



# COUNTY OF HUMBOLDT

For the meeting of: 2/9/2021

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File #: 20-1617

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**To:** Board of Supervisors

**From:** Planning and Building Department

**Agenda Section:** Public Hearing

**SUBJECT:**

Amendments to the Humboldt Bay Area Plan and Zoning Maps to Allow the Samoa Peninsula Wastewater Project; Case Number: PLN 2020-16642

**RECOMMENDATION(S):**

That the Board of Supervisors:

1. Introduce an Ordinance Amending Section 311-7 of Chapter 1, Division 1, Title III of the Humboldt County Code (Zoning Maps) to Rezone Property in Fairhaven by title and waive further reading of Ordinance No. \_\_\_\_\_ [Attachment 2], reclassifying lands in the Fairhaven area from Residential Single Family\No Further Subdivision Allowed (RS\X) to Residential Single Family\No Further Subdivision Allowed with a Qualified combining zone (RS\XQ); and
2. Receive and consider the Planning Commission's recommendations and written comments received [Attachment 3], open the public hearing, and accept public comment; and
3. Close the public hearing; and
4. Adopt the proposed Humboldt County Humboldt Bay Area Plan and Zoning Map amendments by taking the following actions:
  - a. Adopt Resolution No. \_\_\_\_\_ [Attachment 1] making findings the Humboldt County Humboldt Bay Area Plan and Zoning Map Amendments are exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) and making all the required findings for consistency with the General Plan, Zoning Ordinance and the Coastal Act, approving Humboldt County Humboldt Bay Area Plan amendments, and transmitting them along with the amendment to the Zoning Map Amendment to the California Coastal Commission for their review and certification; and
  - b. Adopt Ordinance No. \_\_\_\_\_ [Attachment 2] amending the Section 311-7 of Chapter 1, Division 1, Title III of the Humboldt County Code (Zoning Maps) to Rezone Property in Fairhaven; and
  - c. Direct the Clerk of the Board to publish the summary of the Zoning Map Amendment

[Attachment 4] within 15 days after adoption, along with the names of those Supervisors voting for and against each ordinance and to post in the Office of the Clerk of the Board of Supervisors a certified copy of the full text of each adopted ordinance; and

- d. Direct Planning Staff to prepare and file a Notice of Exemption for the amendments to the Humboldt County Humboldt Bay Area Plan and Zoning Map with the County Clerk and Office of Planning and Research.

SOURCE OF FUNDING:

The salary funding for preparing this staff report is included is in the General Fund contribution to the Long-Range Planning unit, 1100-282. These costs will be partially offset by reimbursement from the 282-3109, State Water Resources Control Board Planning Grant Agreement No. D16-04034 in the amount of \$550,000.

DISCUSSION:

The proposed amendments to the Humboldt Bay Area Plan (HBAP) and Zoning Map of the Humboldt County Local Coastal Program (hereafter referred to as “LCP amendment”) are intended to allow construction and operation of a consolidated wastewater collection, treatment, and disposal system to correct public health and water quality problems resulting from failed on-site sewage disposal systems in the Samoa/Fairhaven area outside the Town of Samoa. The public wastewater system will serve existing residential, commercial/industrial, recreational, and institutional facilities currently served by onsite wastewater treatment systems that are located within the boundaries of the Peninsula Community Services District (CSD). The proposed amendments to allow the Samoa Peninsula Wastewater Project (SPWP) would:

1. Amend HBAP Section 3.22, Public Services-Rural, subsection B (Development Policies) to add an exception to allow the extension of sewer service outside the Urban Limit Line established by the Samoa Town Master Plan (STMP), designed and constructed to withstand the effects of sea level rise and tsunami inundation, and to allow the immediate establishment of service to existing structures outside the STMP that are served by onsite septic systems. In addition, sewer connections may be provided to future industrial uses, coastal-dependent uses, and to Interim Conditionally Permitted uses in the Industrial/Coastal Dependent Zone. No further extension of the sewer mains will be allowed without a future amendment to the HBAP.

Additionally, Section 3.22 of the HBAP will be amended to include language specific to new residential development and Accessory Dwelling Units in Fairhaven located within 300 feet of a SPWP sewer main. The County would be obligated to connect these new homes to the public sewer pursuant to Humboldt County Code Title VI, Div. 1, Section 611-4(a) Sewer Connection Required Connection Required. The amendments would specify that new residential development and Accessory Dwelling Units in Fairhaven located within 300 feet of a SPWP sewer main may only be approved after the HBAP has been amended in the future 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 (ESHA).

The proposed HBAP Amendment would also state that applications for new residential development and Accessory Dwelling Units in Fairhaven located within 300 feet of a SPWP sewer main prior to the approval of the above future HBAP amendments may only be approved subject to 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 sea level rise and tsunami inundation, and will be protective of ESHA, based on site-specific investigations prepared by qualified experts. Property Owners will be required to acknowledge the current and future tsunami and sea level rise risk and that the approval of shoreline armoring structures will not be allowed.

2. Amend Samoa Town Mater Plan (STMP) Land Use Designation Overlay New Development - Policy 9, to only allow wastewater flows from outside the STMP in a manner consistent with HBAP Section 3.22, Public Services-Rural, subsection B (Development Policies).
3. Amend Section 311-7 of Chapter 1, Division 1, Title III, of the Humboldt County Code (Zoning Maps) by reclassifying lands in the Fairhaven area from Residential Single Family\No Further Subdivision Allowed (RS\X) to Residential Single Family\No Further Subdivision Allowed with a Q-Qualified combining zone (RS\XQ), that applies to new residential development and Accessory Dwelling Units located within 300 feet of the sewer service extension in the community of Fairhaven through the application of interim performance standards, whereby infill residential development would only be approved in a manner with HBAP Section 3.22, as described above.
4. Clean up and clarify the language of HBAP Section 3.22 policies relating to the extension of water service that do not change the meaning of the policy.

#### *Tribal Consultation*

In accordance with Senate Bill 18 (SB 18) and Government Code 69352.3, and Assembly Bill 52 (AB 52) and Government Code 21000, the County of Humboldt requested a list of Tribal Organization contacts from the Native American Heritage Commission and sent notifications of the project and inviting comments and suggestions on October 16, 2017, to the appropriate tribal organizations in compliance with SB 18 and AB 52. On March 9, 2018 Humboldt County met with Tribal representatives to present the project and solicit input and comments.

Tribal consultation resulted in comments on the Notice of Preparation, and a request to include Humboldt Bay Harbor District's Protocols for Inadvertent Archaeological Discoveries for Ground Disturbing Project Permits, Leases and Franchises Issued by the Humboldt Bay Harbor, Recreation and Conservation District, Humboldt Bay, California (adopted in May 2015). Tribal consultation also resulted in the strengthening of Tribal and Cultural Resources mitigation measures relating to the protection of human remains if encountered during construction and relating to minimizing impacts to unknown tribal cultural resources by adding the requirement for tribal monitoring during earth-disturbing construction activities at locations specified by Tribal Organizations.

### *Public Outreach*

On Thursday, November 12, 2020, the Planning and Building Department and the Peninsula Community Services District (CSD) held a virtual public workshop using Zoom to update the community on the SPWP. Planning staff presented background information on the project and a detailed description of the proposed amendments to the Humboldt Bay Area Plan that will allow the wastewater project to proceed and the Peninsula CSD provided a status update on wastewater project planning and next steps. Planning and Building and Peninsula CSD staff responded to questions and comments from the public. Public workshops regarding this project were also held on May 16, 2018 (scoping meeting for the Draft EIR) and February 26, 2019 (public meeting on the Draft EIR).

The Planning and Building Department maintains a project webpage which contains project information including links to Planning Commission and Board of Supervisors staff reports, all reports prepared for the project including the Environmental Impact Report, and contact information for staff.

### *Planning Commission Review*

After several meetings when the item was continued without opening the public hearing, the Planning Commission held a public hearing and recommended the Board of Supervisors approve the amendments on January 7, 2021. No one spoke in opposition to the project, and the Planning Commission voted unanimously to accept staff's recommendations as documented in Attachment 3 of this staff report.

### *Coastal Commission Review*

Planning and Building staff have coordinated closely with Coastal Commission staff regarding the proposed LCP amendments. The Coastal Commission has indicated support for the project because it addresses water quality problems in Humboldt Bay resulting from failing septic systems. At the same time the Coastal Commission has also expressed concern about investments in wastewater improvements serving areas subject to sea level rise and tsunami inundation hazards, concerns that new residential development on small vacant infill lots subject to sea level rise and tsunami inundation hazards in Fairhaven could be facilitated by the project; and concerns that the project could encourage development potentially impacting ESHA,

The proposed LCP amendments have been drafted specifically to address these concerns. Upon approval by the Board, the approved LCP amendment and other supporting documentation required by the Coastal Commission will be forwarded to the Coastal Commission for certification.

### *Environmental Review*

Public Resources Code Section 21080.5 and 21080.9 and Sections 15250, 15251(f) and 15265 of the CEQA Guidelines identify that CEQA does not apply to the activities of a local government for the preparation and adoption of a Local Coastal Program, and therefore the County adoption of the LCP Amendment is statutorily exempt from environmental review. Approval of the proposed LCP Amendments by the California Coastal Commission is the functional equivalent of the environmental review process required by CEQA.

Although CEQA does not apply to proposed LCP Amendments, CEQA does apply to the SPWP as a

whole. An Environmental Impact Report (EIR) was prepared for the SPWP (State Clearinghouse Number 2018042083) which concludes that all the project's impacts on the environment are either less than significant or can be mitigated to less than significant levels. No impacts were found to be significant and unavoidable. On October 6, 2020, the Board of Supervisors certified the EIR and approved the wastewater project - initiating the process to amend the LCP. The EIR is used as evidence for the required findings to support the approval of the proposed LCP amendment.

FINANCIAL IMPACT:

Preparation of the SPWP EIR and accompanying technical reports were funded through the State Water Resources Control Board Planning Grant Agreement No. D16-04034. Staff costs for review and approval of the LCP Amendment are budgeted to come from the 2020/2021 General Fund contribution to the Long-Range Planning unit, 1100-282. Construction of the project will be grant funded. The newly formed Peninsula CSD will be applying for those funds and building out the project on their own. The project is expected to be developed and operated without the need for any future funding from the County.

STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework by creating opportunities for improved safety and health and protecting vulnerable populations.

OTHER AGENCY INVOLVEMENT:

Planning and Building staff has coordinated closely on this project with the Peninsula CSD, State Water Resources Control Board, Regional Water Quality Control Board, Humboldt Bay Harbor Recreation and Conservation District, and the California Coastal Commission.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose to not approve the proposed LCP amendments if your Board finds that the evidence presented does not support making all the required findings. However, based on the information in this staff report, planning staff believes the evidence supports making all the required findings and does not recommend further consideration of this alternative.

ATTACHMENTS:

1. Resolution No. \_\_\_\_\_, A Resolution of the Board of Supervisors of the County of Humboldt making findings the project is exempt from environmental review pursuant to CEQA and findings pursuant to the General Plan and Humboldt County Code Section 312-50 - concerning adoption of HBAP and Zoning Map amendments and Title 14 §13551 of the California Code of Regulations and Public Resources Code, §30200 (Coastal Act), approving Humboldt Bay Area Plan (HBAP) Amendments associated with the proposed SPWP, and transmitting the HBAP and Zoning Map amendments, including all necessary supporting documentation, to the California Coastal Commission as an amendment to the certified Local Coastal Program for their review and certification in accordance with Public Resources Code Section 30514.
2. Ordinance No. \_\_\_\_\_, Amending the Zoning Regulations Section 311-7 of Chapter 1, Division 1, Title III of the Humboldt County Code (Zoning Maps) to Rezone Property in Fairhaven, reclassifying lands in the Fairhaven area from Residential Single Family\No Further Subdivision

Allowed (RS\X) to Residential Single Family\No Further Subdivision Allowed with a Qualified combining zone (RS\XQ).

3. Planning Commission staff report and supplementals prepared for the December 3, and December 17, 2020 and the January 7, 2021 meetings.
4. Post-Adoption Summary of Ordinance Amending Section 311-7 of Chapter 1, Division 1, Title III of the Humboldt County Code (Zoning Maps) to Rezone Property in Fairhaven.

**PREVIOUS ACTION/REFERRAL:**

Board Order No.: I-2

Meeting of: October 6, 2020

File No.: 20-1206