

Attachment 5

**Board of Supervisors Resolution 16-87 Approved July 19, 2016
(included for reference purposes only)**

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

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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

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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

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- 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 | -- |

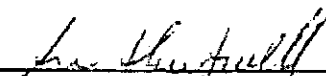
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STATE OF CALIFORNIA)
County of Humboldt)

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 |
|---|--|
| <u>Use Type</u> | <u>Principal Permitted Use</u> |
| Civic Use Types | Minor Utilities |
| <u>Industrial Use Types*</u> | Coastal-Dependent; subject to the Coastal-Dependent Industrial Development Regulations |
| <u>Use Type</u> | Aquaculture; subject to the Coastal-Dependent Industrial Regulations |
| <u>Residential Use Types</u> | <u>Conditionally Permitted Use</u> |
| <u>Civic Use Types</u> | Caretaker's Residence |
| <u>Commercial Use Types</u> | Solid Waste Disposal; subject to the Solid Waste Disposal Regulations |
| <u>Industrial Use Type*</u> | Oil and Gas Pipelines; subject to the Oil and Gas Pipelines Regulations |
| <u>Use Type</u> | Major Electrical Distribution Lines; subject to the Electrical Distribution Lines Regulations |
| <u>Commercial Use Types</u> | Coastal-Dependent Recreation |
| <u>Industrial Use Type*</u> | Coastal-Related; subject to the Coastal-Dependent Industrial Regulations |
| <u>Use Type</u> | Heavy Industrial, limited to alteration, improvement, and relocation of existing facilities |
| <u>Extractive Use Type</u> | Surface Mining - 1; subject to Surface Mining Regulations |
| <u>Use Type</u> | Surface Mining - 2; subject to Surface Mining Regulations |
| <u>Use Type</u> | Oil and Gas Drilling Processing; subject to Oil and Gas Drilling and Processing Regulations |
| <u>Natural Resource Use Type</u> | Coastal Access Facilities |
| <u>Use Type</u> | <u>Interim Conditionally Permitted Use</u> |
| <u>Use Type</u> | <u>Certain uses Principally and Conditionally permitted in Section 313-3.2</u> |
| <u>Use Type</u> | <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>Commercial Use Types</u> | <u>Minor Generation and Distribution Facilities</u> |
| <u>Use Type</u> | <u>Heavy Commercial</u> |
| <u>Use Type</u> | <u>Retail Sales</u> |
| <u>Use Type</u> | <u>Retail Service</u> |
| <u>Industrial Use Types</u> | <u>Warehousing, Storage and Distribution</u> |
| <u>Use Type</u> | <u>Heavy Industrial</u> |
| <u>Use Type</u> | <u>Research/Light Industrial</u> |
| <u>Agricultural Use Type</u> | <u>Timber Product Processing</u> |
| <u>Use Type</u> | <u>General Agriculture</u> |
| <u>Use Types Not Listed in This Table**</u> | 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**

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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).