



## COUNTY OF HUMBOLDT


AGENDA ITEM NO.

**I-2**

For the meeting of October 3, 2017

Date: September 6,, 2017

To: Board of Supervisors

From: John H. Ford, Director of the Planning and Building Department 

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

### RECOMMENDATIONS:

That the Board of Supervisors:

1. Open the public hearing, receive and consider the staff report, and accept public comment.
2. Close the public hearing and deliberate.
3. Adopt Resolution No. 17-78 (Attachment 1), a Resolution of the Board of Supervisors of the County of Humboldt Making the Required Findings for Certifying Compliance with the California

Prepared by

  
Lisa D. Shikany, Senior Planner

CAO Approval



REVIEW:

Auditor \_\_\_\_\_ County Counsel JWE Personnel \_\_\_\_\_ Risk Manager \_\_\_\_\_ Other \_\_\_\_\_

TYPE OF ITEM:

☐ Consent  
☒ Departmental  
☐ Public Hearing  
☐ Other \_\_\_\_\_

PREVIOUS ACTION/REFERRAL:

Board Resolution No. 16-87  
Ordinance No. 2555

Meeting of: July 19, 2016

### BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

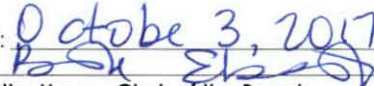
Upon motion of Supervisor Wilson  
Seconded by Supervisor Sundberg

Ayes Wilson, Sundberg, Bass, Fennell  
Nays \_\_\_\_\_  
Abstain \_\_\_\_\_  
Absent Bohn

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated:

By:

October 3, 2017  
  
Kathy Hayes, Clerk of the Board

Environmental Quality Act and Approving Amendments to the Interim Use Local Coastal Program Amendment; Acknowledging Receipt of, Accepting, Agreeing to and Approving Modifications A, B and C (or 1, 2 and 3) as Adopted by the California Coastal Commission on August 10, 2017; Amending the Humboldt County General Plan/Coastal Land Use Plan (Humboldt Bay Area Plan) Chapter 2 Section 2.30 Clarifying Local Coastal Program Applicability; Directing Planning Staff to Transmit the Amended 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.

4. Adopt Ordinance No. 2581 (Attachment 2), Ordinance of the Board of Supervisors of the County of Humboldt Amending Title III, Division 1, Chapter 3, Section A, Part 1, Section 313-3.4; Title III, Division 1, Chapter 3, Section B: Regulations in All or Several Zones, Part 3: Development Standards Index of the Humboldt County Code/Coastal Implementation Plan; and Title III, Division 1, Chapter 3, Section B, Part 3, Section 313-104.1 et seq., of the Humboldt County Code/Coastal Implementation Plan.
5. Direct the Clerk of the Board to give notice of the decision to the County Assessor's Office, and any other interested party.
6. Direct the Clerk of the Board to publish a Post Adoption Summary of the Ordinance (Attachment 3) within 15 days after adoption by the Board, along with the names of those Supervisors voting for and against the ordinance, and to post in the Office of the Clerk of the Board of Supervisors a certified copy of the full text of the adopted ordinance.

#### **SOURCE OF FUNDING:**

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

#### **DISCUSSION**

In taking the recommended actions the Board of Supervisors will accept the changes to the Interim Use provisions of the Coastal Dependent Industrial Zone District made by the California Coastal Commission at their meeting in July. This will allow implementation of these provisions. The changes made by the Coastal Commission were minor and do not significantly modify the original action on this ordinance.

#### ***Background***

On July 19, 2016, the Board of Supervisors approved the Interim Use Local Coastal Program Amendment (Amendment), and authorized planning staff to transmit the Amendment to the California Coastal Commission. The Amendment consists of text amendments to the Humboldt Bay Area Plan (HBAP) and to the Coastal Zoning Regulations that expand the uses allowed in the Industrial/Coastal-Dependent (MC) zone district by providing for certain conditionally permitted noncoastal-dependent interim uses (interim uses) in the MC district on a temporary short-term basis, subject to performance standards designed to protect and prioritize coastal-dependent industrial (CDI) uses. The purpose of the Interim Use Amendment is to increase the potential for the use of vacant and underutilized MC zoned land around Humboldt Bay while at the same time protecting current and future long term CDI uses.



The Amendment was transmitted by planning staff to the Coastal Commission on August 2, 2016. Coastal Commission staff made two requests for additional information which planning staff responded to, and the application was accepted as complete on December 29, 2016.

### ***Coastal Commission Modifications***

The Coastal Commission staff (North Coast office and San Francisco staff) determined that modifications were necessary for the Amendment to be consistent with the Coastal Act. At a public hearing on August 10, 2017, the Coastal Commission unanimously accepted Commission staff's recommendations and approved the Amendment with modifications. These modifications are briefly described below, with details provided in the Coastal Commission findings included herein as Attachment 4.

Modification 1: This modification consists of amendments to Chapter 2, Section 2.30 of the Humboldt Bay Area Plan. The modification clarifies that the County's Local Coastal Program does not govern the review or approval of coastal development permits within state jurisdiction.

Modification 2: This modifies Ordinance 2555 by accepting the alternate language for Sec 313-3.4 (MC Use Type Table) that was approved by Board Resolution 16-87 eliminating the allowance of "uses not listed" for interim uses.

Modification 3: This modification also modifies Ordinance 2555, and is comprised of edits to Section 313-104.1 et seq that was added to the County's Coastal Zoning Regulations to allow interim uses. The modifications do all the following:

- clarify requirements in the ordinance
- remove "other priority uses" from the ordinance where needed to prioritize CDI uses over other priority uses as required by the Coastal Act
- further prioritize CDI development over interim uses

As originally adopted, this section provided thresholds for limitation of permit terms and ultimately on the issuance of permits; the thresholds considered land in both County and state permit jurisdiction. The thresholds included acreage that was not governed by the interim use ordinance (i.e. land in state jurisdiction), and also could have resulted in the occupation of all lands previously developed with CDI uses in County permit jurisdiction by interim uses, which the Commission determined did not prioritize CDI uses over interim uses.

Below are some figures that detail the land available for interim uses. Note that acreages listed below represent approximate land acres (i.e. they do not include water acres) zoned MC. Also, the number of acres that would actually be developable for interim uses would likely be less than shown since environmental constraints sometimes reduce the acreage available for interim uses, particularly in undeveloped areas.

- Acres within state and county permit jurisdiction: 966
- Acres within state permit jurisdiction: 294 (206 previously had CDI uses)
- Acres within county permit jurisdiction: 672 acres (219 previously had CDI uses)

Table 1 on page 32 of the Coastal Commission findings (Attachment 4) provides a comparison of possible scenarios with and without the proposed modifications. One thing to note is that the

table presumes that the ordinance without the modifications would not allow interim uses on land that was not previously undeveloped with CDI uses, which is not the case. Thus, the total land area zoned MC in County permit jurisdiction, being the same area where interim uses could be permitted by the County, is 672 acres with or without modifications. The modifications reduce the number of acres within county coastal development permit jurisdiction previously developed with CDI uses that would be available for interim uses with up to a 7-year permit term from 213 acres to 170 acres, leaving 49 previously developed acres in County jurisdiction available for 2-year permit terms. However, the modifications also eliminate the overall cap on interim use permits the County can issue.

Staff recommends the Board make some minor non-substantive corrections to the Amendment, which are all shown in single underline and strikethrough in the attached resolution and ordinance, to correct errors. Typographical errors and the name of the Industrial/Coastal-Dependent were corrected in the Section B: Regulations That Apply In All Or Several Zone, Part 3 Development Standards index. The title to Section 131-104.1 was modified to show the correct name of the Industrial/Coastal-Dependent Zone. Finally, in Modification 1, shown in Exhibit A of the attached resolution, the word "Act" was added to A.1., and Section was capitalized in A.2.

### ***Findings for Approval***

The modifications required by the Coastal Commission do not alter the Board's ability to make the findings required to approve the modifications. The evidence and analysis prepared to support the Board's initial findings for approval of the Interim Use Amendment remain relevant and applicable to the modified Amendment. The Coastal Commission's modifications serve to either clarify the Amendment or further prioritize CDI uses consistent with the Coastal Act as analyzed in the Coastal Commission findings, further supporting the required finding of consistency with the Coastal Act for the Amendment modifications.

### ***County Actions Required***

Resolution No. 16-87 directed that any modifications made to the Interim Use Amendment by the Coastal Commission be brought back to the Board of Supervisors prior to final certification. By adopting the resolution included herein as Attachment A and the ordinance included herein as Attachment B, the Board will be accomplishing the actions necessary to complete the certification process through the Coastal Commission. The Board will:

- make the required findings for certifying compliance with the California Environmental Quality Act and approving the Coastal Commission and staff modifications to the Interim Use Local Coastal Program Amendment
- acknowledge receipt of, accept, agree to and approve Modifications A, B and C (also called 1, 2 and 3) as adopted by the California Coastal Commission on August 10, 2017
- amend the Humboldt County General Plan/Coastal Land Use Plan (Humboldt Bay Area Plan) Chapter 2 Section 2.30
- adopt the Interim Use Ordinance modifications
- agree to issue coastal development permits subject to the approved Local Coastal Program
- direct planning staff to transmit the Amended Interim Use Local Coastal Program Amendment to the California Coastal Commission for review and certification



The adoption of the resolution in Attachment 1 and ordinance in Attachment 2 will not repeal or negate the previously adopted Resolution 16-87 or Ordinance No. 2555. The attached resolution includes only the modifications to the Interim Use Amendment approved by the Coastal Commission, and leaves intact those sections of the Humboldt Bay Area Plan previously adopted by Resolution 16-87 which were unmodified by the Coastal Commission. The attached ordinance includes all of Ordinance No. 2555 with modifications to the previously adopted ordinance shown in underline and strikethrough.

The next steps in the certification process will be for planning staff to transmit the modified Interim Use Local Coastal Program Amendment to the Coastal Commission for final certification. Coastal Commission staff indicated certification should occur at the Commission's November meeting.

### ***Conformance with the California Environmental Quality Act***

Pursuant to Sections 21080.5 and 21080.9 of the Public Resources Code and Sections 15250, 15251(f) and 15265 of the California Environmental Quality Act (CEQA) Guidelines, CEQA does not apply to the activities of a local government for the preparation and adoption of a Local Coastal Program; the County's action to adopt the Interim Use LCP amendment is statutorily exempt from CEQA. Further, the certification of a Local Coastal Program amendment by the California Coastal Commission is exempt from the requirement for preparation of EIRs, Negative Declarations, and Initial Studies because their certification process has been certified by the Secretary of Resources as being the functional equivalent of the environmental review process required by CEQA.

### ***Staff Recommendation***

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

### **FINANCIAL IMPACT**

The cost of preparing this staff report is less than \$10,000 and is borne by the General Fund through the Planning and Building Department, Advance Planning Division's FY 2017-18 budget and the General Plan User Fees Trust Fund 3698. The General Fund User Fee Trust currently has \$482,278, which is sufficient to cover the cost of preparing this report. There are no other on-going costs associated with this item.

This item supports the Board's Strategic Framework by proactively encouraging new local enterprise and facilitating establishment of local revenue sources to address local needs.

## **OTHER AGENCY INVOLVEMENT**

The Coastal Commission must certify the proposed Interim Use Local Coastal Program Amendment. If the Board approves the Coastal Commission's modifications, the Interim Use Amendment will be taken to the Coastal Commission in October for certifications.

## **ALTERNATIVES TO STAFF RECOMMENDATIONS**

The Board may choose to resubmit a different LCP amendment without the Suggested Modifications that would then be subject to future Commission review. Staff does not recommend this alternative as this will result in additional delays with an uncertain outcome.

## **ATTACHMENTS**

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

- Attachment 1: Resolution No. 17-78 amending the General Plan/Humboldt Bay Area Plan portion of the Interim Use Local Coastal Program Amendment and authorizing transmittal of the Amendment to the California Coastal Commission
- Attachment 2: Ordinance No. 2581 amending the Coastal Zoning Regulations portion of the Interim Use Local Coastal Program Amendment (Same as Ordinance No. 2555, but with modifications shown in underline and strikethrough)
- Attachment 3: Post-Adoption Summary of Ordinance
- Attachment 4: Coastal Commission Resolutions and Adopted Findings
- Attachment 5: Board of Supervisors Resolution 16-87 Approved July 19, 2016 (included for reference purposes only)