

## CALIFORNIA COASTAL COMMISSION

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# Th7a

## MEMORANDUM

Date: March 9, 2011

To: Commissioners and Interested Parties

From: Peter Douglas, Executive Director  
Robert Merrill, District Manager – North Coast District

Subject: **Addendum to Commission Meeting for Thursday, March 10, 2011  
North Coast District Item Th7a, Humboldt County Local Coastal  
Program Amendment Request No. HUM-MAJ-O1-08 (Samoa)**

### **I. Purpose of Addendum**

This addendum supplements the staff report dated February 24, 2011 for Humboldt County LCP Amendment Request No. HUM-MAJ-01-08 concerning the redevelopment of the Town of Samoa situated on the North Spit of Humboldt Bay.

The purpose of the addendum is to:

- Present correspondence received by the Commission since publication of the February 24, 2011 staff report;
- Respond to comments and concerns received by staff (any pertinent changes to the staff recommendation are noted along with the concern);
- Make corrections and responsive modifications to the February 24, 2011 staff report recommendation, including to the recommended suggested modifications and findings where staff has determined that these are indicated;
- Add information regarding how the Commission's appeal jurisdiction over the site may be affected by the future extension of Vance Road that would be facilitated by the proposed LCP Amendment; and

### **II. Correspondence Received Since Publication of the February 24, 2011 Staff Report**

Since publication of the staff report, the Commission has received four items of correspondence including an email from Humboldt County Planning Director Kirk Girard (Attachment 1), a document received from the landowner/developer (Samoa Pacific Group LLC (Attachment 2), a letter from Joy Dellas (Attachment 3), and a letter from Linda Lee (Attachment 4). All of these items of correspondence are included as attachments at the end of the addendum.

### III. Responses to Comments and Concerns Received, 2010

This section provides responses to the comments received in the documents noted above included as Attachments 1-2.) Attachments 3-4 were received too late to be addressed in this addendum; to the extent these attachments raise concerns not otherwise addressed in the staff report or addendum, staff will respond to the concerns orally at the meeting.

Where a change in the suggested modifications or findings is shown below, the change is hereby incorporated by reference into the Commission's findings and declarations as though part of the staff recommendation set forth in the staff report dated September 30, 2010. In addition, to the extent the Commission adopts the staff recommendation, the comments and responses will be added as separate "Response to Comments" finding at the end of the staff report dated February 24, 2011.

Format for Changes to Suggested Modifications: Where additional or revised text is associated with the suggested modifications, double underline indicates text of existing suggested modification; additional recommended suggested modifications associated with this addendum are shown in bold double underline. Where an existing staff-recommended suggested modification set forth in the February 24, 2011 staff report is changed by this addendum, bold strike-through denotes such text.

The text conventions shall be as follows:

- Existing recommended suggested modification text shall be shown in regular text with double underline; and
- **The proposed additional text shall be shown in bold text with double underline;** and
- Any existing text proposed for deletion shall be shown in **~~bold text without underline but with strike-through~~**.

Format for Changes to Findings: Where additional or revised text is associated with the recommended findings, the original finding text is shown in plain text, additional text is shown in bold double underline, and struck text is shown in bold strike-through.

- Existing finding text shall be shown in plain text; and

- **The proposed additional finding text shall be shown in bold text with double underline;** and
- Any existing text proposed for deletion shall be shown in ~~bold text with strike-through~~.

#### County Staff Comment #1

*The suggested modifications require merger of Arcata Recycling Center's property with the Samoa Pacific Group's property and then a re-division to separate them again. Although the County states it does not have the authority under the Subdivision Map Act to require two different owners to merge property, the Samoa Group has agreed to merge all property affected by the LCPA except for the Arcata Recycling Center to avoid the need to prove the validity of the 70 plus lots that were issued Certificates of Compliance but did not receive coastal development permits.*

#### **Commission Staff Response:**

The suggested modifications recommended in the staff report would require the merger and division of all lands affected by the Samoa LCP amendment into two Master parcels prior to any comprehensive subdivision of the LCP Amendment area and prior to the LUP and zoning designations taking effect. These two Master parcels would include (1) the 2.5-acre parcel that now contains the existing Samoa Processing Center (recycling facility) and has been sold as such to the Arcata Community Recycling Center (ACRC), and (2) the remainder of the lands affected by the Samoa LCP amendment. The modifications would render moot existing legal uncertainties surrounding specific parcel boundaries and certificate lots within the subject lands. Without suggested modifications requiring a merger and redivision of the affected property into two Master Area Parcels prior to the LUP and zoning designations taking effect, the potential would remain for the landowner/developer to seek approval of an intensity or location of development and uses unsupported by the size, legality, and configuration of the lots subject to the LCP amendment or the location of coastal resources on those lots.

The County and the landowner/developer have expressed a preference not to include the APN that currently includes the Arcata Community Recycling Center in a merger and redivision into the two master parcels. The County and the landowner/developer are still agreeable to merging the remainder of the lands affected by the Samoa LCP Amendment.

The APN that currently includes the Arcata Community Recycling Center is already developed with a viable use within the configuration of the APN. Thus applying LUP and zoning designations to this APN does not pose the same concerns about whether the

use can be supported by the lot configuration as applying such designations on other smaller lots with uncertain legality within the subject area would. In addition, excluding the APN that currently includes the Arcata Community Recycling Center from the merger and simply merging the remainder of the lands affected by the LCP amendment would create the same result as the staff recommended merger of all of the lands affected by the LCP amendment (including the Arcata Community Recycling Center APN) and subsequent division into two parcels (one of which would match the APN containing the Arcata Community Recycling Center facility). Therefore, staff is revising the recommended suggested modifications to exclude the requirement that the APN that currently includes the Arcata Community Recycling Center be merged with all the other lands subject to the LCP Amendment and redivided into two master parcels, and to instead simply require that all of the lands affected by the LCP amendment other than the Arcata Community Recycling Center be merged.

A. A number of suggested modifications are being revised to incorporate the changes described above. Typical of these affected suggested modification is the section of Suggested Modification No. 9 titled, "STMP (New Development) Policy 3" on pages 70-71 of the February 24, 2011 staff report. The suggested modification language is revised as follows and the associated language of the findings is also revised to incorporate these changes:

The land use designations and zoning approved by the Commission with suggested modifications in its action on Humboldt County LCPA HUM-MAJ-01-08 shall not become effective unless and until the entirety of the legal parcel(s) containing APN 401-031-36, APN 401-031-38, APN 401-031-46, APN 401-031-55, APN 401-031-059, APN 401-031-65, ~~APN 401-031-67~~, and APN 401-031-44, generally depicted on Exhibit 25 and described as the Samoa Town Master Plan Land Use Plan ("STMP-LUP") Overlay Area, ~~excluding APN 401-031-67 which contains the Samoa Processing Center (recycling facility) owned by the Arcata Community Recycling Center (Master Parcel 1)~~, are merged ~~and redivided~~ into ~~the two one~~ master parcels generally depicted on Exhibit 25 ~~comprising (1) the 2.5-acre parcel that now contains the Samoa Processing Center (recycling facility) owned by the Arcata Community Recycling Center (Master Parcel 1), and (2) all other lands within the Samoa LCP amendment overlay area generally depicted on Exhibit 25 (as Master Parcel 2)~~. If all such property is not merged ~~and redivided~~ into ~~the two~~ Master Parcels ~~2~~ generally depicted on Exhibit 25, the ~~property entirety of the area generally depicted on Exhibit 25 and described as the Samoa Town Master Plan Land Use Plan ("STMP-LUP") Overlay Area~~ will remain designated as General Industrial, Coastal Dependent Industrial and Natural Resources. If all such property is merged ~~and redivided~~ into ~~the two~~ Master Parcels ~~2~~ generally depicted on Exhibit 25, the land use designations and zoning approved by the Commission with suggested modifications in its action on Humboldt County LCPA HUM-MAJ-01-08 shall become effective upon both: (a) issuance of the coastal development permit for the merger ~~and redivision~~ consistent with the certified

LCP and (b) recordation of a final map for the merger ~~and redivision~~ consistent with the coastal development permit. If a legal lot containing any APN generally depicted on Exhibit 25 straddles the STMP-LUP boundaries generally depicted on Exhibit 25, the portion of the legal lot containing the APN outside the STMP Overlay Area boundary shall be included within the merger ~~and redivision~~ and become part of the immediately adjacent master parcel generally depicted on Exhibit 25. If the land use designations and zoning approved by the Commission with suggested modification in its action on Humboldt County LCPA HUM-MAJ-01-08 become effective, the Principal Permitted Use of any area subject to the STMP-LUP shall be determined in accordance with the designated Land Uses and in the patterns and locations generally shown on the certified STMP Land Use Map. No minimum or maximum number of lots shall be determined or authorized until or unless a coastal development permit for the comprehensive division of Master Parcel 2 has been approved and issued consistent with all applicable provisions of the certified LCP, including the STMP-LUP.

The above language being revised is repeated in several other sections of the suggested modifications, including, but not limited to, the suggested modification language of the February 24, 2011 staff report contained on pages 52, 56-57, 94-95, 96-97, 98-99, and 111-112.

**B.** Other suggested modification language of the staff report refers to the previously required merger and redivision into two master parcels. This language is similarly being revised to reflect that only a merger of lands outside of the Samoa Processing Center site (APN 401-031-67) is required. The first such suggested modification language is contained in the section of Suggested Modification No. 9 titled, “STMP (New Development) Policy 1A (Phasing of Development) – Merger and Redivision into Two Master Parcels” found pages 58-62 of the February 24, 2011 staff report. The suggested modification is revised as follows and the associated language of the findings is also revised to incorporate these changes:

STMP (New Development) Policy 1A (Phasing of Development) – Merger ~~and Redivision~~ into ~~Two~~ Master Parcels~~2~~.

1. Preliminary Merger ~~and Redivision~~ of the Samoa lands ~~excluding the Samoa Processing Center (APN 401-031-67)~~ into a maximum of ~~two~~ one parcels, prior to Master Subdivision of that parcel:

A. Prior to any other development, the landowner shall obtain a Subdivision Map Act approval and Coastal Development Permit (CDP), to merge the entirety of the legal parcel(s) containing APN 401-031-36, APN 401-031-38, APN 401-031-46, APN 401-031-55, APN 401-031-059, APN 401-031-65, ~~APN 401-031-67~~, and APN 401-031-44, generally depicted on Exhibit 25, ~~excluding APN 401-031-67 which contains the Samoa Processing Center (recycling facility) owned by the Arcata Community~~

**Recycling Center (Master Parcel 1), and ~~redive the property~~ into the two one**  
**master parcels generally depicted on Exhibit 25 ~~comprising (1) the 2.5-acre parcel that~~**  
**~~now contains the Samoa Processing Center (recycling facility) owned by the Arcata~~**  
**~~Community Recycling Center (Master Parcel 1), and (2) all other lands within the~~**  
**~~Samoa LCP amendment overlay area (as Master Parcel 2) generally depicted on~~**  
**~~Exhibit 25.~~** The lands comprising Master Parcel 2 shall be held as one undivided parcel,  
regardless of the physical separation of the subject lands by the parcels containing New  
Navy Base Road, the railroad corridor owned by the North Coast Railroad Authority, or  
any other easement or interest that may affect the subject lands, and the deed describing  
Parcel 2 shall specify this condition.

B. Unless evidence that any needed approvals for establishing and/or maintaining  
railroad crossings necessary to serve Master Parcel 1 has been obtained and submitted  
with the Coastal Development Permit Application for the merger **and redivision**, an  
easement in favor of Master Parcel 1, not less than 40 feet wide, for the purpose of  
ingress and egress without the need to cross at any point the railroad corridor parcel  
owned by the North Coast Railroad Authority (NCRA) or successor-in-interest, across  
the lands comprising Master Parcel 2, shall be granted by the owner of Master Parcel 2.  
The subject access easement shall be surveyed, mapped and recorded as a condition of  
the CDP authorizing the merger **and redivision** of the subject lands, and shall be located  
within the alignment of the proposed Vance Road or other main through-street alignment  
through Samoa, and shall not impair ordinary use of the subject street upon completion of  
the master subdivision for the overall town development. The easement across Master  
Parcel 2 for the benefit of Master Parcel 1 shall not be extinguished or otherwise  
restricted from use by Master Parcel 1 until or unless (1) the owner of Parcel 1 obtains a  
permit from the NCRA or its successor-in-interest and from the California Public Utilities  
Commission (CPUC) for more direct access to Master Parcel 1 from New Navy Base  
Road via the presently unpermitted railroad crossing or an alternative easement providing  
equivalent access across Master Parcel 2 is provided by the owners of Master Parcel 2.

C. The merger **and redivision** into **Master Parcel 1 and** Master Parcel 2 of all lands  
subject to the STMP-LUP **excluding APN 401-031-67 which contains the Samoa**  
**Processing Center (recycling facility) owned by the Arcata Community Recycling**  
**Center (Master Parcel 1), i.e. the entirety of the legal parcel(s) containing APN 401-**  
**031-036, APN 401-031-38, APN 401-031-46, APN 401-031-55, APN 401-031-059, APN**  
**401-031-65, ~~APN 401-031-67~~, and APN 401-031-44, generally depicted as Master**  
**Parcel 2** on Exhibit 25 shall encompass all such property regardless of the legality of any  
parcels or lots within the STMP-LUP overlay area, and regardless of whether Certificates  
of Compliance (conditional or unconditional) or other authorizations have been issued for  
any of these parcels or lots in the past, and shall fully expunge and extinguish all  
development rights that may have existed under any prior land division, lot line  
adjustment, or transmittal by whatever description may have been used. No remainder  
parcels may be created. If a legal lot containing any APN generally depicted on Exhibit

25 straddles the STMP-LUP boundaries generally depicted on Exhibit 25, the portion of the legal lot containing the APN outside the STMP Overlay Area boundary shall be included within the merger **and redivision** and become part of the immediately adjacent Master Parcel 2 as generally depicted on Exhibit 25.

D. The following information shall be included as filing requirements of the Coastal Development Permit Application for the merger **and redivision**:

- (1) Evidence that the entirety of the legal parcel(s) containing APN 401-031-36, APN 401-031-38, APN 401-031-46, APN 401-031-55, APN 401-031-059, APN 401-031-65, ~~APN 401-031-67~~, and APN 401-031-44, generally depicted on Exhibit 25 are being merged **and redivided**, including, but not limited to, chain of title information, chain of lot creation information, Subdivision Map Act approvals, and Coastal Development Permit approvals
- (2) Evidence that all necessary authorizations from the North Coast Railroad Authority (NCRA) or its successor-in-interest, and authorization from the California Public Utilities Commission (CPUC) for ingress and egress across the railroad corridor traversing the lands subject to the STMP-LUP in all locations necessary to ensure a complete circulation and access plan for the Samoa lands, including the lands designated for Coastal Dependent Industrial Use and the lands containing the Samoa Cookhouse and totaling approximately five (5) acres shall be submitted as a filing requirement of the Coastal Development Permit Application for the merger **and redivision**.
- (3) Evidence that the land area needed for proposed wastewater treatment and discharge facilities, the town's corporate yard, and the town's water storage facilities needed to serve build-out of the STMP Overlay area can be accommodated within the portions of the STMP Overlay area designated and zoned for Public Facilities under LCP Amendment HUM-MAJ-1-08 shall be submitted as a filing requirement of the Coastal Development Permit Application for the merger **and redivision**. If the facilities needed to serve build-out of the STMP Overlay area cannot be accommodated within the portions of the STMP Overlay area designated and zoned for Public Facilities, evidence that an amendment of the LCP to accommodate the larger area needed for the facilities has been obtained shall be submitted as a filing requirement of the Coastal Development Permit Application for the merger **and redivision**.

E. ~~The Coastal Development Permit for the merger and redivision of all lands within the STMP-LUP overlay area generally depicted on Exhibit 25 into Master Area Parcel 1 and Master Area Parcel 2~~ The merger into Master Parcel 2 of all lands affected by subject to the STMP-LUP excluding APN 401-031-67 which contains the Samoa Processing Center (recycling facility) owned by the Arcata

Community Recycling Center (Master Parcel 1), i.e. the entirety of the legal parcel(s) containing APN 401-031-036, APN 401-031-38, APN 401-031-46, APN 401-031-55, APN 401-031-059, APN 401-031-65, and APN 401-031-44, generally depicted as Master Parcel 2 on Exhibit 25 shall include conditions incorporating the following requirements:

- 1) Prior to issuance of the coastal development permit for the merger into Master Parcel 2 as generally depicted on Exhibit 25 and prior to recordation of the final map for the merger and redivision of the STMP-LUP Overlay Area generally depicted on Exhibit 25 excluding APN 401-031-67 into Master Parcel 1 and Master Parcel 2 as generally depicted on Exhibit 25, the landowner shall provide copies to the County, of the complete records of all characterization, remedial action plans and implementing work plans, and other requirements of reviewing agencies including, as applicable, Humboldt County Environmental Health Department, State Regional Water Quality Control Board, State or Federal Environmental Protection Agency, State Department of Toxic Substances Control, or any other state or federal agency or local government department with review authority over the soil and groundwater contamination status and remediation of the Samoa Town lands establishing the Samoa Town Master Plan - Master Parcels and these records shall be retained by the County and available for public inspection until the pertinent appeal period, if any, for the subject Coastal Development Permit has ended. Whether or not an appeal to the Coastal Commission is filed, the County staff shall either permanently store as public records the collected records required herein, or shall provide the subject collected records to the Coastal Commission for retention. This requirement shall additionally apply in full to any future Coastal Development Permit or Coastal Development Permit Amendment associated with the subject STMP-LUP lands. The pertinent records collected and stored by the County and transferred to the Coastal Commission shall include at a minimum the following:
  - a) the complete record of detection of contamination of soils, surface, or groundwater disclosed by the previous landowner(s) to the landowner/developer (Samoa Pacific Group) at the time of auction/purchase of the subject Samoa lands;
  - b) a complete record of all subsequent site investigations (whether of soils, ground or surface waters) undertaken to characterize the soil and groundwater contamination present, including maps of sampling locations, documentation of chain of custody, and associated laboratory test results, analyses, conclusions, and correspondence of the landowner/developer with applicable regulatory agencies with review authority over the soil and groundwater contamination status of the STMP lands;
  - c) a complete record of the approved Remedial Action plans and any amendments or revisions to the approved Remedial Action Plans authorized by the State of California Regional Water Quality Control Board (RWQCB);
  - d) a complete record of the approved Final Work Plans authorized by the RWQCB to implement the Remedial Action Plans, and any amendments or revisions to the approved Work Plans authorized by the RWQCB; all reports or records of testing or monitoring of ground or surface waters or soil and all remediation actions undertaken in reliance on the



direction of the RWQCB or other agency with regulatory oversight of the subject lands whether through RWQCB processes listed herein or through any other authority; and evidence of the implementation status of any remedial measures required by the RWQCB.

2) Prior to issuance of the coastal development permit for the merger into Master Parcel 2 and prior to recordation of the final map for the merger into Master Parcel 2 and redivision of the STMP-LUP Overlay Area generally depicted on Exhibit 25 excluding APN 401-031-67 into the Master Parcel 1 and Master Parcel 2 as generally depicted on Exhibit 25, the landowner(s) of Master Parcels 1 and 2 shall execute and record, free and clear of all prior liens and encumbrances, against the title of the subject parcels, and provide a copy of such recordation authenticated by the County Recorder for retention in the permanent Coastal Development Permit file, the following deed restrictions:

a) Deed restriction disclosing the nature and location of any contamination detected in soils or surface or groundwater within the subject lands, including a map of the contaminated locations, the identities of previous landowners and descriptions of activities that may have contributed to such contamination in the past, and a list of the documents on file with the Coastal Development Permit for the establishment of the Master Parcels pursuant to Subparagraph A(1) above; and

b) Deed restriction disclosing all requirements of the RWQCB or other applicable authority (such as the County Department of Environmental Health or the State Department of Toxic Substances Control) concerning the underlying soil and groundwater contamination or other hazardous waste-related status of the subject lands, including any requirements for cleanup, stabilization, management, monitoring, reporting, or other actions required by the pertinent authority; and

c) Deed restriction disclosing that any further division or other development of any of the STMP-LUP lands is subject to the requirements of the certified Humboldt County LCP, including, but not limited to the requirements of the STMP-LUP overlay designation; and

d) Deed restriction setting forth the following disclosures,

- (1) Disclosure that the lands situated within Master Parcel 1 and Master Parcel 2 are subject to extraordinary hazards posed by earthquake and tsunamis, and by future sea level rise, which may also increase the risks posed by coastal erosion, storm surge, and wave attack; and
- (2) Disclosure that no shoreline armoring structures are approved now, nor are such structures authorized in the future for the protection of development within the STMP-LUP against future hazards that may arise due to the coastal setting of the Samoa lands, and the prospect of increased sea level rise in the future, and that the present landowners have taken future sea level rise into consideration and

have warranted that no such protective structures will be necessary to protect the proposed development of the STMP-LUP, and further, have acknowledged the possibility that no such protective structures would secure approval for construction;

C. Suggested modification language in the first paragraph of the section of Suggested Modification No. 9 titled, “STMP (New Development) Policy 1B (Phasing of Development) – Further Subdivision of ‘STMP Parcel 2’ of the staff report on page 62 of the staff report also refers to the previously required merger and redivision into two master parcels and is being similarly revised as follows along with the language of the finding to incorporate these changes:

STMP (New Development) Policy 1B (Phasing of Development) – Further Subdivision of STMP “Parcel 2”.

1. After the merger into Master Parcel 2 of all lands subject to the STMP-LUP excluding APN 401-031-67 which contains the Samoa Processing Center (recycling facility) owned by the Arcata Community Recycling Center (Master Parcel 1), i.e. the entirety of the legal parcel(s) containing APN 401-031-036, APN 401-031-38, APN 401-031-46, APN 401-031-55, APN 401-031-059, APN 401-031-65, and APN 401-031-44, generally depicted as Master Parcel 2 on Exhibit 25 merger and redivision of all lands within the STMP-LUP overlay area depicted in Exhibit 25 into Master Parcel 1 (2.5-acre Samoa Processing Center Parcel) and Master Parcel 2 as generally depicted on Exhibit 25, and prior to any other development of the lands within Master Parcel 2, the landowner shall obtain a Subdivision Map Act approval and a Coastal Development Permit for the comprehensive division of all lands within Master Parcel 2. No portion of Master Parcel 2 shall be left as a remainder parcel.

D. Revising the suggested modifications to exclude APN 401-031-67 from the merger requirement has the unintended effect of excluding requirements that future development of APN 401-031-67 be subject to requirements that certain deed restrictions be recorded against the property to notify the owners and any future purchases of the site of the geologic and flooding hazards associated with the site. To ensure that such deed restriction requirements would be imposed on APN 401-031-67 at the time of future development in a manner similar to how such deed restrictions would be imposed on the remainder of the lands affected by the LCP amendment at the time of merger, staff is adding the following suggested modification language to the end of Suggested Modification No. 9 on page 92 of the staff report. The language of the findings is also revised to incorporate these changes.

STMP Master Parcel 1 (APN 401-031-67, Samoa Processing Center) Policy 1:

**The Coastal Development Permit for any future development of APN 401-031-67, Samoa Processing Center, generally depicted on Exhibit 25 as Master Area Parcel 1 shall include conditions incorporating the following requirements:**

**A) Deed restriction disclosing that any further division or other development of Master Parcel 1 is subject to the requirements of the certified Humboldt County LCP, including, but not limited to the requirements of the STMP-LUP overlay designation; and**

**B) Deed restriction setting forth the following disclosures,**

- (1) Disclosure that the lands situated within Master Parcel 1 are subject to extraordinary hazards posed by earthquake and tsunamis, and by future sea level rise, which may also increase the risks posed by coastal erosion, storm surge, and wave attack; and**
- (2) Disclosure that no shoreline armoring structures are approved now, nor are such structures authorized in the future for the protection of development within Master Parcel 1 against future hazards that may arise due to the coastal setting of the Samoa lands, and the prospect of increased sea level rise in the future, and that the present landowners have taken future sea level rise into consideration and have warranted that no such protective structures will be necessary to protect the proposed development of the STMP-LUP, and further, have acknowledged the possibility that no such protective structures would secure approval for construction;**

**County Staff Comment #2**

*Although County staff believes that connecting the Arcata Recycling Center to the proposed sewer system is a good idea, the County staff also believes that ARC would have to connect voluntarily.*

**Commission Staff Response.**

The Arcata Community Recycling Center (ACRC) or Samoa Processing Center property is currently developed with a 40,000-square-foot recyclable materials processing center. The 2.5-acre site is located at the southern end of the lands affected by the pending LCP amendment. The County's pending proposal would redesignate and rezone the ACRC property to "Business Park" rendering the existing ACRC's Samoa Processing Center development a legal non-conforming use. Commission staff suggested leaving the Industrial General designation and zoning, which the County now agrees is preferable.

However, the coastal development permit granted by the County for the Samoa Processing Center refers to the on-site septic system designed to serve the facility as a “temporary system.” The County Environmental Health Department and the State Regional Water Quality Control Board commented that the Center should only rely temporarily on septic at that location, which is a sandy area with soils that are too fast-draining to provide adequate secondary (leachfield) treatment.

The portion of Suggested Modification No. 9 titled, “STMP (New Development) Policy 11,” on page 73 of the staff report requires that the existing ACRC’s Samoa Processing Center be connected to the new or upgraded waste water treatment facilities that will be built to serve the town within 180 days after the waste water treatment facility is placed in service and a waste water collection line that could serve the facility is installed. The Coastal Act regulates new development rather than existing development. Therefore, the suggested modification has been revised to require that at the time a coastal development permit is sought to authorize new development at the site, such new development must connect to the new waste water treatment facilities within 180 days after waste water treatment facilities are placed in service. Therefore, Commission staff agrees with the County that some adjustment of STMP (New Development) Policy 11 is needed and is revising STMP (New Development) Policy 11 with Suggested Modification No. 9 on page 73 of the staff report as follows. The language of the findings is also revised to incorporate these changes:

STMP (New Development) Policy 11:

**Coastal Development Permits granted to the Arcata Community Recycling Center Regional Processing Facility (Samoa Processing Center) or other ownership interest utilizing the subject facility for new development shall require that the facility be connected to the new or upgraded waste water treatment facilities within 180 days after the new or upgraded waste water treatment plant is placed in service and a wastewater collection line is installed within Vance Avenue or in another location adjacent to the ACRC facility. The existing septic system that presently serves the ACRC Facility site shall be removed or remediated and properly abandoned in accordance with RWQCB requirements, subject to any necessary coastal development permit, within 180 days after connection to the new waste water treatment plant.**

### **County Staff Comment #3**

*The County staff wants to make sure the suggested modifications don't preclude staged upgrade of the wastewater treatment system as the site develops. The County staff wants to condition each phase of the subdivision to Regional Water Quality Control Board Wastewater Discharge Requirements/Basin Standards in place at the time of development. From the County staff's perspective, It's not necessary to impose "new system" requirements to ensure protection of coastal resources and it does not make sense because parts of the existing system will likely be part of a "new system" such as the marsh treatment pond. The County staff wants the Commission to stick to specifying conformance with Waste Discharge Requirements unless there is specific coastal resource that demands a higher level of protection than WDR's or Basin Standards would provide.*

*There is a requirement that all existing residences get hooked up within 180 days of the first wastewater system improvement. From the County staff's perspective, hookups need to be tied to subdivision timing. Likewise, the County staff wants the ability to allow phased construction of the fire suppression system according to fire department and fire code standards in place at the time of development.*

### **Commission staff response:**

The existing Town development currently relies on an antiquated wastewater treatment system that does not conform to current Regional Water Quality Control Board standards for new development. Sewage from existing development at Samoa is transmitted through clay pipelines installed as much as 100 years ago and the integrity and continuity of most of the lines and connections is unknown. System failures have occurred.

The suggested modifications require that a comprehensive waste water collection, treatment, and disposal facilities plan to serve the complete buildout of the Samoa lands approved by the Regional Water Quality Control Board be submitted as a filing requirement for the coastal development permit for the master subdivision of the area affected by the LCP amendment. The facilities may be of a design that can be constructed incrementally over time, as new development is added, however, the portions of the new facilities that are needed to serve the existing town development and all new development within the existing town must be installed and placed in service prior to recordation of the first final map for the master subdivision of the Samoa lands. In addition, the suggested modifications would require that all existing development be connected to the new facilities within 180 days of the placement of the new wastewater processing facilities into service.

The staff recommendation does not establish an absolute timeline for these improvements, relying instead on an approach that ties the construction and use of the new system to the first phase of development subsequent to the approval of the master subdivision of the STMP-LUP lands.

The County staff suggests that the Regional Water Quality Control Board (RWQCB) may determine that reliance on the existing treatment facilities with or without upgrades to treat existing development may conform with water quality regulations. Therefore, the County implies that the requirements of the suggested modifications to require completion of a proposed new wastewater treatment to serve all existing and future development within the existing town prior to any other development is unwarranted. The County believes the suggested modifications should be revised to allow for reliance on the old system to serve existing development within the Town to the extent that such reliance on the old system would be allowed by the RWQCB. In addition, County staff believes that hookups of existing residences to the new system should only be required as the phases of the master subdivision are implemented.

Commission staff believes that allowing for a staged upgrade of wastewater collection, treatment, and disposal facilities to serve existing development in the town would be appropriate if, (1) in fact, such a staged upgrade would be determined by the RWQCB to be consistent with water quality regulations and (2) the staged upgrade were determined by the County or the Commission on appeal in the review of coastal development permit applications for the master subdivision of the town or other development to be consistent with the policies of the certified LCP for the protection of ESHA, wetlands, and other coastal resources. The latter criteria is important because it is possible, that a staged upgrade of facilities to serve the existing development in the town may be consistent with RWQCB requirements but may conflict with other LCP policies designed to protect ESHA, wetlands, or other coastal resources. To approve a coastal development permit for the master subdivision or other development, the County or the Commission on appeal must find that the proposed development is consistent with the policies of the LCP and the public access policies of the Coastal Act.

Therefore, staff is revising the suggested modifications regarding the development of a comprehensive wastewater facilities plan to allow the comprehensive wastewater facilities plan that must be submitted as a filing requirement of the coastal development permit application for the master subdivision of the town to provide for staging of upgrades to serve existing development if approved by the RWQCB. Staff is also revising the suggested modification regarding the timing of installation and use of new wastewater facilities in several ways. First, the

requirement that all treatment facilities needed to serve existing and future development within the existing town be placed in service prior to any other development is being modified to require that only waste water facilities determined by the RWQCB to be necessary to serve existing development and determined by the County or the Commission on appeal to be consistent with LCP policies for the protection of coastal resources be required to be placed in service prior to other development. In addition, the suggested modification would be modified to require that the coastal development permit for the master subdivision shall require new wastewater facilities needed to serve all development within a particular phase of the subdivision be put into place prior to development within the phase in accordance with any staged upgrade approved by the RWQCB and determined by the County or the Commission on appeal to be consistent with LCP policies for the protection of coastal resources. Finally, the suggested modification is being revised to allow connections to the new wastewater facilities in accordance with the staged upgrade approved both by the RWQCB and the County and Commission on appeal.

- A. Revise the relevant portion of section A(11) of STMP(New Development Policy 1B (Phasing of Development) – Further Subdivision of STMP “Parcel 2,” contained on pages 62 and 64 of the staff report as follows. The language of the findings is also revised to incorporate these changes:

STMP (New Development) Policy 1B (Phasing of Development) – Further Subdivision of STMP “Parcel 2”.

1. ... prior to any other development of the lands within Master Parcel 2, the landowner shall obtain a Subdivision Map Act approval and a Coastal Development Permit for the comprehensive division of all lands within Master Parcel 2. No portion of Parcel 2 shall be left as a remainder parcel.

A. A complete application for a coastal development permit for the comprehensive division of Master Parcel 2 shall at a minimum include all information needed to evaluate the consistency of the division with the policies of the STMP-LUP and all other applicable provisions of the certified LCP, and in addition shall specifically include the following information:

...

(11) Waste Water Treatment: Final Plans for development of facilities for the collection, treatment, and disposal of sewage waste water from the entire development that would result from buildout of all STMP lands, including the Samoa Processing Plant on Master Parcel 1 and the lands zoned Coastal Dependent Industrial on Master Parcel 2 that have been approved by the North Coast Regional Water

Quality Control Board (RWQCB) and the County Environmental Health Department. To the extent that the wastewater system is designed **and approved by the RWQCB** to be implemented in phases **or as part of a staged upgrade of existing waste water collection, treatment, and disposal facilities**, a phasing plan shall be provided that addresses when the various components of the system will be constructed and operational relative to the phasing of buildout of all STMP lands. The final plans shall also address abandonment and removal of old wastewater collection and treatment facilities in association with development of the new facilities (such as but not limited to the abandonment of the waste disposal system on the dunes West of New Navy Base Road and of the grease trap and cesspool east of the Samoa Cookhouse). The submitted plans shall include evidence prepared by a California-licensed civil engineer of (a) total system capacity, including collection, treatment, and discharge capacity designed to serve maximum buildout of the STMP lands at maximum waste water flow rates and volumes during peak winter storm water runoff and winter high ground water conditions, (b) evidence that the consulting civil engineer has verified that the complete waste water collection, treatment, and discharge system will function effectively under site conditions consistent with at least 4.5 feet of future sea level rise, (c) evidence that the design includes sufficient surge/backup/emergency capacity and containment and backup pumping capacity and emergency/alternative fuel systems sufficient to independently continue to provide waste water capture and treatment for the STMP-MAP development for a minimum of 72 consecutive hours without discharge of effluent overflow directly or indirectly to the waters of Humboldt Bay or the Pacific Ocean if severed from outside water or power supplies; and (d) evidence that all components of the wastewater treatment and discharge system are proposed for installation within the STMP-LUP lands designated and zoned Public Facilities and located generally west of New Navy Base Road and east of the railroad parcel traversing the STMP-LUP lands (except for waste water collection facilities;

- B. Revise the relevant portion of the portion of Suggested Modification No. 9 titled, "E. Provision of Waste Water Collection, Treatment and Disposal Facilities," on page 67 of the staff report as follows:

E. Provision of Waste Water Collection, Treatment and Disposal Facilities

(1) The portions of the approved waste water treatment facilities and associated wastewater **collection, treatment, and disposal facilities needed determined by the RWQCB to be necessary** to serve all **existing** development within the existing residential and commercial areas of the STMP-LUP overlay area depicted on Exhibit 25 **and determined by the County or the Commission on appeal to be consistent with LCP policies protecting ESHA, wetlands, and other coastal resources shall be** constructed, tested and determined ready for connection and service prior to



commencement of any new development including recordation of a final subdivision map for any portion of Master Parcel 2 but not including the development listed in subsection (4) below.

(2) The coastal development permit for the comprehensive division of Master Parcel 2 shall require that prior to the commencement of any development within any phase of development of the subdivision, including the recordation of final subdivision map for that phase but not including the development listed in subsection (4) below, the landowner/developer must demonstrate that the portions of the approved waste water treatment facilities and associated wastewater disposal facilities needed to serve all development within the phase has been constructed, tested, and determined ready for connection and service **in accordance with any staged upgrade of facilities approved by the RWQCB and determined by the County or the Commission on appeal to be consistent with LCP policies protecting ESHA, wetlands, and other coastal resources.**

(3) Existing structures shall be converted to service by the proposed new waste water treatment plant ~~within six (6) months after the new system becomes operational~~ and the old (existing) waste water treatment facilities shall be properly abandoned or replaced in the same location in accordance with pertinent regulations and necessary permits and with the approval of the RWQCB ~~within one (1) year after the new or upgraded waste water treatment facilities becomes operational in accordance with the schedule set forth in any staged upgrade of wastewater facilities in the approved comprehensive wastewater facilities plan.~~

(4) The following development may be performed prior to installation of the sewage treatment facilities: (1) installation of emergency control water supply facilities; (2) recordation of a final subdivision map covering the Public Facilities designated area only; (3) the remediation of contaminated soil and groundwater; and (4) the development of the public access trail network and improvement of the public access day facility required by STMP-LUP policies.

#### **County Staff Comment #4**

*The County staff want an allowance to build at least two buildings in the industrial park up to 30,000 square feet. Currently the modifications cap building size at 20,000 square feet. The County staff want to locate the two larger buildings to the south side of the property adjacent to the pulp mill (very large) and the Arcata Recycling Center (+40,000 sq. ft.). The County staff think some of the businesses need that amount of space; for example, Fox Farm and that building bulk in this location is not a coastal scenic or zoning compatibility issue because the adjacent land uses are coastal dependent and heavy industry. The County staff are proposing a vegetation buffer between the residential area and the industrial park and a 10,000 sq. ft. building size restriction in this buffer area.*

#### **Commission staff response:**

The County and the landowner/developer proposed that the subject lands be redesignated and rezoned to a coastal business park use. The original concept for the business park structures noted by the landowner/developer during the preparation of the Master EIR for the Samoa Town Master Plan was for 800 to 2,000-square-foot buildings (see Exhibit 27), designed to function primarily as a clean, small business incubator, and developed in an attractive, campus-like environment. In comments and meetings since, and in the comment above, however, the County and the landowner/developer have asserted that much larger buildings should be allowed at Samoa as a means of accommodating construction businesses such as Danco, and the example of “Fox Farm” noted above. “Fox Farm” produces fertilizer and soil amendment products.

The land use designation consistent with the uses the County staff proposes above, such as for “Fox Farm” (which is a local fertilizer and soil amendment manufacturing company), and to provide for large, warehouse scale structures, is the existing General Industrial use rather than business park. General Industrial (zoned Industrial General) allows for the following as principal permitted uses:

- Minor Utilities
- Warehousing, Storage & Distribution
- Heavy Commercial
- Research/Light Industrial
- Aquaculture; subject to the Coastal Dependent Industrial Development
- Timber Product Processing

The zoning performance standards for coastal Industrial General call for a minimum lot size of one acre, which is consistent with the scale and type of boxy warehouse type structures that the County and the landowner now seem to envision for the site. The land use designation consistent with this type of scale and design is the Industrial General land use that presently exists in the area that would be converted to Business Park in the pending LCPA; the County and the landowner/developer have not, however, proposed this land use designation for any location other than the existing Arcata Community Recycling Center facility (which was also proposed by the County for redesignation to Business Park until the Commission staff noted that this would render the ACRC facility a non-conforming use).

Staff does not propose any changes to the staff recommendation in response to this comment.

#### **County Comment #5**

*The County requests more liberal provisions for retail use in the Business Park. Although the requirement for retail use only with a Conditional Use Permit would remain, the County requests relief from the restriction against retail use where a majority of customers would come from outside of the business park area. The County mentioned examples of local wineries, breweries or manufacturing enterprises that could benefit from having a minor retail component on site that would enable direct sales of their products.*

#### **Commission staff response:**

The Commission staff has considered the County's request and agrees that a minor retail component to support an enterprise that is primarily engaged in manufacturing or producing a product on site would be appropriate provided the retail component did not generate significant additional traffic from off-site locations. Therefore, the staff report dated February 24, 2011 is hereby amended as follows:

#### **Modify Page 12 of 193 pages of the February 24, 2011 staff report:**

Highway 101 is the key, central public coastal access route to and along the entire North Coast. Samoa is not currently served by the public transportation system (Redwood Transit Authority) due to the presently sparse population/low potential ridership at Samoa, and the present lack of suitable bus stops. Mitigation of traffic impacts through mixed use development strategies, limitations on land uses that

generate significant destination traffic by individual drivers (destination retail **that relies on resale of goods, merchandise or produce shipped in from offsite for resale**, for example, **in contrast to products that are produced or manufactured on site within the Samoa Business Park**), and encouragement of public and multi-modal transportation is therefore a significant consideration.

**Modify Page 16 of 193 pages of the February 24, 2011 staff report:**

The redevelopment of the Samoa site raises such concerns as cleanup of industrial Brownfield contamination and lead paint residues, sea level rise, tsunami hazards, ensuring reservation of suitable sites for Coastal Act priority uses, provision of adequate infrastructure for the aging town and for new development, traffic impacts, restricting destination retail **that is based on resale of products produced or manufactured off-site**, coastal access, retaining the visual character of the historic community, protecting cultural resources, protecting environmentally sensitive habitat areas, and the lot legality of the existing properties.

**Commission staff response:**

Commission staff has considered the County's request for the proposed new Urban Land Use Definition of "Business Park" in the County's certified Humboldt Bay Area Plan to include fewer restrictions on retail use, and the opportunity to install more, and larger structures than the suggested modifications in the February 24, 2011 staff report would presently allow. The concern about allowed size of structures is addressed specifically elsewhere within this addendum to the staff report, but the two issues are somewhat related as discussed below.

The Commission staff recognizes that retail use limitations on the authorization of destination retail sales that are in the draft definition proposed for Coastal Commission certification would not allow retail on a large scale that would generate additional traffic (and any retail use in the Business Park would not be a principal permitted use, and would require a Conditional Use Permit and Coastal Development Permit if located within a County, as the subject Samoa site presently is).

The staff has also considered the County and the landowner/developer's request that the Business Park uses be authorized to have retail sales for such things as wines produced by an on-site winery, or cheese produced on site, or bags of fertilizer produced by local fertilizer manufacturer "Fox Farms" and other examples. The staff recommends a change to the staff recommendation to accommodate this additional category of retail sales in the Business Park with the

caveat that the sales be incidental to the overall purpose of the business and that the sales component not generate significant amounts of additional traffic. A Conditional Use Permit and Coastal Development Permit would still be required. With these protective limitations in place, this change would be consistent with the goal of the mixed-use redevelopment of Samoa as the jobs/housing mix would help to reinforce the match of Samoa residents with employment in the nearby town site areas.

For all of these reasons, staff recommends the changes to the staff report that are described below, including that a limited additional amount of retail sales be authorized for products produced on-site in the Business Park while recommending that that scale and number of large scale buildings not be increased beyond the additional two 20,000 square foot (total) buildings the staff recommendation presently allows.

**Modify pages 42 and 43 of 193 pages of the February 24, 2011 staff report:**

The findings set forth below indicate that because (1) the County EIR indicates Samoa redevelopment will generate significant traffic, including a very conservative estimate of over 7,000 traffic trips per day, which does not take into account the cumulative traffic impacts of other projects in the region proposed more recently, and (2) the trip estimates do not include any significant destination retail sales, which are known to generate substantially more traffic than most other land uses, and (3) the traffic increases attributed to future Samoa buildout have the potential to adversely affect the key public coastal access routes serving the entire North Coast, retail uses that would attract destination shopper/drivers from outside the Samoa area are not considered appropriate within the Samoa mixed use proposal.

In addition, the Samoa Peninsula is subject to substantial earthquake and tsunami hazard and New Navy Base Road and narrow two-lane roads and the Samoa bridges to Eureka several miles away, are the only evacuation routes for Samoa as well as all other development on the north spit of the Samoa Peninsula. Drawing substantial numbers of visitors who cannot be readily evacuated would be unsafe and would increase the risk that other Samoa and north spit occupants cannot be safely evacuated. Moreover, the California Highway Patrol wrote to the County in 2007 expressing extreme concern that the traffic associated with the Samoa Town Master Plan then undergoing EIR preparation, would overwhelm the CHP's resources and produce traffic congestion beyond what the CHP considered to be safe levels on Highway 101 and at the intersections of Highways 101 and 255 in Eureka, in particular. Staff considered the landowner/developer and the County's requests that more flexible allowances for the incorporation of retail be included in the suggested

modifications, particularly to increase retail sales opportunities in the proposed Business Park. Staff modified the suggested recommendation to allow for a small amount of retail use within the Business Park primarily to service existing development within the town, and also to allow businesses located within the proposed Business Park to undertake small-scale resale of items manufactured or produced on-site when the resale portion of the operation is minor in nature and incidental to the primary activity of the business, and would not generate significant additional traffic. and required that retail uses be undertaken only with a Conditional Use Permit, which would be appealable to the Commission, to ensure that any retail proposed within the business park is carefully considered for compliance with the policies and provisions of the STMP-LUP and protective of public coastal access as required by the Coastal Act. Staff continues to believe that these limitations within the Samoa redevelopment are necessary to ensure consistency of the proposed LCPA with the hazard policy requirements of Coastal Act Section 30253 in particular, and with the public coastal access policies of the Coastal Act.

**Modify page 55 of 193 pages of the February 24, 2011 staff report:**

**Urban LUP Designations:**

Add the following to 4.10 of the Humboldt Area Plan, Urban Land Use Designations

**MB: BUSINESS PARK**

**PURPOSE:** To provide sites suitable for hazard and nuisance-free (~~free of objectionable odors, noise, etc.~~) mixed business development designed in a park-like environment compatible with the resources of a coastal setting, including light industrial, research and development, administrative and business and professional offices, and accessory warehousing and storage facilities. Coastal Business Parks shall emphasize green spaces and incorporate parking areas in a manner that is visually subservient to the structures and landscape elements. Coastal Business Parks shall be designed to limit energy use and vehicle miles traveled, and shall be located where served by public and nonmotorized transportation.

**PRINCIPAL USE:** Mixed business development that includes compatible administrative, business, and professional offices, and research and development within individual structures limited to a maximum of 10,000 square feet. A limited amount of accessory warehouse and storage facilities may be included if subservient in size and location to the primary facility within the Coastal Business Park and leased or owned by the same entity as the primary facility.

CONDITIONAL USES: (a) Mixed business development that includes compatible administrative, business, and professional offices, and research and development within individual structures greater than 10,000 square feet, (b) light industrial, and (c) small-scale retail sales and service enterprises occupying less than 10,000 square feet, maximum, primarily for the support of other Coastal Business Park uses or when incidental to and supportive of the principal use, and designed in a manner that is visually and proportionally subservient to the scale and composition of the primary use. Retail enterprises that would attract a majority of customers from outside of the Coastal Business Park shall not be permitted. Individual structures shall be limited to a maximum of 10,000 square feet with the following exception: a maximum of two structures within the business park may be sized up to 20,000 square feet.

**Modify page 86 of 193 pages of the February 24, 2011 staff report:**

Business Park Development (STMP-MAP-2)

STMP (Business Park) Policy 1:

A. The economic vitality of the STMP-LUP shall be enhanced through a compatibly designed business park that conveys a sense of visual continuity with the modest coastal “company town” aesthetic of historic Samoa structures. The primary purpose of the business park shall be the incubation of new, small businesses in Humboldt County, and secondarily, and an on-site source of potential employment for Samoa residents.

B. Retail sales within the Business Park, subject to a conditional use permit, shall be limited to sales and service enterprises occupying less than 10,000 square feet, maximum, primarily for the support of other Coastal Business Park uses or when incidental to and supportive of the principal use, and designed in a manner that is visually and proportionally subservient to the scale and composition of the primary use. Retail enterprises that would attract a majority of customers from outside of the Coastal Business Park shall not be permitted. **However, businesses located within the Business Park may include a minor amount of retail sales incidental to the primary business enterprise, and restricted to products manufactured or produced on site.**

**Modify page 166 of 193 pages (findings section) of the staff report dated February 24, 2011:**

The Commission finds that significant destination or regional retail, **other than modest additional traffic that would be produced by allowing businesses**

**located within the proposed Samoa Business Park to offer retail sales of products manufactured or produced on site,** within the Samoa lands, either in the Business Park or within Commercial General locations proposed in the pending LCPA, would generate substantial additional traffic. The Commission further finds that the additional traffic would be imposed on areas that already face considerable congestion as the result of the subject project and other projects proposed within the general area. The Commission notes that other significant projects with the potential to generate significant additional traffic have not been analyzed in combination with the Samoa LCPA to evaluate the traffic impacts of the combined projects (these include the Marina Center/Balloon Track project in the City of Eureka and the Humboldt Harbor District's proposal to develop port facilities at the future Redwood Marine Terminal project site, which is located immediately adjacent to the subject Samoa site, and will share ingress and egress on New Navy Base Road with all other north spit traffic). The additional traffic of all of these projects will affect the Caltrans safety corridor imposed on the section of Highway 101 between the Eureka Bridges and the Samoa off ramp into Arcata. The Samoa project and the proposed Redwood Marine Terminal project have the potential to produce combined traffic impacts that will adversely affect the Samoa Bridges over Humboldt Bay.

**County Staff Comment #6**

**The County raised the concern that the suggested modifications appear to require construction of a commercial space suitable for a small grocery/convenience store that must be held vacant for years waiting for a suitable tenant to emerge and establish such a business in the vacant structure.**

**Commission staff response:**

The comment refers to the requirements set forth in Modification 9, at STMP (Coastal Access) Policy 5. The suggested modification places requirements on the development by requiring (within the proposed commercial downtown Samoa revitalization component of the new development) the provision of a structure designed in a manner suitable for use as a small grocery/convenience store (so that such an operation could eventually be accommodated, to reduce traffic trips of Samoa residents and visitors that would otherwise drive frequently to Arcata or Eureka for purchase of all groceries). However, the suggested modification does not require that the structure be held vacant until/unless an entity seeks to lease it for that purpose. The point of the modification is to ensure that provision of a suitable building will not be precluded by construction of other, unsuitable structures in the available locations thereby forestalling the potential for a small



grocery/convenience store to serve Samoa. Staff realizes that the landowner/developer cannot otherwise control whether a suitable tenant will emerge and that eventually, if no tenant is identified, the requirement should be dropped. In the interim, other tenants could use the space until the desired grocery/convenience tenant emerged. The staff also believes that construction of the suitable space could alternatively be achieved by suitably remodeling and making available an appropriate existing structure in the downtown commercial center.

Staff does not propose any changes to the staff recommendation in response to this comment.

#### **County Staff Comment #7**

*The County staff commented that the boundaries of the ESHA/Natural Resource area identified in the staff report may require adjustment once the County completes further wetland delineation and habitat mapping during future review of the landowner/developer applications for subdivision of the Samoa lands. The County staff comment suggested that the County staff might seek future changes in the boundaries of the NR area even if the Commission certifies the boundaries that are recommended by Commission staff in the staff report dated February 24, 2011. Specifically, the County staff stated:*

*“...The newly identified ESHA boundaries will require a revision of the development Master Plan so there may be more issues once we understand all the ramifications of the boundary adjustments. We're glad that the ESHA/Natural Resource boundaries have been identified for Local Coastal Plan purposes but they may need to be adjusted once we complete the wetland delineation and habitat mapping required for the subdivision application. If changes are necessary, we will have to go back to our Board and the Coastal Commission to seek changes in plan designation boundaries.”*

#### **Commission staff response:**

The staff report dated February 24, 2011 includes the specific recommendation of the Commission's senior staff ecologist, John Dixon, Ph.D., based on his review of background information and a site visit to the subject Samoa lands undertaken on December 7, 2010. Dr. Dixon's advisory memorandum is attached as Exhibit 3, and Figures attached to his memorandum show the locations that he determined should be protected within the Natural Resources (NR) land use designation and

zoning map boundaries, as well as the 100-foot-setback/buffer for these resource areas. Dr. Dixon's memorandum and Figures attached to the memorandum also show some areas that the County had designated as ESHA that Dr. Dixon did not recommend be considered ESHA nor included in the NR boundaries.

Dr. Dixon's recommendation and the staff recommendation for the area to be included within the NR resources reserve protected area (shown in yellow on Exhibit 4 of the February 24, 2011 staff report) are based on multiple factors, including habitat connectivity despite patches of disturbed habitat, potential wildlife corridor use, buffering from nearby development, and other factors in addition to specifically delineated areas. The boundaries of the Natural Resources and use designation area, after Commission certification, are not expected to be further adjusted based on the precise extent and location of ESHA wetlands. These Natural Resources Areas are recommended by staff to be land use designated as such in the staff recommendation set forth in the February 24, 2011 staff report in order to identify permitted and proscribed land uses. The recommended Natural Resources boundary is not coincident with the precise boundary of ESHA and is not meant to be. The County would need an LCP amendment to convert any of the area designated Natural Resources to a use that is not permitted in the Area, such as to construct new housing. However, ESHA that is identified in any of the Designated Land Use Areas would not automatically need an LCP amendment before other development could proceed. Staff anticipates that wetlands and other environmentally sensitive habitat areas will likely be identified during coastal development permit review for future subdivision and further development of the pertinent Samoa lands. At that time, those resources must be considered under the policies of the certified LCP, and protected as part of the usual CDP review process as would typically be the case. Further LCP amendments are not, therefore, required by every potential discovery of additional ESHA within the Samoa lands.

The Commission staff further notes with regard to the importance of protecting the ESHA identified at Samoa, that the prediction of the Commission staff geologist (Exhibit 9 in the February 24, 2011 staff report) that future erosion of the dunes west of New Navy Base Road can be expected in the future due to sea level rise underscores the importance of permanently protecting the remnant dune mats, wetlands, and other sensitive habitat areas that are recommended by the Commission's staff ecologist, including the recommended 100-foot-wide setback/buffer (where existing development/hardscape does not prevent this) also recommended by staff. See for example the gold line representing future erosion on the Samoa Peninsula available in the map at the Pacific Institute's sea level rise map for the Eureka quadrant (which contains the Samoa area) referenced on page 4 of the February 24, 2011 staff report:

[http://www.pacinst.org/reports/sea\\_level\\_rise/hazmaps/Eureka.pdf](http://www.pacinst.org/reports/sea_level_rise/hazmaps/Eureka.pdf)

The map shows the anticipated erosion line completely removing all dune fields west of New Navy Base Road and attacking Navy Base Road itself eventually. As these changes take place, there will be a great loss of rare dune mat habitat along the North Coast, and the inland areas that remain will be the last reserves for the plants and other inhabitants of this habitat. Thus, the area recommended for protection by the designation and zoning as Natural Resources is shown in Exhibit 4 is not an area that could be reduced for specific development proposals, or in light of any other delineations of specific locations within the area, for all of these reasons.

The County and the landowner have also commented that historic locations of rare plants and other resources should not be considered in establishing the Natural Resources boundaries. Dr. Dixon did not rely on historic data because the County's consulting biologist did not include historic locations of rare plants and other resources that were known to County staff and others in the biological resource maps prepared in 2004 for inclusion in the County's MEIR. Instead, the County's certified "Humboldt Beach and Dunes Management Plan" dated March 1995 and prepared by Humboldt County with funding from the California Coastal Conservancy contains evidence of occurrences of rare plants on the dune mat habitat areas within the Samoa redevelopment site (a copy of Figure 3.23 A of the certified "Humboldt Beach and Dunes Management Plan" is attached as Exhibit 26). Page 90 of the document, for example, shows two populations of the rare Menzies' Wallflower located within the STMP-LUP lands, including a population with 100-500 plants located in the area near or possibly co-occurring with the existing ACRC Samoa Processing Center site (the map has been reduced in the *Management Plan* to a scale that cannot be readily interpreted). The source for the map is dated 1988. Although the County's and the landowner/developer's 2004 surveys have not shown any rare plants within the subject area, Dr. Dixon's recommended NR boundary includes what remains of most of the interconnected dune mat habitat that once hosted, and would be the location most likely to contain, any individuals that might occur in this area in the future. In addition, soil seed banks often contain the seeds of rare plants that are capable of germinating even decades later in some cases, and thus even when rare plants are not located in an area where they were once known to occur, the soil seed bank may still contain viable seed that may eventually generate new individuals if the habitat itself is conserved.

Staff does not propose any changes to the suggested modifications in response to this comment but includes the above paragraphs in their entirety as Commission findings in the ESHA/Wetland section of the report.

**County Staff Comment #8**

*The County staff believe that the level of detail of many of the suggested modifications is inappropriate for a Local Coastal Plan, and will result in the need for the County to complete LCP amendments for minor issues that are more appropriately resolved at the Coastal Development Permit, subdivision and zoning layers of planning. The County staff believes this level of detail is unnecessary to assure consistency of this Plan Amendment with the Coastal Act.*

**Commission staff response:**

The level of detail (in the suggested modifications) of which the County complains was necessary to prepare a favorable staff recommendation for Commission certification of the County's map change LUP and zoning amendment. The alternative available to staff was to either refuse to file the otherwise deficient LCP amendment until the County addressed the shortcomings of the submittal, or to file the amendment request and thus commit the Commission staff to undertake the necessary, and considerable amount of work to prepare the suggested modifications. The Samoa site is unusually complex, and the buildout of the land uses the County and the landowner/developer seek is extensive. The project raises numerous concerns that could significantly and adversely affect coastal resources.

For example, the County proposes to move the Urban Limit Line to encircle the Samoa area. This proposal requires that the Commission find that existing infrastructure is adequate to serve the intensified development that would thereby occur. The existing infrastructure at Samoa is inadequate for this purpose as is discussed in detail in the February 24, 2011 staff report. The County's LCP amendment request did not address this problem, among many other significant concerns, at all.

Similarly, neither the County nor the Landowners provided evidence of lot legality for the Samoa Town Property being redeveloped. Without that information, the County and landowner could seek approval of an intensity or location of development and uses unsupported by the size, legality and configuration of the lots subject to the LCPA. The suggested modifications allow the landowners to proceed with the LCPA without establishing the legality of all of the property affected by the LCPA if all such property is merged into a Master Parcel. Although the landowners need not establish the legality of each and every parcel, it is still necessary to ensure that the entirety of the legal parcel(s)

containing the property affected by the LCPA (other than the Arcata Recycling Center) are merged before the land use designations and zoning proposed in LCP Amendment HUM-MAJ-01-08 take effect.

By requiring that the entirety of the legal parcels containing the APNs affected by the LCPA (other than the Arcata Recycling Center) are merged prior to the effectiveness of the land use designations and zoning contained in HUM-MAJ-01-08, even if the County accepts the suggested mods, concerns about lot legality would be resolved before the land use designations and zoning takes effect.

In addition, the information and studies necessary to support designating and zoning a particular area with a specific land use designation and zoning was also not provided as part of the LCPA submittal. Therefore, the suggested modifications devise a two step process wherein even if the land use designations and zoning become effective because the landowner merged the entirety of the legal parcels containing the APNs affected by the LCPA into Master Parcel 2, that Master Parcel can only be further divided and sold upon receipt of the necessary supporting information.

Staff does not propose any changes to the staff recommendation in response to this comment.

#### **Landowner/Developer Comment #1**

*1. Citing Government Code section 66451.302(a), the landowner/developer asserts that because the Arcata Community Recycling Center Samoa Processing Facility (ACRC) is not owned by SPG, there is no Subdivision Map Act process for it to be merged with SPG owned lands.*

#### **Commission Staff Response:**

The developer cites to a SMA provision that governs the notice that must be provided in conjunction with mergers initiated by a local government. Whether or not this or other SMA provisions require that the property be in common ownership before it can be merged, development voluntarily pursued by the landowner/developer such as the development that the landowner may choose to pursue on property affected by this LCPA will not be effectuated by a local government initiated merger.

Also, see Commission staff response to County Comment #1 above.

**Landowner/Developer Comment #2**

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- *All existing lots have been certified as separate lots by recorded certificates of compliance. Despite this fact, the owner is willing to merge all lots owned by Samoa Pacific Group into one parcel.*

**Commission Staff Response:**

The certificates of compliance to which the landowner/developer refers require, but do not have the benefit of, coastal development permits. The merger requirement discussed in Commission staff's Response to County Comment #1 above is the Commission's staff's solution to resolution of the lot legality matter, crafted as a benefit to the County and the landowner/developer in resolving the problem without preventing the furtherance of the proposed LCPA.

Staff does not propose any changes to the staff recommendation in response to this comment.

**Landowner/Developer Comment #3**

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- *"Remainder" parcels will be shown on each phase of the subdivision map until the last phase, after which there will be no remainder.*

**Commission Staff Response:**

The comment appears to mistake the term "remainder parcel." At the time of the master subdivision undertaken pursuant to Modification 9, all portions of the lands subject to the STMP-LUP will be divided as approved by coastal development permit and tentative tract map. These approvals will establish the location and limits of lots throughout the entirety of the subject lands. Although multiple final maps will subsequently be recorded once the tentative map that determines the comprehensive configuration of all of the lots is approved, the sequential filing of multiple final maps does not change the overall configuration approved by the tentative map.

In comparison, when only a portion of real property is subdivided, the subdivider may designate as a “remainder” or omit entirely from the map the portion that is **not** divided for the purpose of sale, lease, or financing. Government Code section 66424.6(a). However, if the subdivider intends to sell, lease, or finance the remainder parcel (either when the other parcels are subdivided or in the future), which is the case here, that parcel must be considered part of the subdivision and does not qualify as a remainder parcel under Government Code section 66424.6. No remainder lots are allowed to remain at the time of the master subdivision.

Staff does not propose any changes to the staff recommendation in response to this comment.

**Landowner/Developer Comment #4**

- *Staff Report Page 61, 2 – The deed restrictions will be recorded prior to any sales or new loans on the property, but not prior to existing easements.*

**Commission staff response:**

Recommended Suggested Modification 9, STMP (New Development) Policy 1 (Phasing of Development) commencing on page 58 of the staff report dated February 24, 2011 requires the recordation of the pertinent deed restrictions at various stages of the development of the STMP-LUP lands, as a condition of the Coastal Development Permit for that development.

First, in reviewing the submitted comments, staff noted that the requirement for recordation of the “assumption of risk” deed restriction for the lands subject to the STMP-LUP had been inadvertently deleted from the recommended suggested modifications during preparation of the February 24, 2011 staff report. The requirement is referenced in the staff report at pages 35 and 36 under the discussion of the significant earthquake and tsunami hazards present at the Samoa site (excerpted here for convenient reference) and should be modified as indicated below.

**Modify Pages 35-36 of the staff report to add bolded language.**

**8. Earthquake & Tsunami Hazards:**

Concern: The hazards posed to the site by the earthquake & tsunami risks associated with the presence of the Cascadia Subduction Zone, as well as other geologic hazards associated with the site’s location between Humboldt Bay and

the Pacific Ocean, are significant concerns associated with the County's LCPA request. As part of the LCP amendment, the County proposes to add a LUP policy to the Humboldt Bay Area Plan that would require that for any land division of three or more lots, no residential lots can be created unless the livable portions of the residences can feasibly be constructed above tsunami run-up elevations.

Response: The previous staff recommendation and the Suggested Modifications set forth in the current recommendation contain substantial requirements to ensure that the Samoa development is consistent with the requirements of Coastal Act Section 30253 (hazards). The staff recommended suggested modifications continue to require that the tsunami hazard policy proposed by the County to limit land divisions and redivisions allowing three or more new residential development sites subject to tsunami inundation in the area subject to the Humboldt Bay Area Plan apply to all land divisions that would allow permanent residential development and requires that such residential development be authorized only if the subject location could be feasibly developed with residential use designed to place the first habitable floor above the applicable tsunami runup elevation (which has been established at 32 feet above mean sea level for the Samoa site development).

The suggested modifications also require that Business Park development (which is located in the mapped "high velocity wave hazard" area (mapped for educational purposes only by Humboldt State University geologists) (Exhibit 16) be designed in such a manner as to be resilient if subject to the forces of a tsunami, and to provide vertical evacuation features in lieu of inadequate walking evacuation distances to higher ground. The modifications also require, for example, that the recommendations of the consulting experts and third party reviewers evaluating tsunami hazard (Exhibits 16-20) be included in the County's final tsunami plan (Exhibit 19) for the subject town of Samoa rehabilitation and redevelopment. Nevertheless, the hazards present are of such a nature and magnitude that they cannot be completely avoided. **Therefore, the Suggested Modifications further require the recordation of deed restrictions by the current landowner(s) advising future buyers and landowners of the nature of these hazards, including recordation of an assumption of risk acknowledging and accepting liability for the residual level of hazard (as well as the risks posed by sea level rise, which may increase the potential impacts of other hazards such as the height of tsunami run up) associated with the subject area.** See Suggested LUP Modification 9.

**[bold emphasis added]**

Staff therefore corrects this inadvertent omission by making the following changes to the staff recommendation set forth in the staff report dated February



24, 2011, commencing on page 66 of 193 pages of the staff report dated February 24, 2011 be made:

**C. The coastal development permit for any portion of Master Parcel 2 shall require that: (1) prior to issuance of any CDP for any portion of Master Parcel 2 and (2) prior to recordation of each final map for all or a portion of Master Parcel 2, and (3) prior to any future additional development of the parcel identified as Master Parcel 1 (presently containing the Arcata Community Recycling Center's Samoa Processing Center, previously approved by Humboldt County, the landowner/developer must demonstrate that:**

**(1) all deed restrictions required by the RWQCB for lands subject to continuing contamination of soil or water (ground or surface) have been recorded against the parcels within the area covered by the final map; and (2) a deed restriction has been recorded against the legal title of the parcels within the area covered by the final map describing the kinds and location of contamination that has previously been associated with the subject lots, the remedial activities that have been undertaken, the results of final tests completed to verify the adequacy of cleanup (including copies of the pertinent laboratory reports), and the presence and location of any residual contamination that may be present in the soil or groundwater present on site. ; and**

**(3) prior to recordation of a final map where pertinent for subdivision of lands within Master Parcel 2, or prior to issuance of a coastal development permit for any development arising within lands originally identified as Master Parcel 1 or Master Parcel 2 shown on Exhibit 25, a deed restriction has been recorded against the legal title of each parcel either previously existing or thereby established, and re-recorded as a condition of approval of any coastal development permit for future development of parcels within the area originally shown as Master Parcel 1 or Master Parcel 2 on Exhibit 25 of the Coastal Commission staff report dated February 24, 2011, and the subject "Assumption of Risk" deed restriction shall state the following:**

#### **Assumption of Risk**

**By acceptance, amendment or transfer of this permit or in performing due diligence evaluation of the subject property in support of a decision to purchase the subject site and any improvements of the subject property that is subject to this deed restriction, the landowner and future purchaser acknowledges and agrees (i) that the site may be subject to hazards from: earthquake, tsunami, fires triggered by such events, landslide, erosion, liquefaction, wave attack, storm surge and other surces of flooding, and future sea level rise, including the**

**amplification of other hazards in response to sea level rise; (ii) to assume the risks to the applicant and/or future purchaser of the property that the subject site that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against Humboldt County and/or the Coastal Commission, and their officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless Humboldt County and/or the Coastal Commission, their officers, agents, and employees with respect to the approval by Humboldt County or the Coastal Commission of the project giving rise to the establishment or improvement of any lands located within the Samoa area subject to the STMP-LUP including or originating from the areas described as Master Parcel 1 or Master Parcel 2 in Exhibit 25 of the Coastal Commission staff report dated February 24, 2011, against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.**

Second, in response to the County's and the landowner/developer's concern regarding the requirement that such deed restrictions be recorded free and clear of prior liens, staff notes that this condition ensures that the Commission's (or the County's) interest in the protection of the pertinent coastal resources or other matter has first priority. In the case of the deed restrictions in the recommended suggested modifications for Samoa, many of the deed restrictions serve the primary purpose of giving notice to future landowners of information such as where underlying contamination may have been identified in the past, or, in the case of the "Assumption of Risk" deed restriction, that the property is subject to extraordinary hazards that cannot be completely avoided. The staff believes the hazards at Samoa are of such significance that recordation of recorded documents free and clear of prior liens is warranted at Samoa.

There is another option for such deed restrictions which does not require that the deed restriction be recorded free and clear of liens, but in such cases if foreclosure or bankruptcy occurs, the deed restriction is the last of many documents that may be considered and in such cases, the deed restriction documents are sometimes lost, failed to be transferred, or simply are not noticed within so much paperwork related to the proceedings. The Commission staff believes that the potential impacts of the hazards affecting Samoa are of such significance that the option for recordation that requires the deed restriction to be recorded free and clear of prior liens would ensure that in the future, the subject deed restriction remains associated with transfer of the Samoa lands, thus ensuring that this important information remains prominent in the record and available for consideration of future landowners/occupants of the Samoa lands.

Therefore, the staff is recommending only the above changes to the recommendation set forth in the staff report dated February 24, 2011.

**Landowner/Developer Comment #5**

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*2. Railroad crossings - NCRA approval. Suggested Modification #9 requires evidence of NCRA and CPUC authorizations with the initial merger and subdivision of STMP-LUP lands application (Staff Report page 60). The landowner/developer asserts that NCRA approval is beyond the applicant's control and could potentially delay initial CDP application filing for years. SPG states it has and will continue to work to secure NCRA approval for required RR crossings; however the proposed timing of NCRA approval is a complete unknown at this time and it is requested that this approval be a condition of a later development phase.*

**Commission staff response:**

The Suggested Modification 9, STMP (New Development) Policy 1 (Phasing of Development) commencing on page 58 of the staff report does require the resolution of the problem that Samoa Pacific Group LLC does not presently have an authorized crossing of the railroad corridor for several significant locations within the LCPA. Resolution of this matter cannot wait for a development phase subsequent because the configuration of lot lines and the designation of land uses cannot be decided until access to the lot or designated land use area is determined to be feasible. For example, if the feasibility of developing the low-cost visitor serving accommodations on the approximately 5-acre Samoa Cookhouse property with the necessary crossing at that property is not resolved before Master Parcel 2 is divided, and the necessary crossing later proves impossible to resolve, the return of railroad service to that existing line could mean that the envisioned visitor serving accommodations cannot be constructed due to the unauthorized crossings of the existing railroad line that would thereby occur. The ability to cross the railroad must be resolved before the requested land use designations become effective and before Master Parcel 2 is divided, because otherwise, an alternative location for priority uses must be found within the Samoa lands.

Securing authorized ingress/egress to priority uses and avoiding the creation of land locked parcels is necessary to ensure consistency of the proposed LCPA with the policies of the Coastal Act protective of priority land uses.

Staff does not propose any changes to the staff recommendation in response to this comment.

#### **Landowner/Developer Comment #6**

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*3. Increase in ESHA/ Natural Resource areas. The areas recommended for Natural Resource designation (Staff Report Exhibit 4) include a 100 foot buffer from ESHA areas (except where existing development would preclude such buffer). Per Dr. Dixon's 2/11/11 Memo, the following areas, which were previously designated non-ESHA, are now considered ESHA: the entire dune area east of New Navy Base Road, the existing wastewater point of discharge area, a small dune hollow area near the center of the site, and the dune area adjacent to existing residences located near the northern property boundary.*

*This results in a significant overall reduction of developable lands (see attached figure). The approximate total loss by land use follows: Business Park (MB): 2.85 acres, Public Facility (PF): 2.44 acres, Residential Low Density (RL): 6.35 acres, Public Recreation (PR): 0.36 acres.*

#### **Commission Staff Response:**

Dr. Dixon assessed the subject areas in a manner consistent with this recounting; the stated acreage estimates have not been calculated by Commission staff. The staff notes, however, that there are no actual losses by land use as these are proposed, not existing land uses. All of the areas noted in Comment #6 above are presently designated General Industrial and zoned Industrial General in the County's certified LCP, and are comprised of large, (legally) undivided tracts of land. The lands in question (overall) are developable for a range of uses, but setbacks from habitat areas would be required even if coastal development permits were under consideration for uses consistent with the existing designation/zoning. As well, the subject area is (presently) located within the Commission's appellate jurisdiction.

Staff does not propose any changes to the staff recommendation in response to this comment.

**Landowner/Developer Comment #7**

*4. Wetland/ESHA Policies and Standards. STMP Wetlands/ ESHA Policy 9 (Staff Report page 80) requires a plan for the removal of “invasive non-native plant species of particular ecological concern” within the entire STMP-LUP area that shall be implemented per phase and monitored for 5 to 10 years. This and other required invasive species removal and restoration and enhancement of ESHA’s (Staff Report page 77) and adjacent buffer areas would create a substantial financial burden on the applicant/ future property owners. The recommended increased NR area has already significantly reduced the developable area and enhancing/restoring buffer areas is not a typical requirement. Enhancing and restoring native species to the buffer areas would likely require intensive seed collection activities, which are time intensive and expensive.*

**Commission Staff Response:**

On the previous two site visits to the subject area (September 2006 and September 2010), the Commission has expressed concern regarding the extensive escape and persistence of aggressive, invasive non-native species in the Samoa area – particularly pampas grass. The landowner/developer has not kept this weed in check, and it has a tendency to colonize and spread and to overtake native plant habitat to the detriment of coastal ecosystems. The Samoa site contains numerous rare and fragile ESHAs, and the requirement for the removal and control of ecologically important invasive species is consistent with Coastal Commission requirements imposed on many other projects of such scale or ecological importance. The implementation of the plan that must be prepared consistent with the cited Suggested Modification can be timed along with the new development that is proposed, in a phased manner, as evidenced by the requirement that removal of invasive species be demonstrated at the time of the recordation of a final map (which would occur in phases).

It is important to note that the development intensity that the County and the landowner/developer propose at Samoa will bring substantial numbers of new residents, visitors, and businesses to Samoa, and that with these changes will come substantial increases in the number of people recreating among the dunes, trails, and parks in the immediate area. The coastal dunes, both east and west of New Navy Base Road, and the coastal forest and scrub habitats and rare plant habitat areas, as well as sensitive wetlands, will all be at risk of increased disturbance. The aerial photos of the subject site, particularly those shown in Exhibit 5 of the February 24, 2011 staff report, reveal the extent of disturbance that is already occurring from the use of informal trails through the dunes, the use

of off road vehicles on the slopes of the Samoa lands, etc. Requiring the restoration and protection of ESHA and ESHA buffer is a small offset of the increased impacts that will be felt by these resource areas as the population of Samoa increases in response to the proposed LCPA, once it is implemented.

Staff does not propose any changes to the staff recommendation in response to this comment.

**Landowner/Developer Comment #8a**

*• Protection and preservation of existing ESHAs will occur; for the reasons discussed above it is requested that all language referring to enhancement and restoration of ESHAs be removed. The following summarizes previously recommended language revisions for the proposed Wetlands/ ESHA related suggested modifications, but is not a comprehensive list of all previous comments.*

**Landowner/Developer Comment #8b**

*Page 78, 1 and page 108.a. Functional Relationships.*

*Comment: Biological functional relationships are (1) complex to assess; (2) there are no Coastal Act guidelines for determining or assessing such a relationship; and (3) the analysis would be qualitative at best and would not be quantifiable.*

**Landowner/Developer Comment #8c**

*• Since there is no guidance on determining functional relationships, it is requested that all language referring to biological functional relationships be removed and related policies/ standards could state “The buffer shall be measured from the edge of the ESHA that is adjacent to the proposed development.”*

**Landowner/Developer Comment #8d**

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*Page 78, 7 and 8; page 108 (a) and (e); page 110, 7 and 8. Use of Natural topography and historic locations of habitat/ species. Comment: The natural topography is already incorporated into the project design and buffer areas. "Historic locations" is too broad and should be limited to mapping methods such as GPS/GIS, standard survey, or orthorectified aerial photos.*

**Landowner/Developer Comment #8e**

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- It is requested that all policy/ standard references to natural topography be removed and references to historic locations be limited to the mapping methods defined above.*

**Commission Staff Response to Comments 8a-e:**

The requirement that the landowner/developer objects to with regard to analyzing functional relationships of habitat resources has been included by the Commission in recent LCP updates such as Crescent City, Del Norte County, and others on the advice of the Commission staff ecologist. The assessment of biological functional relationships is well understood by qualified biologists and considers the complete biological context of a sensitive habitat or species rather than relying only on a simple yardstick where ESHA complexity is an important factor to consider if sensitive resources are to be adequately protected.

With regard to "use of natural topography and historic locations...." These are important assessment features and records. Rare plant surveys, for example, may record presence of annual plant species with highly variable records of appearance in any particular year due to fluctuating environmental conditions, or may reflect the limited opportunities to undertake surveys in certain areas. The historical data is valuable, however, for determining where rare species habitat may be present, even when annual species are not apparent, and where dormant soil seed banks may persist.

To eliminate such sources of information is to exclude important evidence from the record of potential ESHA and sensitive species. At the subject site, for example, US Fish and Wildlife Service botanists have confirmed for Commission staff that populations of rare plants known to inhabit the dune mat areas have been identified at Samoa in the past. In fact, the certified Humboldt County



Beach and Dunes Management Plan shows the location of rare plant populations within the area proposed for the Business Park and areas adjacent to it, as mapped in 1988. The County in preparing the Plan (c. 1995 date) and the Commission in certifying it, considered these historic mappings to be significant data concerning the expression of continued presence of rare plants in the subject area. (See Exhibit 26.)

In addition, the Commission's senior ecologist, John Dixon, Ph.D. advised the County's consulting biologist during the December 7, 2010 site visit to Samoa that the botanical surveys prepared for the site should have included known historical data concerning sensitive species previously identified in the subject area.

Staff does not propose any changes to the staff recommendation in response to this comment.

#### **Landowner/Developer Comment #9**

**5. Contamination Remediation.** *Comprehensive subdivision approval will contain conditions for contamination remediation; the cleanup of affected areas will be completed in phases, prior to final map recordation of the applicable phase.*

- *Cleanup of the lands within any phase shall be completed prior to the recordation of the map for that phase.*

#### **Commission Staff Response:**

This comment appears to be re-stating what the recommended suggested modifications presently require, which is a change from the previous staff recommendations and has been made in response to comments received from the landowner/developer and from the county staff.

Staff does not propose any changes to the staff recommendation in response to this comment.

**Landowner/Developer Comment #10**

*6. WWTF requirements. The requirements imposed by the Staff Report pertaining to development strategy and forced installation of improvements which are not directly affecting the health, safety, and welfare, of those current and future occupants place unnecessary and undue burden to the point of making the project infeasible and is in direct violation of the subdivision map act as these conditions are expressly granted to the local agencies.*

**Commission Staff Response:**

It is not clear what “development strategy and forced installation of improvements” is referred to. The suggested modifications contain numerous requirements pertaining to the required provision of adequate infrastructure protective of coastal waters, safety requirements for development in the face of the substantial earthquake, tsunami, storm wave attack, and erosion now and in the future of changed shoreline dynamics in response to sea level rise, among other requirements. The County’s LCPA did not include specific text policies to address these concerns. The detailed suggested modifications contain requirements for phased development as suggested by the County to address the developer’s requirements for flexibility and market-rate development priorities in a manner consistent with the protection of coastal resources.

Staff does not propose any changes to the staff recommendation in response to this comment

**Landowner/Developer Comment #11**

*• Improvements to the WWTF shall be made as required to serve each phase. Collection facilities will be installed as required to serve each phase. The improvements to the WWTF and the collection facilities shall be completed to the satisfaction of the Regional Water Quality Control Board.*

**Commission Staff Response:**

Staff has proposed changes to the staff recommendation regarding the phasing of wastewater treatment facilities. See response to County staff Comment #3 above.

#### **Landowner/Developer Comment #12**

*Following are comments related to specific Staff Report recommendations. According to Staff Report page 67.E, the wastewater treatment facilities needed to serve all existing residential and commercial areas must be constructed, and ready for connection prior to any final map recordation (except for Public Facility designated area). However, Staff Report Page 64 (11) seems to open the provision for phasing of the wastewater system improvements, and requires progressive abandonment of existing facilities. It is requested that this language defer the progressive installation and abandonment of improvements beyond this matter to the proper jurisdiction of the Ca. Regional Water Quality Control Board, and simply require that each phase of the project receive written approval from the Regional Board, along with compliance of the waste discharge requirements that are issued and contain a mitigation and monitoring program that is consistent with the Basin Plan. The provision of 72 hours of storage is a provision that infers the system is a “septic” system. This system is not, it is a mechanical treatment and filtration system which operates under entirely different provisions. The storage requirement written in, will actually require more power (thus less green), and place the surrounding environment at risk and further degrade the possibility of adequately treating and discharging. It’s inappropriate for the system type being proposed.*

#### **Commission Staff Response:**

See staff response to County staff Comment #3 above. In addition, with regard to the backup capacity for 72 hours, numerous features of the existing waste water treatment system require pumping to move the waste water from the points of generation on through the collection, treatment and distribution system. If the new system that is ultimately proposed uses electrified pumping components, this requirement for backup power systems will ensure that the system continues to function in a significant power outage. The purpose of this provision of the suggested modifications is to ensure adequate back up in the Samoa system to protect coastal waters.

In addition, the comments include specific complaints that in most cases cannot be further resolved until the landowner/developer receives a final waste water treatment facility design and plan approval from the Regional Water Quality Control Board. Such an approved plan is required as a filing requirement for the coastal development permit application for the Master Subdivision.

**Landowner/Developer Comment #14**

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*Page 67 E (1) (2) – Requires that all wastewater system components be built and “ready” for connection prior to any final maps being filed. Previous statements allowed for phasing of the wastewater system improvements. The wastewater system improvements being phased should be under the jurisdiction of the Regional Water Quality Control Board and Local Agency.*

**Commission Staff Response:**

(See response to County staff Comment #3 above.)

**Landowner/Developer Comment #15**

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*Phasing these improvements is better for the project as it allows the progressive development of the project over time, and allows the use of the best available technology and best practices at the time of the filing of the final maps be implemented, thus over time and as the project is phased, the successive components of the system will only get better, and are already progressively regulated and monitored on an ongoing basis by the regional board.*

**Commission Staff Response:**

(See response to County staff Comment #3 above.)

**Landowner/Developer Comment #16**

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*Page 67 of 193 E (3) – The requirement of connection of all existing structures to the new system should be modified to say that prior to issuance of a final map, all structures within that phase of the final map, and any structures lying along a path of a sewer main line passing between the phased portion of the subdivision and the treatment plant shall be connected to the system under the provisions of the subdivision map act.*

(See response to County staff Comment #3 above.)

**Landowner/Developer Comment #17**

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*Page 73 STMP (New Development) Policy 10: This is not a policy, it's a requirement. The requirement that all existing residences be connected to the new system after 180 days is not financially feasible. This language could read "that residences shall be connected with each phase of the final map prior to filing of a final map, and that any residences or structures lying along the sewer main line path, shall also be connected to the system as a requirement of the filing of any phase of a final map".*

**Commission Staff Response:**

(See response to County staff Comment #3 above.)

**Landowner/Developer Comment #18**

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*Page 73 STMP (New Development) Policy 11: The plumbing code designates that any structure that lies within 200 feet of public sewer may be required to connect by the local jurisdiction. This property is not under title by Samoa Pacific Development, thus there is no legal way to enforce a policy or requirement onto a party, whom does not have some control or title to another*

**Commission Staff Response:**

The plumbing code does not supercede the Coastal Act or the County's LCP. See also response to County staff Comment #3 above.

**Landowner/Developer Comment #19**

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*7. Requirement to build grocery store building. STMP (Coastal Access) Policy 5 (Staff Report page 86) requires that the "landowner/developer construct a building to house a grocery/convenience store" without first securing a tenant; a significant financial investment.*

**Commission Staff Response:**

(See response to County Staff Comment #6 above.)

**Landowner/Developer Comment #20**

• *SPG will provide an area for a grocery/convenience store. This could be space in the existing building in the commercial block or a new building to be constructed after a tenant is secured.*

**Commission Staff Response:**

(See response to County Staff Comment #6 above.)

**Landowner/Developer Comment #21**

*8. Business Park structure size. Suggested Modification # 6 (Staff Report page 55) limits Business Park (MB) structures to 10,000 square feet (conditionally allowing for up to two 20,000 square foot structures). Limiting MB structure size to 10,000 square feet is too restrictive for most light industrial type businesses and is not consistent with the County's existing MB standards.*

**Commission Staff Response:**

(See response to County Staff Comment #4 above.)

Staff does not propose any changes to the staff recommendation in response to this comment.

**Landowner/Developer Comment #22**

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- *Remove the statement at the bottom of Staff Report page 86 regarding customers from outside of the coastal business park. In order to be viable, the business park customers should not be limited to local customers.*

**Commission Staff Response:**

(See response to County Staff Comment #5 above.)

**Landowner/Developer Comment #23**

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- *At the top of page 87 the statement “detectable odors” should be revised to “objectionable odors.”*

**Commission Staff Response:**

Staff proposes to delete "detectable odors" from the cited suggested modification. See staff response to County staff Comment #5.

Staff does not propose any changes to the staff recommendation in response to this comment.

**Landowner/Developer Comment #24**

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- *The size of the buildings in the north portion of the business park should be 10,000 SF. Throughout the business park buildings should be allowed up to 20, 000 SF with one building 20,000 to 30,000 SF.*

**Commission Staff Response:**

(See the staff response to County Comment # 4 above.)

Staff does not propose any changes to the staff recommendation in response to this comment.

**Landowner/Developer Comment #25**

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- *Pertinent portions of the Samoa Design Guidelines should be used in the business park, rather than listing specific requirements in the LCP.*

**Commission Staff Response:**

The County did not submit either of the two Design Guidelines for certification with the LCPA submittal. The Design Guidelines for Old Town Samoa were in final form, and appropriate for use by the Design Review Committee established in the LCPA provisions. The Design Guidelines for New Town Samoa, including the Business Park were only in draft form, however, and contained some conflicting standards that the County had not resolved. The County staff also expressed interest in using the LCP standards instead, so that the Business Park could be designed with lower profile structures and park-like features and landscaped buffers on the northerly side of the Business Park, to buffer the historic town and new residential development in the future from any significant adverse impacts to visual resources or to the special community character of historic Samoa that the Business Park structures might otherwise cause. The County in reviewing Samoa development may certainly refer to the Draft Design Guidelines for New Town Samoa for inspiration or guidance, but the binding legal standard of review for pertinent coastal development permits would be the certified LCP. The County and the landowner/developer could finalize the New Town Samoa Design Guidelines and propose the resultant document as an LCPA.

Staff does not propose any changes to the staff recommendation in response to this comment.



**Landowner/Developer Comment #26**

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*9. Emergency control water supply facilities. Staff Report Page 66 D (1) requires the installation of all emergency control water supply facilities to serve all development with the STMP before any other maps are filed except as specified. The water system has to be phased, especially concerning storage due to the requirements of water turn over and water quality issues that arise from storing water in a system too long. Furthermore the direction of the allowed maps under this provision do not benefit the public, either from a health and safety and are not economically viable.*

**Commission Staff Response:**

Neither the LCPA submittal nor the County's Master EIR for the Samoa Town Master Plan project suggest phasing the town's emergency control water supply facilities. The MEIR and the County staff reports for the project include the requirements of installation of a 500,000 gallon water tank and other infrastructure features. The Samoa fire chief has complained that existing "temporary" system is inadequate, and could not fight a significant fire event (could not supply adequate sustained volume and pressure for a worst case scenario to which Samoa's volunteer fire department might be called). Because Samoa is located in an area of extreme earthquake and tsunami hazard, and because such events could cause substantial fire at a time when the Peninsula could be isolated by collapsed roads and bridges, having an adequate fire fighting water supply is fundamental. Maintenance of the reserve fire fighting water supply in terms of water quality would be an infrastructure design consideration that could be resolved through a variety of means, such as recirculating water to the town's potable water supply/delivery system, deploying filters, etc. These would be considerations for the system design and permitting based on the LCPA policies and provisions.

Staff does not propose any changes to the staff recommendation in response to this comment.

**Landowner/Developer Comment #27**

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• *Emergency control water supply facilities should be improved as required for individual phases. A new water storage tank shall be constructed prior to any new development. Distribution lines shall be installed in each phase prior to the filing of the map for each phase.*

(See response to Landowner/Developer Comment #27.)

**Landowner/Developer Comment #28**

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*10. Energy Conservation/ Minimizing VMT. STMP (New Development) Policy 7 includes measures such as “requiring development to use recycled building materials” (see comment below). Many of the measures are ambiguous and not specific. Following are comments related to specific recommended measures.*

**Commission Staff Response:**

The listed energy conservation measures are intended to provide a starting point for the County staff to undertake development-specific coastal development permit application review in accordance with this policy.

Staff does not propose any changes to the staff recommendation in response to this comment.

**Landowner/Developer Comment #29**

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*Page 72, 1. Siting development in a manner that will minimize traffic trips;  
Comment: The guideline is not specific enough and is suggested to be reworded to provide specific recommendations such as: “Ensure that any community serving retail uses are located within 1/4 mile of the central residential uses.”*

**Commission Staff Response:**

The idea articulated in this comment is an example of the kinds of interpretations that would be anticipated at the coastal development permit review level when the County staff analyzes the specific development under consideration. When the development is as broad as an entire subdivision, the scope of the analysis would naturally be different than if the development under review is a single family residence within the Samoa lands. For this reason, the list is as specific as would be possible while incorporating the general provisions of Coastal Act Section 30253, upon which this policy is based in part.

Staff does not propose any changes to the staff recommendation in response to this comment.

**Landowner/Developer Comment #30**

*Page 72, 2. Prohibiting retail sales establishments designed to attract more than an incidental percentage of customers from off-site area;*

*Comment: The guideline is not specific enough and is suggested to be reworded to provide specific types of retail establishments that are prohibited. Is suggested that this prohibition cover uses such as "national chains occupying more than 25,000 square feet of floor area", but allow independent retail uses. This suggested type of guideline would fit within the traffic analysis' estimates of trip generation.*

**Commission Staff Response:**

(See response to County staff Comment #5.)

**Landowner/Developer Comment #31**

*Page 72, 3. Incorporating the "smart growth" development concepts that combine interdependent uses that potentially reduce off-site traffic trips, including adequate grocery and convenience stores in the revitalized downtown area to supply resident and visitor needs with fewer off-site trips;*

*Comment: It is cautioned that this guideline may be in conflicts with the reworded Item 2 (i.e., grocery and convenience store may be national chains).*

**Commission Staff Response:**

Staff reviewed item 2 and finds no conflict between the two. The grocery store/convenience store at Samoa is not envisioned or required to be large-scale, and in fact the town even at buildout is not likely to support a major grocery store outlet. However, the town would be very likely – when approaching buildout – to support a smaller scale grocery store, and such a store would dramatically reduce the off-site trip frequency of residents. Traffic issues are a major concern at Samoa and this provision is a significant means of ensuring that the traffic-reduction benefits of Samoa mixed use redevelopment are reduced as much as possible through a considerate blend of land uses that helps residents find basic daily shopping needs (such items as milk, bread, eggs, produce) within a convenient distance. The commercial and business park enterprises within Samoa will also help some residents find employment on site as well (the traffic analysis performed by the County’s consultant to generate the approximately 7,000 traffic trips per day estimate for Samoa relied extensively on this synergistic factor to reduce total traffic trip counts from what the proposed land uses and zoning would otherwise suggest).

Staff does not propose any changes to the staff recommendation in response to this comment

**Landowner/Developer Comment #32**

*Page 72, 11. Requiring development to use recycled building materials.  
Comment: Recycled building materials should be used as economically feasible. The wording above could be interpreted as requiring the use of only recycled materials.*

**Commission Staff Response:**

The pertinent citation in the suggested modifications is part of a list of potential items to reduce energy demands of development, but the list is predicated by the phrase: “... *by such means, but not limited to...*”

Staff does not propose any changes to the staff recommendation in response to this comment.

### **Landowner/Developer Comment #33**

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*Page 72, 14. Incorporating structural amenities within non-residential development to encourage the use of non-motorized or public transportation by employees (such as sheltered bicycle storage, bicycle lockers, restrooms with showers/personal lockers, etc.); recycled materials and should be modified as above.*

*Comment: Since it may be financially infeasible for small-scale independence uses to provide these amenities, it is suggested that this guideline be applied only to nonresidential uses with more than (say) 25,000 square feet and/or structures with more than 50 employees. Also, the plan could include open air bike racks in common public areas which could serve the bicycle storage needs of smaller independent uses.*

### **Commission Staff Response:**

As noted above, the list of measures does not impose an absolute mandate that any one of the measures be applied to all development. The example provided in the comment is an example of an innovative interpretation. Another way to interpret the possibilities might be to envision a community space available to all business park employees as an amenity that would include a bicycle locker area with lockers and shower facilities that would not be sensible to provide for each and every separate business park structure. This, in combination with well designed and well located bus stops might be very contemporary and attractive amenities for employees of the business park that would encourage the use of non-motorized transportation.

Staff does not propose any changes to the staff recommendation in response to this comment.

### **Landowner/Developer Comment #34**

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*Page 72, 15. Encouraging employer incentives such as paid us passes, etc., to encourage employee use of public transportation;*

*Comment: Since it may be financially infeasible for small-scale independence uses to provide these types of incentives, it is suggested that this guideline be applied only to nonresidential uses with more than (say) 25,000 square feet and/or structures with more than 50 employees.*

**Commission Staff Response:**

As noted above, the list of measures does not impose an absolute mandate that any one of the measures be applied to all development. The staff notes that 25,000 square foot structures (ground floor) are not allowed pursuant to the suggested modifications applicable to the proposed Business Park.

Staff does not propose any changes to the staff recommendation in response to this comment.

**Landowner/Developer Comment #35**

*Page 85, A.1. The necessary turnout area should be approximately 100 feet in length and proportioned to allow for maneuvering of a 40-foot long, 102-inch wide bus.*

*Comment: Since the Humboldt Transit Authority would review and approve the bus stop designs, it is suggested that this specific guideline detailing dimensions be deleted and replaced with a more general statement that the bus stop areas should be consistent with the local transit authority's design guidelines.*

**Commission Staff Response:**

The staff notes that these dimensions were provided by the Humboldt Transit Authority. The HTA manager explained that unless such dimensions are taken into consideration from the earliest design stage, the resultant bus stop amenities may prove to be unusable by the HTA. An example given was the social security office in a mall in downtown Eureka: there is a substantial demand locally for bus service for senior and disabled citizens to get to the social security office, but the mall's bus stop was not designed to the necessary standards and the HTA regrettably cannot therefore serve the Social Security office with bus stop service at that location. There remains the commitment of the HTA to review plans for the Samoa bus stops in advance, to ensure that all of the requirements of HTA are met. This alone does not guarantee that HTA will serve Samoa, because it is the Board of Supervisors that must request, and pay for, the additional route service. Presumably this expense will be considered by the County staff in the subdivision review process.

Staff does not propose any changes to the staff recommendation in response to this comment.

**Landowner/Developer Comment #36**

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*11. Seal Level Rise. According to consultation with a professional geologist who has substantial coastal hazard experience, the requested geologic hazard analysis (Staff Report page 63 and 110-111) is above and beyond scientific studies that are currently required for coastal development. A sea level rise analysis was completed for the proposed project and all recommendations from that report will be complied with.*

**Commission Staff Response:**

The review requirements are consistent with the most recent LCPA update certification reviews approved by the Commission and consistent with the unfolding awareness of the effects of geologic hazards compounded by sea level rise on the north coast. It is notable that the north coast is subject to the extreme geologic hazard posed by the Cascadia Subduction Zone – which is geologically extremely similar to the formations that triggered the great subduction zone earthquake and tsunami in Indonesia in 2004 that killed a quarter of a million people.

Staff does not propose any changes to the staff recommendation in response to this comment.

**Landowner/Developer Comment #37**

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*In addition, Cal Pub Resources Code § 30005.5 states:*

*The following provisions shall apply to the commission's decision to certify or refuse certification of a land use plan pursuant to Section 30512:*

*(a) The commission's review of a land use plan shall be limited to its administrative determination that the land use plan submitted by the local government does, or does not, conform with the requirements of Chapter 3 (commencing with Section 30200). In making this review, the commission is not authorized by any provision of this division to diminish or abridge the authority of a local government to adopt and establish, by ordinance, the precise content of its land use plan.*

**Commission Staff Response:**

The analysis of Commission staff determined that the LCPA as submitted was not sufficiently specific as to the kinds, locations and intensities of land uses proposed nor did the submittal contain adequate provisions to ensure that the development that would be facilitated by the proposed land uses and zoning would be undertaken in a manner consistent with the requirements of the LCP as amended or with the requirements of the Coastal Act. Therefore, the staff prepared the suggested modifications set forth in the staff report dated February 24, 2011. See also Commission staff response to County staff comment #8.

Staff does not propose any changes to the staff recommendation in response to this comment.

#### **Developer's Waste Water Treatment Facility Engineering Consultant Comment #1**

*CEC Inc.*

*Coastal Commission Notes:*

*Overall Comments:*

*1.) It seems to me that the requirement of a merger of parcels by the staff report is in direct violation of the subdivision map act section: 66451.302. (a) By January 1, 1987, a city or county or city and county which has within its boundaries, parcels or units of land which are or may be subject to the provisions of Section 66451.301, shall send a notice to all owners of real property affected by Section 66451.301 in substantially the following form:*

*"The city or county sending you this notice has identified one or more parcels of land which you own as potentially subject to a new state law regarding the merger of substandard parcels which are located in one or more of the following categories: etc..."*

#### **Commission Staff Response:**

See Commission staff responses to County Staff Comment #1 above and Landowner/Developer Comment #1.

Staff does not propose any changes to the staff recommendation in response to this comment.



**Developer's Waste Water Treatment Facility Engineering Consultant Comment #2**

*2.) The provision within the report that prohibits the subdivision from including a "remainder parcel" is in direct violation of the subdivision map act section: 66424.6. (a) When a subdivision, as defined in Section 66424, is of a portion of any unit or units of improved or unimproved land, the subdivider may designate as a remainder that portion which is not divided for the purpose of sale, lease, or financing.*

**Commission Staff Response:**

See Commission staff response to Landowner/Developer Comment #3.

Staff does not propose any changes to the staff recommendation in response to this comment.

**Developer's Waste Water Treatment Facility Engineering Consultant Comment #3**

*3.) Any and all of the regulations designating how the design of the improvements are to take place such as designating requirements for the development of certain features prior to others, limiting sizes of buildings, within the report is in direct violation of the subdivision map act section: 66411. Regulation and control of the design and improvement of subdivisions are vested in the legislative bodies of local agencies.*

**Commission Staff Response:**

The Coastal Development Permit process is an independent permitting process required in addition to the Map Act's requirements. A Subdivision Map Act approval from local government does not excuse a project from compliance with the state law requirements such as the Coastal Act. Any person proposing to subdivide pursuant to the Map Act is required to obtain a CDP prior to submitting a final map for recordation. In fact, Section 66498.6 of the Map Act specifically provides that no provision of the Map Act "removes, diminishes, or affects the obligation of any subdivider to comply with the conditions and requirements of any state or federal laws, regulations, or policies and does not grant local agencies the option to disregard any state or federal laws, regulations or policies." Accordingly, the Map Act must be implemented in addition to (not in circumvention of) the Coastal Act, because they are separate and independent statutory schemes.

Other cases have specifically addressed the relationship between these two statutory schemes and consistently held that the Coastal Act must prevail in the case of a conflict, as it represents “a major statement of overriding public policy regarding the need to preserve the state's coastal resources not only on behalf of the people of our state, but on behalf of the people of our nation.” *South Central Coast Regional Commission v. Pratt Construction Co., Inc.* (1982) 128 Cal.App.3d 830, 844. In fact, one of the cases cited by Mr. Burg held that:

Even if there were a conflict between the Subdivision Map Act and the Coastal Act, statutory construction principles require a specific statute to prevail over a general statute. ([Code Civ. Proc., § 1859](#); *Loken v. Century 21-Award Properties* (1995) 36 Cal. App. 4th 263, 272-273 [42 Cal. Rptr. 2d 683].) The Legislature enacted the Coastal Act to protect the coast statewide, while it generally gave local government power to regulate local subdivisions throughout the state ( [Gov. Code, § 66411](#)). However, local regulation of property within the particular area of the coastal zone gives way to the state's authority to preserve the coast's natural resources; otherwise the Coastal Act's purposes would be hindered and the Coastal Act would not specifically refer to the Subdivision Map Act.

*Ojavan Investors v. Cal. Coastal Com.* (1997) 54 Cal.App.4th 373, 388.

Staff does not propose any changes to the staff recommendation in response to this comment.

#### **Developer’s Waste Water Treatment Facility Engineering Consultant Comment #4**

*4.) The requirements imposed by the staff report pertaining to development strategy and forced installation of improvements which are not directly affecting the health, safety, and welfare, of those current and future occupants and place unnecessary and undue burden to the point of making the project infeasible is in direct violation of the subdivision map act as these conditions are expressly granted to the local agencies.*

#### **Commission Staff Response:**

(See responses to Landowner/Developer Comment #10 and Engineering Consultant Comment #3 above)

Staff does not propose any changes to the staff recommendation in response to this comment.

**Developer's Waste Water Treatment Facility Engineering Consultant Comment #5**

*Specific Comments and Suggested Modifications:*

*1.) Due to the mapping that occurred by the Coastal Commission, the land use for public facilities needs to be modified, so that there can be some sort of overlay into the Business Park area. We have used the remaining available land in the proposed disposal area, and had to modify the remainder of the disposal system to be underneath the roadways and parking lots within the business park. There is language for this to occur on pg. 94 #2.*

**Commission Staff Response:**

The suggested modifications reduce the land designated for business park and new residential to accommodate the needed public facilities area.

Staff does not propose any changes to the staff recommendation in response to this comment.

**Developer's Waste Water Treatment Facility Engineering Consultant Comment #6**

*2.) Due to the nature and that the disposal area is underground, and non evasive, can we receive some relief from the 100 ft. natural resource buffer to say 25 feet from an ESHA. The underground lines and additional water may actually enhance adjacent ESHA's and the installation is benign. There seems to be a provision on pages 78 and 79 for this to occur Policy #4.*

**Commission Staff Response:**

Staff notes this comment. Depending on the results of the Commission staff ecologist's evaluation of a specific proposal (which would be reviewed for water quality concerns and compatibility therefore with environmental receptors) it is possible that discharge of fully treated water suitable for infiltration directly into groundwater or for discharge directly into Humboldt Bay or the Pacific Ocean could be allowed to percolate into some portion of the *buffer* of adjacent wetlands. This would be subject to the RWQCB review as well, and RWQCB staff have cautioned that they will not authorize the discharge of any effluent into wetlands.

Staff does not propose any changes to the staff recommendation in response to this comment.

**Developer's Waste Water Treatment Facility Engineering Consultant Comment #7**

*3.) Page 56 of 193 "CONDITIONAL USES" – The existing treatment plant percolation basin is and continues to be considered a public infrastructure and should be considered for repair, maintenance and replacement of public infrastructure within the same location. This means that the existing ESHA determinations would be modified to allow for the installation of underground disposal lines, and that "native" coastal vegetation could replace much of the "non native" that currently exists.*

**Commission Staff Response:**

This comment appears to suggest that the "treatment percolation basin" should be considered a public infrastructure and considered for repair, maintenance and replacement of public infrastructure within the same location. The area is not designated "Public Facilities" as suggested in the comment.

Staff does not propose any changes to the staff recommendation in response to this comment.

**Developer's Waste Water Treatment Facility Engineering Consultant Comment #8**

*4.) Page 61 of 193 #2) concerning free and clear title of the property should be eliminated, as this provision is handled under the subdivision map act, and impractical. The Final Map process, through the subdivision map act already requires notification of all lien holders be a signatory on any final map for a subdivision. Thus the required constructive notice provision is already met. All projects of this size have notes and liens.*

**Commission Staff Response:**

See Commission staff responses to Engineering Consultant Comment #3 and Developer/Landowner Comment #4.

Staff does not propose any changes to the staff recommendation in response to this comment.

**Developer's Waste Water Treatment Facility Engineering Consultant Comment #9**

5.) Page 62 of 193 1. RE “no remainder parcel” is a violation of the subdivision map act, Section No. 66424.6. (a) When a subdivision, as defined in Section 66424, is of a portion of any unit or units of improved or unimproved land, the subdivider may designate as a remainder that portion which is not divided for the purpose of sale, lease, or financing.

**Commission Staff Response:**

(See Commission staff responses to Landowner/Developer Comment #3 and Engineering Consultant Comment #3.)

Staff does not propose any changes to the staff recommendation in response to this comment.

**Developer’s Waste Water Treatment Facility Engineering Consultant Comment #10**

*6.) Page 64 of 193 (11) – Seems to open the provision for phasing of the wastewater system improvements, and requires progressive abandonment of existing facilities. I would suggest this language defer the progressive installation and abandonment of improvements beyond this matter to the proper jurisdiction of the Ca. Regional Water Quality Control Board, and simply require that each phase of the project receive written approval from the Regional Board, along with compliance of the waste discharge requirements that are issued and contain a mitigation and monitoring program that is consistent with the Basin Plan. The provision of 72 hours of storage is a provision that infers the system is a “septic” system. This system is not, it is a mechanical treatment and filtration system which operates under entirely different provisions. The storage requirement written in, will actually require more power (thus less green), and place the surrounding environment at risk and further degrade the possibility of adequately treating and discharging. It’s inappropriate for the system type being proposed.*

**Commission Staff Response:**

(See Commission staff response to County Comment #3.)

Staff does not propose any changes to the staff recommendation in response to this comment.

**Developer's Waste Water Treatment Facility Engineering Consultant Comment #11**

*Page 66 of 193 A. – directs the development phasing. This is a violation of the subdivision map act Section 66411 and as the direction/requirements being imposed are not for the protection of public health and safety, rather are choices being made by coastal commission staff for their “preference” and actually counter productive to their own policies, as they reduce the possibility of the project owner being able to enhance the coast for public enjoyment. It is also in violation of the subdivision map act 66474.01. which vest the development strategy with the local jurisdictions and take into account impractical and economic constraints.*

**Commission Staff Response:**

(See Commission staff response to Engineering Consultant Comment #3.)

Staff does not propose any changes to the staff recommendation in response to this comment.

**Developer's Waste Water Treatment Facility Engineering Consultant Comment #12**

*7.) Page 66-193 D (1) – Requires the installation of all Water supply facilities to serve all development with the STMP before any other maps are filed except those which the Coastal Commission staff “prefers”. The water system has to be phases, especially concerning storage due to the requirements of water turn over and water quality issues that arise from storing water in a system too long. Furthermore the direction of the allowed maps under this provision do not benefit the public, either from a health and safety or benefit, as they kill the project and are not economically viable.*

**Commission Staff Response:**

(See Commission staff response to County Comment #3.)

**Developer's Waste Water Treatment Facility Engineering Consultant Comment #13**

8.) Page 67 of 193 E (1) (2) – Requires that all wastewater system components be built and “ready” for connection prior to any final maps being filed. Previous statements allowed for phasing of the wastewater system improvements. The wastewater system improvements being phased should be under the jurisdiction of the Regional Water Quality Control Board and Local Agency. Phasing these improvements is better for the project as it allows the progressive development of the project over time, and allows the use of the best available technology and best practices at the time of the filing of the final maps be implemented, thus over time and as the project is phased, the successive components of the system will only get better, and are already progressively regulated and monitored on an ongoing basis by the regional board.

**Commission Staff Response:**

(See Commission staff response to County Comment 3.)

**Developer’s Waste Water Treatment Facility Engineering Consultant Comment #14**

9.) Page 67 of 193 E (3) – The requirement of connection of all existing structures to the new system should be modified to say that prior to issuance of a final map, all structures within that phase of the final map, and any structures lying along a path of a sewer main line passing between the phased portion of the subdivision and the treatment plant shall be connected to the system under the provisions of the subdivision map act.

**Commission Staff Response:**

(See Commission staff response to County comment #3.)

Staff does not propose any changes to the staff recommendation in response to this comment.

**Developer's Waste Water Treatment Facility Engineering Consultant Comment #15**

*10.) Page 73 STMP (New Development) Policy 10: This is not a policy, it's a requirement. The requirement that all existing residences be connected to the new system after 180 days is not financially feasible. This language could read "that residences shall be connected with each phase of the final map prior to filing of a final map, and that any residences or structures lying along the sewer main line path, shall also be connected to the system as a requirement of the filing of any phase of a final map".*

**Commission Staff Response:**

(See Commission staff response to County comment #2.)

**Developer's Waste Water Treatment Facility Engineering Consultant Comment #16**

*11.) Page 73 STMP (New Development) Policy 11: The plumbing code designates that any structure that lies within 200 feet of public sewer may be required to connect by the local jurisdiction. This property is not under title by Samoa Pacific Development, thus there is no legal way to enforce a policy or requirement onto a party, whom does not have some control or title to another.*

**Commission Staff Response:**

(This comment has already been addressed above)

Staff does not propose any changes to the staff recommendation in response to this comment.

**Developer's Waste Water Treatment Facility Engineering Consultant Comment #17**

*12.) STMP (Wetlands/ESHA) Policy 2: There is an allowance to repair and maintain existing underground utilities within existing footprints provided there can be restoration of the disturbed areas. Why not allow the treatment disposal area to be installed as proposed in the mapped ESHA areas, and then restored. It will improve the native habitat, and be consistent with this land use policy.*



**Commission Staff Response:**

(This comment has already been addressed above)

Staff does not propose any changes to the staff recommendation in response to this comment.

**III. Coastal Commission Appeal Jurisdiction**

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (Coastal Act Section 30603). Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea, or within 300 feet of the inland extent of any beach, or of the mean high tide line of the sea where there is no beach, or within 100 feet of any wetland or stream, or within 300 feet of the top of the seaward face of any coastal bluff, or those located in a sensitive coastal resource area. Furthermore, developments approved by counties may be appealed if they are not designated the “principal permitted use” under the certified LCP. Finally, developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program and, if the development is located between the first public road and the sea, the public access policies set forth in the Coastal Act.

Currently, any development within the lands subject to the LCP amendment are appealable to the Commission pursuant to Section 30603 of the Coastal Act, primarily because the approved development in these lands would be located between the sea and the first public road paralleling the sea. Section 13577(i)(1) of the Commission’s regulations defines the “first public road” as follows:

*The "first public road paralleling the sea" means that road nearest to the sea, as defined in [Public Resources Code Section 30115](#), which:*

*(A) is lawfully open to uninterrupted public use and is suitable for such use;*

*(B) is publicly maintained;*

*(C) is an improved, all-weather road open to motor vehicle traffic in at least one direction;*

*(D) is not subject to any restrictions on use by the public except when closed due to an emergency or when closed temporarily for military purposes; and*

*(E) does in fact connect with other public roads providing a continuous access system, and generally parallels and follows the shoreline of the sea so as to include all portions of the sea where the physical features such as bays, lagoons, estuaries, and wetlands cause the waters of the sea to extend landward of the generally continuous coastline.*

The principal road that extends up and down the Samoa Peninsula is New Navy Base Road. New Navy Base Road is a public road that meets criteria (A)-(D) above. However, the Commission has determined that New Navy Base Road does not meet criteria (E) above, as the road does not provide a continuous public access system generally paralleling the shoreline of the sea. The Commission's long standing interpretation is that dead-end or spur roads such as New Navy Base Road and loop roads that ultimately require traveling in a reverse direction do not provide a continuous public access system generally paralleling the shoreline. Therefore, all of the Samoa Peninsula is appealable on the basis that it is seaward of the first public road unless the circumstances set forth in Section 13577(i)(2) or 13577(i)(3) apply to portion of the peninsula.

Section 13577(i)(2) and 13577(i)(3) of the Commission's regulations state in applicable part:

*(2) Whenever no public road can be designated which conforms to all provisions of (i)(1) above, and a public road does exist, which conforms to all provisions of (i)(1) except (i)(1)(v), the effect of designating the first public road paralleling the sea shall be limited to the following:*

*(A) all parcels between the Pacific Ocean and such other public road; and*

*(B) those parcels immediately adjacent of the sea inland of such other public road.*

*(3) Where the Commission determines that the designation of the "first public road paralleling the sea" results in the inclusion of areas within the permit and appeal jurisdiction where the grounds for an appeal set forth in [Public Resources Code Section 30603\(b\)](#) are not an issue, the Commission may take action to limit the geographic area where developments approved by a local government may be appealed to the Commission, to that area where any such grounds are, in fact, an issue.*

In 1986, Humboldt County requested that the Commission make a determination pursuant to Section 13577(i)(3) that designation of the first public road paralleling the sea inland of Humboldt Bay results in the inclusion of two areas on the Samoa Peninsula within the permit appeal jurisdiction where the grounds for an appeal are not an issue. The two identified areas are within the communities of Manila and Fairhaven, each more than a mile from the Town of Samoa. The Commission approved the County's request in February of 1986. As a result, the Commission has historically considered all areas within the certified LCP jurisdiction of Humboldt County on the Samoa Peninsula including the area subject to the LCP amendment to be appealable by virtue of being located between the first public road the sea except the above mentioned two areas in Manila and Fairhaven.

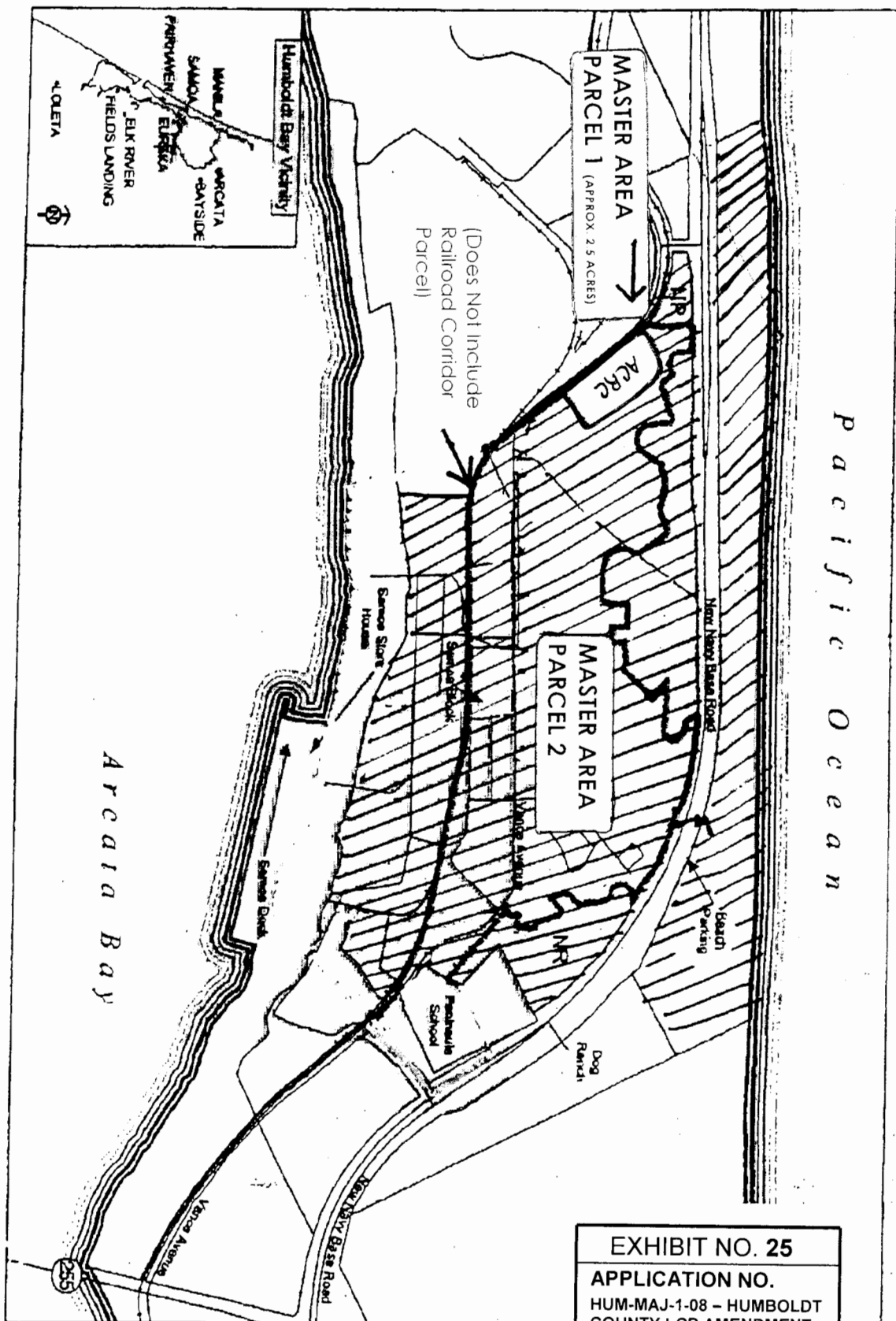
Depending on the facts, it is possible that the circumstances set forth in Section 13577(i)(2) could be determined in the future to apply to portions of the Samoa Peninsula. Such a determination would limit the appeal jurisdiction based on the first public road paralleling the sea to apply only to (a) all parcels between the Pacific Ocean and a public road that meets all of the criteria of Section 13577(i)(1) except 13577(i)(1)(E), and (b) those parcels immediately adjacent of the sea inland of such a public road. Depending on the facts, it's possible that within the Town of Samoa, New Navy Base Road or a future extension of Vance Road which would be facilitated by the LCP Amendment might be determined as meeting all of the criteria of Section 13577(i)(1) except 13577(i)(1)(E), causing some parts of the Town of Samoa to no longer be within the Commission's appeal jurisdiction on the basis that their locations are seaward or bayward of the first public road paralleling the sea.

Regardless of whether development within the Town of Samoa is appealable on the basis of being located between the first public road paralleling the sea, much of the development that would be facilitated by the LCP amendment would be appealable to the Commission on the other bases listed in Section 30603 of the Coastal Act, such as all development located within 300 feet of the inland extent of any beach, or within 100 feet of any wetland or stream, or within 300 feet of the top of the seaward face of any coastal bluff, or those located in a sensitive coastal resource area, or developments which constitute major public works or major energy facilities. Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP.

This latter basis for appeal is particularly important for development that would be facilitated by the LCP amendment as modified by the recommended suggested modifications. The staff recommendation provides a comprehensive framework for addressing the many site constraints and concerns affecting development of the Town of Samoa primarily through the imposition of suggested modifications that would govern the review and approval of a master subdivision of the Samoa lands after all of the lands affected by the LCP amendment except the Arcata Recycling Facility property are first merged. Thus, the review of the coastal development permit for the master subdivision will be very important in determining what specific development ultimately occurs with

the lands subject to the LCP amendment. As in many areas of the coastal zone, land divisions are not designated as the principal permitted use in any zoning district under the Humboldt County LCP. Thus, the coastal development permit for the master subdivision of Master Parcel 2 required by the suggested modifications for all of the Town of Samoa except for the Arcata Recycling Center facility would be appealable to the Commission regardless of whether certain areas are determined to be outside the Commission's geographical appeal jurisdiction.

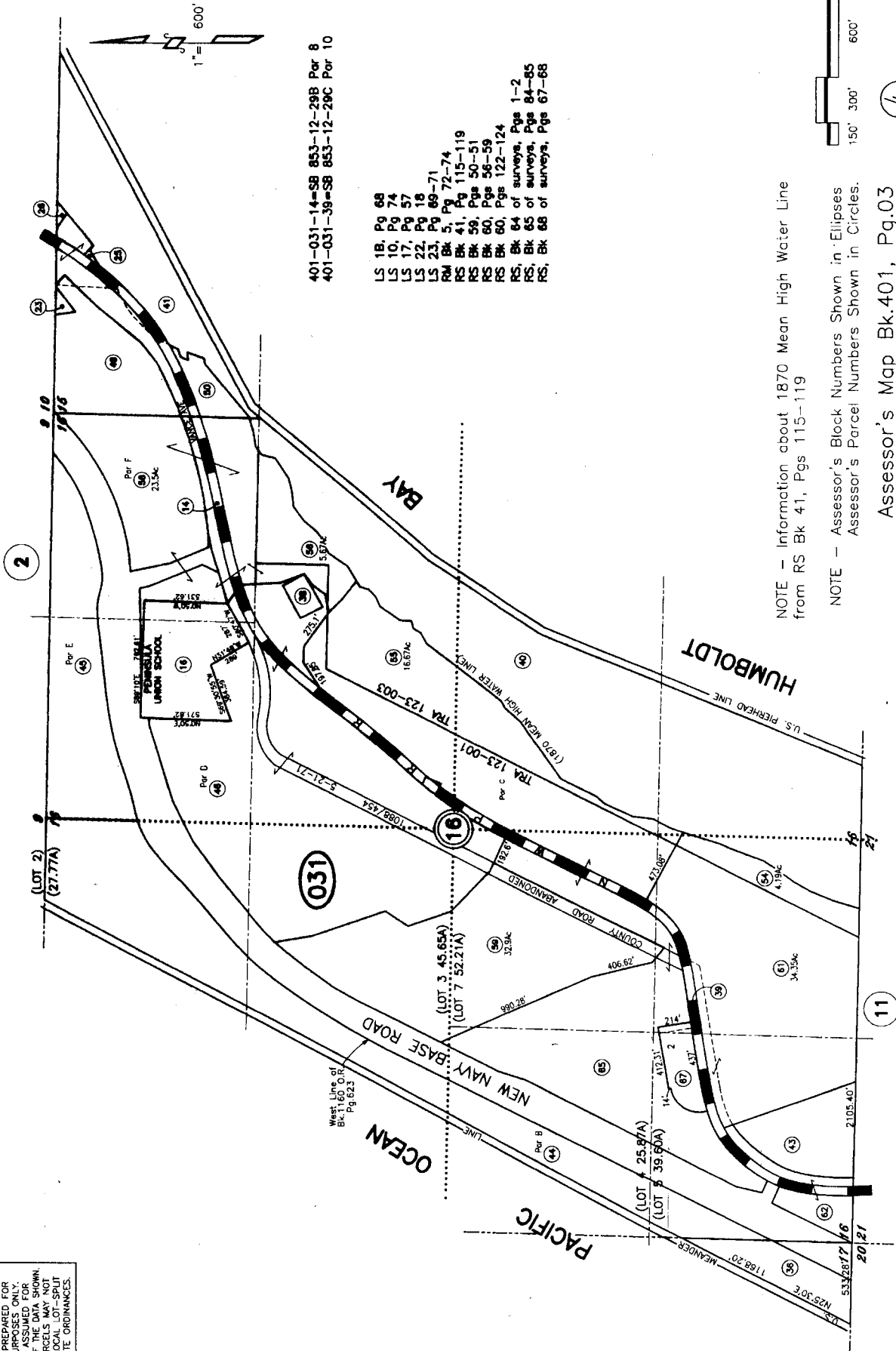
Pacific Ocean



401-03

PTN SECS 15,16 & 17 T5N, R1W H.B.& M.

ASSESSOR'S PARCEL MAP  
1. THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY.  
2. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN.  
3. ASSESSOR'S PARCELS MAY NOT CORRELATE WITH LOCAL GOVERNMENT OR BUILDING SITE ORDINANCES.



401-031-14-SB 853-12-29B Par 8  
401-031-39-SB 853-12-29C Par 10

LS 1B, Pg 68  
LS 10, Pg 74  
LS 17, Pg 57  
LS 22, Pg 16  
LS 23, Pg 69-71  
RM Bk 5, Pg 72-74  
RS Bk 41, Pg 115-119  
RS Bk 59, Pg 50-51  
RS Bk 60, Pg 56-59  
RS Bk 60, Pg 122-124  
RS, Bk 64 of surveys, Pgs 1-2  
RS, Bk 65 of surveys, Pgs 84-85  
RS, Bk 68 of surveys, Pgs 67-68

NOTE - Information about 1870 Mean High Water Line from RS Bk 41, Pgs 115-119

NOTE - Assessor's Block Numbers Shown in Ellipses  
Assessor's Parcel Numbers Shown in Circles.

Assessor's Map Bk.401, Pg.03  
County of Humboldt, CA.

150' 300' 600'

Jan 4, 2011

2 of 2

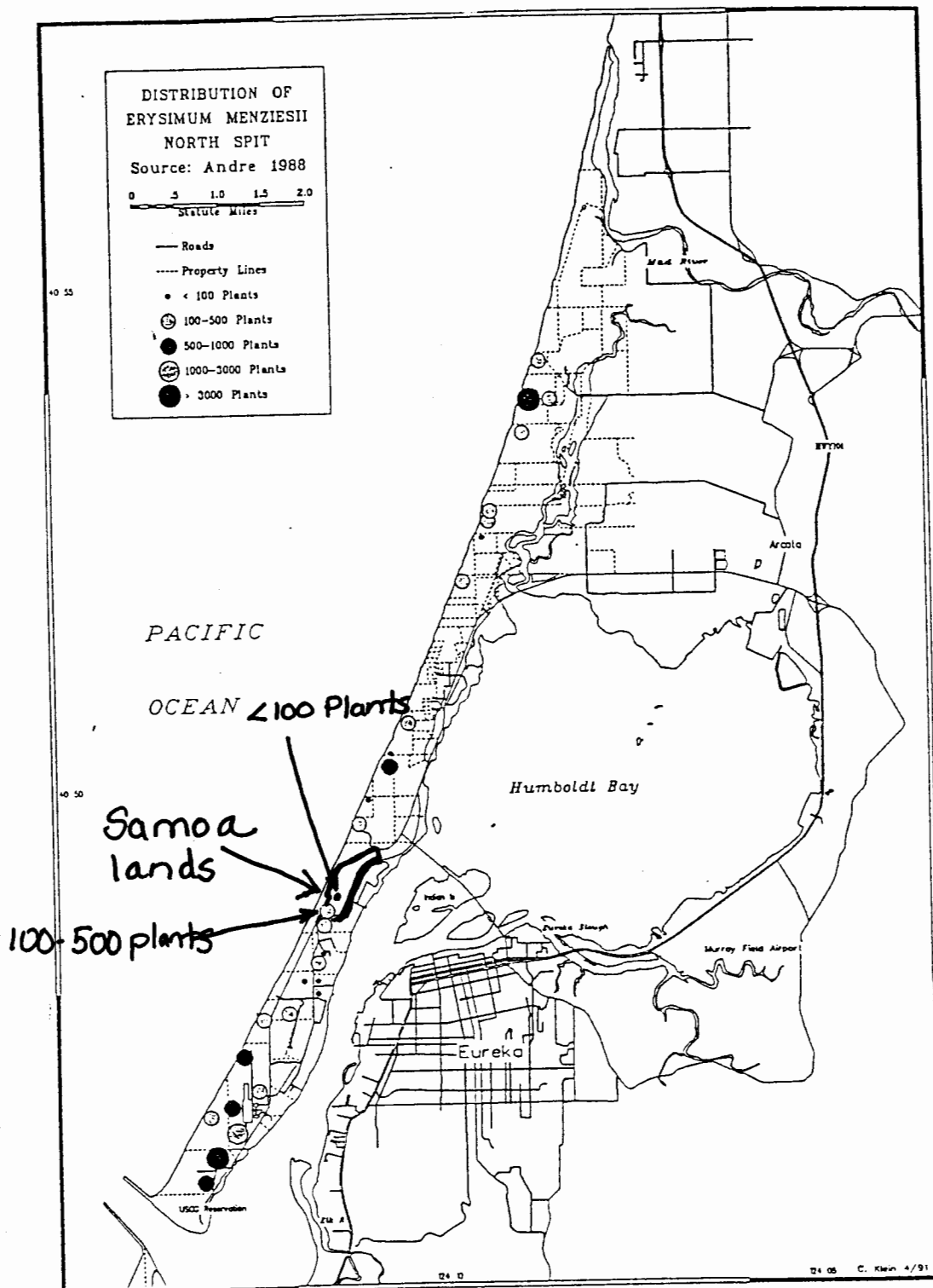


Figure 3.23 A - Distribution of Menzies' Wallflower. See Table 3.23 C.

## EXHIBIT NO. 26

## APPLICATION NO.

HUM-MAJ-1-08 - HUMBOLDT  
COUNTY LCP AMENDMENT  
(SAMOA)

DISTRIBUTION OF MENZIES'  
WALLFLOWER

## Supervisors approve zone changes for Samoa Town project

By NATHAN RUSHTON, The Eureka Reporter

Published: Feb 27 2008, 12:11 AM

Category: Local News

Topic: Samoa

EXHIBIT NO. 27

APPLICATION NO.

HUM-MAJ-1-08 - HUMBOLDT  
COUNTY LCA AMENDMENT  
(SAMOA)

EUREKA REPORTER  
ARTICLE PUBLISHED FEB.  
27, 2008 (SAMOA) (1 of 2)



The Humboldt County Board of Supervisors gave the green light Tuesday to several zoning changes that pave the way for the restoration and face-lift of the historic town of Samoa.

The board unanimously approved the general plan amendments for Samoa Pacific Group's project that changes the idle and industrially zoned lands in Samoa for various commercial, residential and recreational uses.

Supervisor Bonnie Neely, who represents the Samoa area, said Tuesday that the project is in the public's interest.

"This represents an opportunity for significant economic development," Neely said.

But the development to revamp the town's aging water and sewer infrastructure that will also add nearly 300 new homes, a business park, 40-room lodge, RV facility and an indoor soccer arena still faces significant hurdles at the state level.

The project's master environmental impact report also approved and certified by the board Tuesday, which addresses California Environmental Quality Act laws will be handed off to the California Coastal Commission and reviewed by its staff.

The CCC is expected to add more mitigation measures that will be brought back to the supervisors for final adoption.

It was CCC concerns over tsunami hazards in the 171-acre dune area sandwiched between the bay and the ocean that stalled the project for nearly a year after and forced the developers to modify its original plan to restrict any residential dwellings below the 30-foot elevation.

While concerns were raised by the public about traffic safety and the town's vital cultural resources, the supervisors seemed content that there would be ample opportunities in the future for more environmental review and more mitigation during the roll out of the multi-phase project.

Since the project was hatched seven years ago, Dan Johnson, a SPG partner and Danco Builders president, said SPG worked hard to create a community where people could live and work.

While Johnson said theater venues and restaurants are planned to attract night life, he said it's their intention to save the historic resources and character of the town.

He said there is already considerable interest in the 800- to 2,000-square-foot commercial buildings that would be available for sale, which he said has already have prospective buyers.

[800 to 2,000 s.f.  
Business Park]

"It's amazing how many calls we get for that business park," Johnson said.

But safety concerns related to increased traffic from the development riled some Samoa and Manila residents.

Manila resident Paul Cienfuegos said he and others have been asking for 15 years for Caltrans to address speeding cars, poor lighting, improper grading and inadequately marked lanes that are already a problem on State Highway 255 that bisects the town.

"It's outrageous that Manila traffic concerns have been ignored for so long," Cienfuegos said.

As part of the proposed project, SPG would contribute \$66,000 to a fund for mitigation of traffic impacts to Eureka and another \$180,000 for a separate fund to lessen impacts for Manila.

With regard to traffic issues, Neely said she has pushed for a regional approach to dealing with traffic issues such as Manila's and sees a chance to leverage Caltrans to address those issues as part of its proposed \$60 million Eureka-Arcata Corridor Improvement Project.

The protection of the town's cultural resources was also a major concern, which county staff had been addressed.

Susie Van Kirk, a cultural resource consultant who previously described Samoa as a national treasure, read a letter from an attorney on behalf of the newly formed Friends of Historic Samoa, which called for the denial of the certification of the MEIR because it failed to



identify adequate alternatives.

Janet Eidsness, also a heritage resource management consultant, agreed that the MEIR was inadequate and subject to legal challenge.

202

-----Original Message-----

From: Girard, Kirk [mailto:KGirard@co.humboldt.ca.us]

Sent: Friday, March 04, 2011 8:32 PM

To: Pete Nichols

Cc: Peter Douglas; Bob Merrill; Wheeler, Michael; Werner, Steve; Hofweber, Tom; Melanie Faust

Subject: RE: Samoa LCPA

Hi Pete,

Here are my preliminary quibbles:

The suggested modifications require merger of Arcata Recycling Center's property with the Samoa Pacific Group's property and then a re-subdivision to separate them again. The County does not have the authority to require two different owners to merge property. This modification pre-supposes the County did not have a legal basis to create the Arcata Recycling lot in the first place. We think this is spurious and in any event, water under the bridge given estoppel laws.

The Samoa Group has agreed to merge every parcel within their ownership which cures the issue of proving the validity of the 70 plus lots that were issued Certificates of Compliance. This is as good as it's going to get.

There is also a requirement that we compel the Arcata Recycling Center to connect to the proposed sewer system. This is a good idea but unless ARC seeks additional land use entitlements or we make findings associated with threats to health and safety, ARC would have to connect voluntarily.

We want to make sure the suggested modifications don't preclude staged upgrade of the wastewater treatment system as the site develops. We want to condition each phase of the subdivision to Regional Water Quality Control Board Wastewater Discharge Requirements/Basin Standards in place at the time of development. You and I may have a disagreement here but I know the Water Board will require significant changes to the existing system with the very first subdivision. It's not necessary to impose "new system" requirements to ensure protection of coastal resources. It may not even make sense because parts of the existing system will likely be part of a "new system" such as the marsh treatment pond. We should stick to specifying conformance with Waste Discharge Requirements unless there is specific coastal resource that demands a higher level of protection than WDR's or Basin Standards would provide.

There is a requirement that all existing residences get hooked up within 180 days of the first wastewater system improvement. Hookups need to be tied to subdivision timing. Even the existing town will be subdivided in phases over time. Likewise we want the ability to allow phased construction of the fire suppression system according to fire department and fire code standards in place at the time of development.

We want an allowance to build at least two building in the industrial park up to 30,000 square feet. Currently the modifications cap building size at 20,000 square feet. We want to restrict the two larger buildings to the south side of the property adjacent to the pulp mill (very large) and the Arcata Recycling Center (+40,000 sq. ft.). We think some of the businesses we are targeting for the industrial park need that amount of space; for example, Fox Farm. This building bulk in this location is not a coastal scenic or zoning compatibility issue. The adjacent land uses are coastal dependent and heavy industry. We are proposing a vegetation buffer between the residential area and the industrial park and a 10,000 sq. ft. building size restriction in this buffer area.

We have precluded retail as a principle use of any of the buildings so there is no Big Box threat. Retail must be supportive and incidental to the primary use; for example, a tasting bar associated with a winery. Given this vision we also need to eliminate a suggested modification that prohibits the majority of retail customers from coming outside of the business park. This is unnecessary as a traffic mitigation or big box control measure but it could block a lot of legitimate uses; such as Fox Farm, Robert Goodman, Moonstone Crossing, Lost Coast Brewery, Holly Yashi, Thomas Jewelry; the list really goes on and on. Many of these companies have on-site incidental and supportive retail outlets.

We want to require the project developer to reserve commercial floor space in the Samoa Block for development of a grocery/convenience store but we don't want to require the construction of a new building for this purpose. The current proposed modifications might result in a newly constructed building being vacant for years.

There are a couple of other issues worth mentioning. The newly identified ESHA boundaries will require a revision of the development Master Plan so there maybe more issues once we understand all the ramifications of the boundary adjustments. We're glad that the ESHA/Natural Resource boundaries have been identified for Local Coastal Plan purposes but they may need to be adjusted once we complete the wetland delineation and habitat mapping required for the subdivision application. If changes are necessary, we will have to go back to our Board and the Coastal Commission to seek changes in plan designation boundaries.

The granularity of many of the suggested modifications is inappropriate for a Local Coastal Plan. I'm afraid we will be forced to complete LCP amendments for minor issues that are more appropriately resolved at the Coastal Development Permit, subdivision and zoning layers of planning. It appears that through this process this piece of geography will be regulated at a level of detail that far exceeds the level of detail in the balance of our Local Coastal Plans. We do not need to go to this level of detail to assure consistency of this Plan Amendment with the Coastal Act. We are going to give this issue careful consideration when we make recommendations to our Board regarding acceptance of the modifications.

For your information, I've attached the latest Samoa Group's comments. I can tell you they are scared that the project may not be worth the investment given the regulatory requirements, market conditions and the diminished amount of land available for development.

As I said, we are on board with the big picture and I appreciate the re-working of the earlier versions of the proposed modifications. Bob Merrill has been earnestly trying to make this work.

I'm asking others on our staff to take a look at the proposed modifications so we may have other comments. I'll keep you informed as we go along. I'd be happy to talk with you about these preliminary comments if you'd like. I'm going to be on the road next week but you can reach me on my cell at 599-9215.

Kirk

Kirk Girard  
Director  
Community Development Services  
County of Humboldt  
3015 H Street  
Eureka, CA 95501  
Ph: (707) 268-3735  
Fax: (707) 445-7446  
kgirard@co.humboldt.ca.us

-----Original Message-----

From: Pete Nichols [mailto:pete@humboldt看keeper.org]  
Sent: Thursday, March 03, 2011 10:38 PM  
To: Girard, Kirk  
Cc: Peter Douglas  
Subject: Re: Samoa LCPA

Hey Kirk--

It would great to know what the 'quibbles' are prior to the meeting next week. We feel satisfied with the suggested modifications as they stand at this point and would appreciate a heads-up of any significant changes prior to the meeting.

All the best--

pete

\*\*\*\*\*

Pete Nichols  
Executive Director, Humboldt Baykeeper  
Pacific Regional Representative, Waterkeeper Alliance

217 E Street, Eureka, CA 95501  
707.845.0832  
pete@humboldt看keeper.org

www.humboldt看keeper.org  
www.waterkeeper.org

On Mar 3, 2011, at 8:37 PM, kgirard@co.humboldt.ca.us wrote:

> Thanks Pete. It's helpful to know your position. We have some quibbles with the recommended modifications but we are on board with the big picture. If we submit any formal comments, I'll send you a copy.

> -----Original Message-----

> From: Pete Nichols  
> To: Kirk Girard  
> Cc: Peter Douglas  
> Subject: Samoa LCPA  
> Sent: Mar 3, 2011 12:54 PM

>

> Hey Kirk--

>

> We have been looking over the Staff Report for the Samoa LCPA and wanted to let you know that we will be supporting the staff recommendation of support with acceptance, and implementation, of the Commission staff's suggested modifications by the project proponent.

>

> In particular, we believe the requirement that a new wastewater treatment facility be constructed prior to any new development is critical to protecting water quality in Humboldt Bay and along the coast. In addition, we believe the suggested modifications regarding and ESHA and Sea Level Rise will provide adequate of coastal resources.

>

> Let me know if you would like to discuss this further prior to next week's meeting.

>

> all the best--

>

> pete

>

> \*\*\*\*\*

> Pete Nichols  
> Executive Director, Humboldt Baykeeper Pacific Regional  
> Representative, Waterkeeper Alliance  
>  
> 217 E Street, Eureka, CA 95501  
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>  
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>  
>  
> Kirk

**From:** Vanessa Blodgett [mailto:vanessat@planwestpartners.com]  
**Sent:** Friday, March 04, 2011 3:20 PM  
**To:** Melanie Faust; 'Dan Johnson'; 'Mike O'Hern'; Bob Merrill; 'Girard, Kirk'  
**Subject:** RE: Samoa LCP Amend. - Response to CC 2-24-11 Staff Report

Hi Melanie,  
Thank you for asking for clarification. The attached comments are from Samoa Pacific Group.  
(Planwest's only role was to document the comments). The attachment has been revised to show this.  
Let me know if you have additional questions. Thanks,  
Vanessa

**From:** Melanie Faust [mailto:mfaust@coastal.ca.gov]  
**Sent:** Friday, March 04, 2011 2:39 PM  
**To:** Vanessa Blodgett; Dan Johnson; Mike O'Hern; Bob Merrill; Girard, Kirk  
**Subject:** RE: Samoa LCP Amend. - Response to CC 2-24-11 Staff Report

Hi Vanessa: The attachment is not on letterhead, and since you are transmitting the email as PlanWest staff, we would appreciate clarification of the source of the attachment/comments:  
Are we receiving the attachment/comments from DanCo, Samoa Pacific Group, PlanWest, Humboldt County staff, or a combination? Please clarify. Thank you, Melanie

**From:** Vanessa Blodgett [mailto:vanessat@planwestpartners.com]  
**Sent:** Friday, March 04, 2011 11:13 AM  
**To:** 'Dan Johnson'; 'Mike O'Hern'; Bob Merrill; Melanie Faust; 'Girard, Kirk'  
**Subject:** Samoa LCP Amend. - Response to CC 2-24-11 Staff Report

Hi All,  
Per Dan's request, attached is the response to the 2-24-11 Coastal Commission Staff Report (with attachments).

Vanessa Blodgett  
Planwest Partners Inc.  
1125 16th Street, Suite 200  
Arcata, CA 95521  
phone: (707) 825-8260  
fax: (707) 825-9181

3/8/2011

**ATTACHMENT 2**

## Transmittal

**To: California Coastal Commission**  
**From: Samoa Pacific Group**

**Subject: Response to February 24, 2011 Coastal Commission Staff Report**  
**Humboldt County LCP Amendment No. HUM-MAJ-01-08 (Samoa)**

This is response to the February 24, 2011 Coastal Commission Staff Report for the Samoa LCP Amendment. Following is a summary of Samoa Pacific Group (SPG) comments on the broader concerns with specific Staff Report recommendations.

**1. Lot Legality. Legality of lot merger as proposed.** A merger can only take place if lands are under a common ownership. The requirement of a merger of parcels by the staff report is in direct violation of the Subdivision Map Act section: 66451.302.(a). The Arcata Community Recycling Center Samoa Processing Facility (ACRC) is not owned by SPG, therefore cannot legally be merged with SPG owned lands.

- All existing lots have been certified as separate lots by recorded certificates of compliance. Despite this fact, the owner is willing to merge all lots owned by Samoa Pacific Group into one parcel.
- "Remainder" parcels will be shown on each phase of the subdivision map until the last phase, after which there will be no remainder.
- Staff Report Page 61, 2 – The deed restrictions will be recorded prior to any sales or new loans on the property, but not prior to existing easements.

**2. Railroad crossings - NCRA approval.** Suggested Modification #9 requires evidence of NCRA and CPUC authorizations with the initial merger and subdivision of STMP-LUP lands application (Staff Report page 60). This approval is beyond the applicant's control and could potentially delay initial CDP application filing for years. SPG has and will continue to work to secure NCRA approval for required RR crossings; however the proposed timing of NCRA approval is a complete unknown at this time and it is requested that this approval be a condition of a later development phase.

- Approval of railroad crossings shall be a condition of the affected phase.

**3. Increase in ESHA/ Natural Resource areas.** The areas recommended for Natural Resource designation (Staff Report Exhibit 4) include a 100 foot buffer from ESHA areas (except where existing development would preclude such buffer). Per Dr. Dixon's 2/11/11 Memo, the following areas, which were previously designated non-ESHA, are now considered ESHA: the entire dune area east of New Navy Base Road, the existing wastewater point of discharge area, a small dune hollow area near the center of the site, and the dune area adjacent to existing residences located near the northern property boundary. This results in a significant overall reduction of developable lands (see attached figure). The approximate total loss by land use

follows: Business Park (MB): 2.85 acres, Public Facility (PF): 2.44 acres, Residential Low Density (RL): 6.35 acres, Public Recreation (PR): 0.36 acres.

**4. Wetland/ESHA Policies and Standards.** STMP Wetlands/ ESHA Policy 9 (Staff Report page 80) requires a plan for the removal of “invasive non-native plant species of particular ecological concern” within the entire STMP-LUP area that shall be implemented per phase and monitored for 5 to 10 years. This and other required invasive species removal and restoration and enhancement of ESHA’s (Staff Report page 77) and adjacent buffer areas would create a substantial financial burden on the applicant/ future property owners. The recommended increased NR area has already significantly reduced the developable area and enhancing/ restoring buffer areas is not a typical requirement. Enhancing and restoring native species to the buffer areas would likely require intensive seed collection activities, which are time intensive and expensive.

- Protection and preservation of existing ESHAs will occur; for the reasons discussed above it is requested that all language referring to enhancement and restoration of ESHAs be removed.

The following summarizes previously recommended language revisions for the proposed Wetlands/ ESHA related suggested modifications, but is not a comprehensive list of all previous comments.

Page 78, 1 and page 108.a. Functional Relationships.

Comment: Biological functional relationships are (1) complex to assess; (2) there are no Coastal Act guidelines for determining or assessing such a relationship; and (3) the analysis would be qualitative at best and would not be quantifiable.

- Since there is no guidance on determining functional relationships, it is requested that all language referring to biological functional relationships be removed and related policies/ standards could state “The buffer shall be measured from the edge of the ESHA that is adjacent to the proposed development.”

Page 78, 7 and 8; page 108 (a) and (e); page 110, 7 and 8. Use of Natural topography and historic locations of habitat/ species.

Comment: The natural topography is already incorporated into the project design and buffer areas. “Historic locations” is too broad and should be limited to mapping methods such as GPS/GIS, standard survey, or orthorectified aerial photos.

- It is requested that all policy/ standard references to natural topography be removed and references to historic locations be limited to the mapping methods defined above.

**5. Contamination Remediation.** Comprehensive subdivision approval will contain conditions for contamination remediation; the cleanup of affected areas will be completed in phases, prior to final map recordation of the applicable phase.

- Cleanup of the lands within any phase shall be completed prior to the recordation of the map for that phase.



**6. WWTF requirements.** The requirements imposed by the Staff Report pertaining to development strategy and forced installation of improvements which are not directly affecting the health, safety, and welfare, of those current and future occupants place unnecessary and undue burden to the point of making the project infeasible and is in direct violation of the subdivision map act as these conditions are expressly granted to the local agencies.

- Improvements to the WWTF shall be made as required to serve each phase. Collection facilities will be installed as required to serve each phase. The improvements to the WWTF and the collection facilities shall be completed to the satisfaction of the Regional Water Quality Control Board.

Following are comments related to specific Staff Report recommendations.

According to Staff Report page 67.E, the wastewater treatment facilities needed to serve all existing residential and commercial areas must be constructed, and ready for connection prior to any final map recordation (except for Public Facility designated area). However, Staff Report Page 64 (11) seems to open the provision for phasing of the wastewater system improvements, and requires progressive abandonment of existing facilities. It is requested that this language defer the progressive installation and abandonment of improvements beyond this matter to the proper jurisdiction of the Ca. Regional Water Quality Control Board, and simply require that each phase of the project receive written approval from the Regional Board, along with compliance of the waste discharge requirements that are issued and contain a mitigation and monitoring program that is consistent with the Basin Plan. The provision of 72 hours of storage is a provision that infers the system is a “septic” system. This system is not, it is a mechanical treatment and filtration system which operates under entirely different provisions. The storage requirement written in, will actually require more power (thus less green), and place the surrounding environment at risk and further degrade the possibility of adequately treating and discharging. It’s inappropriate for the system type being proposed.

Page 67 E (1) (2) – Requires that all wastewater system components be built and “ready” for connection prior to any final maps being filed. Previous statements allowed for phasing of the wastewater system improvements. The wastewater system improvements being phased should be under the jurisdiction of the Regional Water Quality Control Board and Local Agency. Phasing these improvements is better for the project as it allows the progressive development of the project over time, and allows the use of the best available technology and best practices at the time of the filing of the final maps be implemented, thus over time and as the project is phased, the successive components of the system will only get better, and are already progressively regulated and monitored on an ongoing basis by the regional board.

Page 67 of 193 E (3) – The requirement of connection of all existing structures to the new system should be modified to say that prior to issuance of a final map, all structures within that phase of the final map, and any structures lying along a path of a sewer main line passing between the phased portion of the subdivision and the treatment plant shall be connected to the system under the provisions of the subdivision map act.

Page 73 STMP (New Development) Policy 10: This is not a policy, it's a requirement. The requirement that all existing residences be connected to the new system after 180 days is not financially feasible. This language could read "that residences shall be connected with each phase of the final map prior to filing of a final map, and that any residences or structures lying along the sewer main line path, shall also be connected to the system as a requirement of the filing of any phase of a final map".

Page 73 STMP (New Development) Policy 11: The plumbing code designates that any structure that lies within 200 feet of public sewer may be required to connect by the local jurisdiction. This property is not under title by Samoa Pacific Development, thus there is no legal way to enforce a policy or requirement onto a party, whom does not have some control or title to another

**7. Requirement to build grocery store building.** STMP (Coastal Access) Policy 5 (Staff Report page 86) requires that the "landowner/developer construct a building to house a grocery/convenience store" without first securing a tenant; a significant financial investment.

- SPG will provide an area for a grocery/convenience store. This could be space in the existing building in the commercial block or a new building to be constructed after a tenant is secured.

**8. Business Park structure size.** Suggested Modification # 6 (Staff Report page 55) limits Business Park (MB) structures to 10,000 square feet (conditionally allowing for up to two 20,000 square foot structures). Limiting MB structure size to 10,000 square feet is too restrictive for most light industrial type businesses and is not consistent with the County's existing MB standards.

- Remove the statement at the bottom of Staff Report page 86 regarding customers from outside of the coastal business park. In order to be viable, the business park customers should not be limited to local customers.
- At the top of page 87 the statement "detectable odors" should be revised to "objectionable odors."
- The size of the buildings in the north portion of the business park should be 10,000 SF. Throughout the business park buildings should be allowed up to 20, 000 SF with one building 20,000 to 30,000 SF.
- Pertinent portions of the Samoa Design Guidelines should be used in the business park, rather than listing specific requirements in the LCP.

**9. Emergency control water supply facilities.** Staff Report Page 66 D (1) requires the installation of all emergency control water supply facilities to serve all development with the STMP before any other maps are filed except as specified. The water system has to be phases, especially concerning storage due to the requirements of water turn over and water quality issues that arise from storing water in a system too long. Furthermore the direction of the allowed maps under this provision do not benefit the public, either from a health and safety and are not economically viable.

- Emergency control water supply facilities should be improved as required for individual phases. A new water storage tank shall be constructed prior to any new development. Distribution lines shall be installed in each phase prior to the filing of the map for each phase.

**10. Energy Conservation/ Minimizing VMT.** STMP (New Development) Policy 7 includes measures such as “requiring development to use recycled building materials” (see comment below). Many of the measures are ambiguous and not specific. Following are comments related to specific recommended measures.

Page 72, 1. Siting development in a manner that will minimize traffic trips;

Comment: The guideline is not specific enough and is suggested to be reworded to provide specific recommendations such as: “Ensure that any community serving retail uses are located within 1/4 mile of the central residential uses.”

Page 72, 2. Prohibiting retail sales establishments designed to attract more than an incidental percentage of customers from off-site area;

Comment: The guideline is not specific enough and is suggested to be reworded to provide specific types of retail establishments that are prohibited. Is suggested that this prohibition cover uses such as “national chains occupying more than 25,000 square feet of floor area”, but allow independent retail uses. This suggested type of guideline would fit within the traffic analysis’ estimates of trip generation.

Page 72, 3. Incorporating the “smart growth” development concepts that combine interdependent uses that potentially reduce off-site traffic trips, including adequate grocery and convenience stores in the revitalized downtown area to supply resident and visitor needs with fewer off-site trips;

Comment: It is cautioned that this guideline may be in conflicts with the reworded Item 2 (i.e., grocery and convenience store may be national chains).

Page 72, 11. Requiring development to use recycled building materials.

Comment: Recycled building materials should be used as economically feasible. The wording above could be interpreted as requiring the use of only recycled materials and should be modified as above.

Page 72, 14. Incorporating structural amenities within non-residential development to encourage the use of non-motorized or public transportation by employees (such as sheltered bicycle storage, bicycle lockers, restrooms with showers/personal lockers, etc.);

Comment: Since it may be financially infeasible for small-scale independence uses to provide these amenities, it is suggested that this guideline be applied only to nonresidential uses with more than (say) 25,000 square feet and/or structures with more than 50 employees. Also, the plan could include open air bike racks in common public areas which could serve the bicycle storage needs of smaller independent uses.

Page 72, 15. Encouraging employer incentives such as paid us passes, etc., to encourage employee use of public transportation;

Comment: Since it may be financially infeasible for small-scale independence uses to provide these types of incentives, it is suggested that this guideline be applied only to nonresidential uses with more than (say) 25,000 square feet and/or structures with more than 50 employees

Page 85, A.1. The necessary turnout area should be approximately 100 feet in length and proportioned to allow for maneuvering of a 40-foot long, 102-inch wide bus.

Comment: Since the Humboldt Transit Authority would review and approve the bus stop designs, it is suggested that this specific guideline detailing dimensions be deleted and replaced with a more general statement that the bus stop areas should be consistent with the local transit authority's design guidelines.

**11. Seal Level Rise.** According to consultation with a professional geologist who has substantial coastal hazard experience, the requested geologic hazard analysis (Staff Report page 63 and 110-111) is above and beyond scientific studies that are currently required for coastal development. A sea level rise analysis was completed for the proposed project and all recommendations from that report will be complied with.

In addition, Cal Pub Resources Code § 30005.5 states:

The following provisions shall apply to the commission's decision to certify or refuse certification of a land use plan pursuant to Section 30512:

(a) The commission's review of a land use plan shall be limited to its administrative determination that the land use plan submitted by the local government does, or does not, conform with the requirements of Chapter 3 (commencing with Section 30200). In making this review, the commission is not authorized by any provision of this division to diminish or abridge the authority of a local government to adopt and establish, by ordinance, the precise content of its land use plan.

## ATTACHMENTS

1. Figure - Land Use Designations within Costal Commission Recommended Natural Resource Lands
2. CEC Inc. Comments



Land Uses within Natural Resource Lands (ESHA/Buffers)

- Land Use Designations**
- RL Residential Low Density
  - RM Residential Medium Density
  - CR Commercial Recreation
  - PF Public Facility
  - CG Commercial General
  - MB Business Park
  - NR Natural Resources
  - PR Public Recreation

Land Uses within Natural Resource Lands

- MB - 2.85 Acres
- PF - 2.44 Acres
- PR - 35 Acres
- RL - 6.35 Acres
- RM - .36 Acres

990 Feet

495

0

PLANWEST

CEC Inc.

Coastal Commission Notes:

Overall Comments:

1.) It seems to me that the requirement of a merger of parcels by the staff report is in direct violation of the subdivision map act section: 66451.302. (a) By January 1, 1987, a city or county or city and county which has within its boundaries, parcels or units of land which are or may be subject to the provisions of Section 66451.301, shall send a notice to all owners of real property affected by Section 66451.301 in substantially the following form:

"The city or county sending you this notice has identified one or more parcels of land which you own as potentially subject to a new state law regarding the merger of substandard parcels which are located in one or more of the following categories: etc...

2.) The provision within the report that prohibits the subdivision from including a "remainder parcel" is in direct violation of the subdivision map act section: 66424.6. (a) When a subdivision, as defined in Section 66424, is of a portion of any unit or units of improved or unimproved land, the subdivider may designate as a remainder that portion which is not divided for the purpose of sale, lease, or financing.

3.) Any and all of the regulations designating how the design of the improvements are to take place such as designating requirements for the development of certain features prior to others, limiting sizes of buildings, within the report is in direct violation of the subdivision map act section: 66411. Regulation and control of the design and improvement of subdivisions are vested in the legislative bodies of local agencies.

4.) The requirements imposed by the staff report pertaining to development strategy and forced installation of improvements which are not directly affecting the health, safety, and welfare, of those current and future occupants and place unnecessary and undue burden to the point of making the project infeasible is in direct violation of the subdivision map act as these conditions are expressly granted to the local agencies.

Specific Comments and Suggested Modifications:

1.) Due to the mapping that occurred by the Coastal Commission, the land use for public facilities needs to be modified, so that there can be some sort of overlay into the Business Park area. We have used the remaining available land in the proposed disposal area, and had to modify the remainder of the disposal system to be underneath the roadways and parking lots within the business park. There is language for this to occur on pg. 94 #2.

2.) Due to the nature and that the disposal area is underground, and non evasive, can we receive some relief from the 100 ft. natural resource buffer to say 25 feet from an ESHA. The underground lines and additional water may actually enhance

adjacent ESHA's and the installation is benign. There seems to be a provision on pages 78 and 79 for this to occur Policy #4.

- 3.) Page 56 of 193 "CONDITIONAL USES" - The existing treatment plant percolation basin is and continues to be considered a public infrastructure and should be considered for repair, maintenance and replacement of public infrastructure within the same location. This means that the existing ESHA determinations would be modified to allow for the installation of underground disposal lines, and that "native" coastal vegetation could replace much of the "non native" that currently exists.
- 4.) Page 61 of 193 #2) concerning free and clear title of the property should be eliminated, as this provision is handled under the subdivision map act, and impractical. The Final Map process, through the subdivision map act already requires notification of all lien holders be a signatory on any final map for a subdivision. Thus the required constructive notice provision is already met. All projects of this size have notes and liens.
- 5.) Page 62 of 193 1. RE "no remainder parcel" is a violation of the subdivision map act, Section No. **66424.6. (a) When a subdivision, as defined in Section 66424, is of a portion of any unit or units of improved or unimproved land, the subdivider may designate as a remainder that portion which is not divided for the purpose of sale, lease, or financing.**
- 6.) Page 64 of 193 (11) - Seems to open the provision for phasing of the wastewater system improvements, and requires progressive abandonment of existing facilities. I would suggest this language defer the progressive installation and abandonment of improvements beyond this matter to the proper jurisdiction of the Ca. Regional Water Quality Control Board, and simply require that each phase of the project receive written approval from the Regional Board, along with compliance of the waste discharge requirements that are issued and contain a mitigation and monitoring program that is consistent with the Basin Plan. The provision of 72 hours of storage is a provision that infers the system is a "septic" system. This system is not, it is a mechanical treatment and filtration system which operates under entirely different provisions. The storage requirement written in, will actually require more power (thus less green), and place the surrounding environment at risk and further degrade the possibility of adequately treating and discharging. It's inappropriate for the system type being proposed.  
Page 66 of 193 A. - directs the development phasing. This is a violation of the subdivision map act Section 66411 and as the direction/requirements being imposed are not for the protection of public health and safety, rather are choices being made by coastal commission staff for their "preference" and actually counter productive to their own policies, as they reduce the possibility of the project owner being able to enhance the coast for public enjoyment. It is also in violation of the subdivision map act **66474.01.** which vest the development

strategy with the local jurisdictions and take into account impractical and economic constraints.

- 7.) Page 66-193 D (1) - Requires the installation of all water supply facilities to serve all development with the STMP before any other maps are filed except those which the Coastal Commission staff "prefers". The water system has to be phased, especially concerning storage due to the requirements of water turn over and water quality issues that arise from storing water in a system too long. Furthermore the direction of the allowed maps under this provision do not benefit the public, either from a health and safety or benefit, as they kill the project and are not economically viable.
- 8.) Page 67 of 193 E (1) (2) - Requires that all wastewater system components be built and "ready" for connection prior to any final maps being filed. Previous statements allowed for phasing of the wastewater system improvements. The wastewater system improvements being phased should be under the jurisdiction of the Regional Water Quality Control Board and Local Agency. Phasing these improvements is better for the project as it allows the progressive development of the project over time, and allows the use of the best available technology and best practices at the time of the filing of the final maps be implemented, thus over time and as the project is phased, the successive components of the system will only get better, and are already progressively regulated and monitored on an ongoing basis by the regional board.
- 9.) Page 67 of 193 E (3) - The requirement of connection of all existing structures to the new system should be modified to say that prior to issuance of a final map, all structures within that phase of the final map, and any structures lying along a path of a sewer main line passing between the phased portion of the subdivision and the treatment plant shall be connected to the system under the provisions of the subdivision map act.
- 10.) Page 73 STMP (New Development) Policy 10: This is not a policy, it's a requirement. The requirement that all existing residences be connected to the new system after 180 days is not financially feasible. This language could read "that residences shall be connected with each phase of the final map prior to filing of a final map, and that any residences or structures lying along the sewer main line path, shall also be connected to the system as a requirement of the filing of any phase of a final map".
- 11.) Page 73 STMP (New Development) Policy 11: The plumbing code designates that any structure that lies within 200 feet of public sewer may be required to connect by the local jurisdiction. This property is not under title by Samoa Pacific Development, thus there is no legal way to enforce a policy or requirement onto a party, whom does not have some control or title to another



- 12.) STMP (Wetlands/ESHA) Policy 2: There is an allowance to repair and maintain existing underground utilities within existing footprints provided there can be restoration of the disturbed areas. Why not allow the treatment disposal area to be installed as proposed in the mapped ESHA areas, and then restored. It will improve the native habitat, and be consistent with this land use policy.

to: Ca. Coastal Commission re: LCP amendment NO. HUM-MAS-1-0



*Please Slow Down in our Town*

**To Whom it Concerns:**

I am writing to express my concerns about how the development of Samoa may affect the neighboring community of Manila. Mainly I feel that the longstanding traffic safety problems of State Route 255 should be addressed in relation to the increased traffic that Samoa development will incur.

Manila has a highway improvement plan in which designated improvements are basically ready to go. The plan is sitting on a desk somewhere at Cal-Trans in a holding pattern. I feel that the improvements need to be implemented before additional development on the peninsula occur.

Additionally, Samoa development should indicate better mass transportation service for Manila. The bus presently has such infrequent stops in Manila that is impractical for residents to consider it a viable transportation option. Samoa will increase in population, and while it doesn't currently have bus service, it should.

Last of all, A pedestrian and bike trail needs to be implemented, so that children have safe routes to school and all residents can enjoy the many (financial, environmental, healthful) positive attributes of active transportation to Arcata and Eureka. The trail could be along Hwy. 255 as identified in Manila's traffic plan or it could be done through rail banking; so that it will connect with Arcata's planned rail trail.

When these concerns are adequately addressed, I think Samoa development would be a bonus to the peninsula and surrounding communities.

Sincerely,  
Joy Dellas

**ATTACHMENT 3**

re: LCP Amendment NO. HUM-MAT-1-08

Ca. Coastal Commission  
North Coast District Office  
710 E St, suite 200  
Eureka, Ca. 95501

Linda Lee  
355 Pacific Rd.  
Manila, Ca. 95521

Dear Commissioners,

Thank you for the opportunity to comment on the proposed rezoning of the town of Samoa. I have lived in Manila, 3 mi. or so up-peninsula from Samoa for 35 years. For ALL of those years, the people of our town have been impacted by State Hwy. 255, a 2 lane thoroughfare with a 55 mph speed limit that literally cuts our town in two.

The highway begins in Eureka, proceeds across the Samoa Bridge and along the north end of the peninsula and ends in Arcata. It's a heavily used road, carrying commuters between the two towns. It also accomodates huge logging trucks that lumber through town at all times of day and night.

Several years ago, the section of Hwy. 101 between the two biggest towns on the bay was designated a "Safety Zone" with a 50 mph speed limit. This as further impacted those living along 255, since the speedsters choose to go the "back" way.

Everyone in town has horror stories of being honked at and barely missed by huge trucks and impatient commuters, who are annoyed by our slowing down to turn onto our streets. The highway separates the town park and the community center, which limits children's ability to access the fun things in their town because their parents are afraid to let them cross the highway. Every couple of months a beloved pet is lost.

we have tried for years to get Caltrans to address our safety needs through speed limits, bike lanes, turning lanes etc. but to no avail. Not enough deaths, I guess. Doesn't a town of 1000 people deserve a safety zone too?

Anyway, I hope you can see why we worry about the increase in traffic that the development of Samoa would cause.

Before I could approve the project I would want it to be contingent on safety features for 255 that have already been developed and are waiting to be implemented

Thank you for your attention.

Sincerely Linda Lee

ATTACHMENT 4