters into the Agreement.

The foregoing Resolution is hereby passed and adopted by the Board of Supervisors on December 8, 2020, by the following vote:

Dated: December 8, 2020



Estelle Fennell, Chair
Humboldt County Board of Supervisors

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

AYES: Supervisors Bohn, Bass, Wilson, Fennell, Madrone
NAYS: Supervisors --
ABSENT: Supervisors --
ABSTAIN: Supervisors --

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.



Ryan Sharp
Deputy Clerk of the Board of Supervisors
of the County of Humboldt, State of California