

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT
1385 EIGHTH STREET, SUITE 130
ARCATA, CA 95521
PHONE: (707) 826-8950
FAX: (707) 826-8960
WWW.COASTAL.CA.GOV

**F7****North Coast District Deputy Director's Report for February 2022****Prepared February 1, 2022 (for the February 11, 2022 Hearing)**

To: Commissioners and Interested Parties
From: Kate Huckelbridge, North Coast District Deputy Director

The following coastal development permit (CDP) waivers, immaterial CDP amendments, CDP extensions, emergency CDPs, and local government acceptance of modifications for LCP certification for the North Coast District Office are being reported to the Commission on February 11, 2022. Pursuant to the Commission's procedures, each item has been appropriately noticed as required, and each item is also available for review at the Commission's North Coast District Office in Arcata. Staff is asking for the Commission's concurrence on the waivers, immaterial amendments, and time extensions. The other items are presented for the Commission's information. Staff will report any objections received and any other relevant information on these items to the Commission when it considers the North Coast District Deputy Director's report on February 11th.

With respect to the February 11th hearing, interested persons may sign up to address the Commission on items contained in this report prior to the Commission's consideration of this report. The Commission can overturn staff's noticed determinations for some categories of items subject to certain criteria in each case (see individual notices for specific requirements).

Items being reported on February 11, 2022 (see attached)

Waivers – none**Immaterial Amendments**

- 1-88-166-A1, Hyneman – Rooftop Solar Array (Chapman Rd., Mendocino Co.)
- 1-88-252-A1, Zhu – Open Space Habitat Restoration Planting (Indian Shoals Rd., Mendocino Co.)
- 1-90-012-A2, McMillan – Residential Improvements (Chapman Rd., Mendocino)
- 1-01-010-A1, Headman – Septic System Improvements (Patrick's Point Dr., Humboldt Co.)

Time Extensions

- 1-17-0926-E2, City of Eureka – Elk River Estuary Enhancement Project (Eureka, Humboldt Co.)

Emergency Permits

- G-1-21-0058, Del Norte County – Lake Earl Emergency Breaching (Lake Earl, Del Norte Co.)
- G-1-22-0002, Caltrans – Hazard Tree Removal (Del Norte Co.)
- G-1-22-0004, PG&E – 12kV Distribution Line Vegetation Maintenance (Humboldt Co.)

Emergency Permit Waivers

- G-1-21-0009-W, Caltrans – Gualala River Wood Wrack Removal (Mendocino Co.)

LCP Certifications

- LCP Amend. No. LCP-1-HUM-21-0030-1 (Humboldt County - Samoa Peninsula Wastewater Project)

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NOTICE OF PROPOSED PERMIT AMENDMENT

Date: January 28, 2022
To: All Interested Parties
From: Melissa B. Kraemer, North Coast District Manager
Tatiana Garcia, Coastal Program Analyst
Subject: **Amendment to Coastal Development Permit (CDP) 1-88-166**
Applicant: James Hyneman
Agent: Bruce Erickson

Project Site

45400 Chapman Road, Mendocino County (APN 119-330-21)

Original CDP Approval

CDP 1-88-166 was approved by the Commission with special conditions on October 13, 1988 and authorized the development of a single-family residence (SFR), attached garage and workshop, well, septic system, water storage, and driveway on the subject parcel.

Proposed CDP Amendment

Install a solar panel array onto the roof of the authorized SFR. The Commission's reference number for this proposed amendment is **1-88-166-A1**.

Executive Director's Immateriality Determination

Pursuant to Title 14, Section 13166(b) of the California Code of Regulations, the Executive Director of the California Coastal Commission has determined that the proposed CDP amendment is immaterial for the following reasons:

The subject site is a tree-covered headland on the south side of Mendocino Bay visible from the Town of Mendocino and Mendocino Headlands State Park. The property is within an area designated as highly scenic under the Mendocino County certified LCP where LCP policies require that new development be subordinate to the natural setting. The proposed placement of a roof mounted solar panel system on the existing residence would be south facing, out of view from public vantage points to the north. Thus the proposed improvements will not impact visual resources and will be subordinate to the natural setting consistent with LCP requirements.

There are no ESHA or public access and recreation sites on the subject parcel, thus no impact to these coastal resources will occur. Additionally, although the site is a blufftop lot, roof mounted solar will not exacerbate existing geologic hazards.

Therefore, as the amended development does not have a potential for adverse impacts, either individually or cumulatively on coastal resources or public access, the Executive Director has determined that the proposed amendment is immaterial.

Coastal Commission Review Procedure

The CDP may be amended as proposed if no written objections are received in the North Coast District office within ten working days of the date of this notice. In addition to the regular means required by the regulations or statute, please make sure that you also send a copy of all correspondence or other documents electronically to NorthCoast@coastal.ca.gov. If such an objection is received, the objection and the Executive Director's response to it will be reported to the Commission on Friday, February 11, 2022. If three or more Commissioners object to the Executive Director's determination of immateriality at that time, then the application shall be processed as a material CDP amendment.

IMPORTANT! PLEASE NOTE THAT THIS WILL BE A VIRTUAL MEETING.

As a result of the COVID-19 emergency, and following California Assembly Bill 361 and the Governor's Executive Orders N-1-22, N-15-21, N-29-20, and N-33-20, this Coastal Commission meeting will occur virtually through video and teleconference. Please see the Coastal Commission's Virtual Hearing Procedures posted on the Coastal Commission's webpage at www.coastal.ca.gov for details on the procedures of this hearing. If you would like to receive a paper copy of the Coastal Commission's Virtual Hearing Procedures, please email NorthCoast@coastal.ca.gov or call 415-904-5202.

If you have any questions about the proposal or wish to register an objection, please contact Tatiana Garcia in the North Coast District office.

cc: Mendocino County Department of Planning and Building Services

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NOTICE OF PROPOSED PERMIT AMENDMENT

Date: January 28, 2022

To: All Interested Parties

From: Melissa B. Kraemer, District Manager
Bente C. Jansen, Coastal Program Analyst

Subject: Amendment to Coastal Development Permit (CDP) 1-88-252
Applicant: Ya Zhu

Project Site

45434 Indian Shoals Road, Mendocino County (APN 118-180-08)

Original CDP Approval

CDP 1-88-252 was approved by the Commission on April 4, 1989 and authorized construction of a single-family residence (in two separate structures), well, septic system, two water tanks, garage, workshop and gravel driveway.

Proposed CDP Amendment

Amend CDP 1-88-252 to authorize restoration of the riparian buffer area on the property that was disturbed by the unauthorized removal of eight trees without the benefit of a CDP. The Commission's reference number for this proposed amendment is **1-88-252-A1**. Proposed changes to CDP conditions are set forth below.

Executive Director's Immateriality Determination

Pursuant to Title 14, Section 13166(b) of the California Code of Regulations, the Executive Director of the California Coastal Commission has determined that the proposed CDP amendment is immaterial for the following reasons:

The original house was constructed in 1985 without the benefit of a valid coastal development permit, and the Commission authorized the residential development on the property after the fact and within 24 feet of a small stream. To ensure that the Commission would have the opportunity to review any future development or uses within the 50-foot riparian buffer area surrounding the stream, the Commission included Special Condition 3, which required the applicant to execute and record a deed restriction over the portion of the parcel 50 feet from the centerline of the small stream where "any further development or uses within the delineated area shall require approval of the Commission." After Commission staff was informed earlier this year by the County of the unauthorized removal of several trees within the deed-restricted area, Commission enforcement staff contacted the applicant to request that the unpermitted major vegetation removal be remedied through the preparation and

implementation of a restoration plan to replant the disturbed area. The scope of this amendment request involves implementing the proposed restoration plan, prepared by Spade Natural Resources Consulting dated July 26, 2021, within the deed-restricted area.

The proposed plan involves the planting of native overstory and shrub species (bishop and or shore pines and wax myrtles) and the planting of native understory species (sword and/or lady ferns, California blackberry, salal, and modesty). Understory species will be planted two years after tree planting has occurred to allow trees to establish. Any dead or dying plants will be replaced. Restoration will be monitored for a five-year reporting period and annual reports will be submitted to the Executive Director by January 31 of each year. Reports will include photographic documentation of the condition of the restoration and a performance evaluation, where annual and overall progress or restoration is evaluated relative to meeting the performance standards outlines in the restoration plan. The fifth-year monitoring report will be prepared by or in consultation with a qualified biologist and will evaluate whether the restoration has successfully met the goals, objectives and performance standards of the approved restoration plan. If the fifth-year monitoring report indicates the restoration has been unsuccessful, the permittee proposes to submit a revised or supplemental restoration plan to the Executive Director to be processed as an ammendment.

The proposed plan will restore and enhance the riparian area by replanting trees in greater numbers and variety than those removed and will establish more extensive understory vegetation than previously existed. The proposed plan will use regionally appropriate native vegetation and is consistent with the ESHA protection policies of the Mendocino County certified LCP.

The applicant has agreed to modify its project to include measures to ensure that the applicant implements the proposed restoration plan and provides notice to future owners of the permit amendment conditions through a deed restriction (see below). Existing Special Conditions 1 through 3 of the underlying permit continue to apply to the site and remain in full force and effect. A full listing of the special conditions of the permit as amended is attached as **Appendix A**.

Therefore, as the permit amendment does not have a potential for adverse impacts, either individually or cumulatively, on coastal resources or public access, the Executive Director has determined that the proposed amendment is immaterial.

AMENDMENTS TO SPECIAL CONDITIONS OF CDP 1-88-252 (CDP Amendment 1-88-252-A1)

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4. Implementation of the Restoration Plan Under CDP Amendment No. 1-88-252-A1

- A. The permittee shall implement the proposed restoration within the 50-foot riparian buffer along the northern stream required by Special Condition 3 of the original permit as proposed in the plan titled "Restoration Plan for Riparian Area" (RPRA), dated July 26, 2021, prepared by Spade Natural Resources Consulting, consistent with the terms and conditions of this CDP amendment, including, but not limited to, submittal of annual monitoring reports to the Executive Director by January 31 of each year, with the initial reporting period occurring by January 31 the year after approval, until the success criteria identified in the plan have been met, which include, but are not limited to, the following:
- i. 100% of overstory tree survival;
 - ii. At least 90% native species in the understory shrub layer of the restoration area; and
 - iii. At least 80% native species cover in the understory along the banks of the stream;
- B. If the Executive director determines that the success criteria in the RPRA have not been fully met within five years of the tree planting within the riparian buffer, the permittee shall submit a revised or supplemental restoration plan to compensate for those portions of the original plan which did not meet the approved performance standards. The revised restoration plan shall be processed as an amendment to CDP No. 1-88-252.
- C. The permittee shall implement the project in accordance with the RPRA. Any proposed changes from the RPRA shall be reported to the Executive Director. No changes to the RPRA shall occur without a Commission amendment to CDP No. 1-88-252, unless the Executive Director determines no amendment is legally required.

5. Deed Restriction for CDP No. 1-88-252-A1

WITHIN 90 DAYS OF COMMISSION APPROVAL OF CDP AMENDMENT NO. 1-88-252-A1, the permittee shall submit to the Executive Director for review and approval documentation demonstrating that the permittee has executed and recorded against the parcel(s) governed by this permit amendment, a

deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit amendment the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit amendment as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit as amended. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of the permit amendment shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

Coastal Commission Review Procedure

The CDP may be amended as proposed if no written objections are received in the North Coast District office within ten working days of the date of this notice. In addition to the regular means required by the regulations or statute, please make sure that you also send a copy of all correspondence or other documents electronically to NorthCoast@coastal.ca.gov. If such an objection is received, the objection and the Executive Director's response to it will be reported to the Commission on Friday, February 11, 2022. If three or more Commissioners object to the Executive Director's determination of immateriality at that time, then the application shall be processed as a material CDP amendment.

IMPORTANT! PLEASE NOTE THAT THIS WILL BE A VIRTUAL MEETING.

As a result of the COVID-19 emergency and following California Assembly Bill 361 and the Governor's Executive Orders N-1-22, N-15-21, N-29-20, and N-33-20, this Coastal Commission meeting will occur virtually through video and teleconference. Please see the Coastal Commission's Virtual Hearing Procedures posted on the Coastal Commission's webpage at www.coastal.ca.gov for details on the procedures of this hearing. If you would like to receive a paper copy of the Coastal Commission's Virtual Hearing Procedures, please email NorthCoast@coastal.ca.gov or call 415-904-5202. **If you have any questions about the proposal or wish to register an objection, please contact Bente Jansen in the North Coast District office.**

cc: Mendocino County Planning & Building Services Dept.

Attachments:

Appendix A: All Conditions of 1-88-252 as Amended through -A1

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NOTICE OF PROPOSED PERMIT AMENDMENT

Date: January 28, 2022

To: All Interested Parties

From: Melissa B. Kraemer, North Coast District Manager
Tatiana Garcia, Coastal Program Analyst

Subject: Amendment to Coastal Development Permit (CDP) 1-90-012
Applicant: Sharon McMillan
Agent: Todd Newberger

Project Site

45180 Chapman Road, Mendocino County (APN 119-330-06)

Original CDP Approval

CDP 1-90-012 was approved by the Commission with special conditions on June 13, 1990 and authorized the remodel and expansion of the existing single-family residence constructed prior to passage of the Coastal Act. Before the authorized remodeling occurred under this permit, the Commission approved CDP 1-90-012-A1, which authorized changes to the proposed remodel design.

Proposed CDP Amendment

Construct a 49-square-foot addition to the residence, replace the existing flat garage roof with gabled roof, replace a sewer pump tank, expand the existing deck on the south side of the residence, repaint the home dark brown hues, and perform interior remodeling. The Commission's reference number for this proposed amendment is **1-90-012-A2**.

Executive Director's Immateriality Determination

Pursuant to Title 14, Section 13166(b) of the California Code of Regulations, the Executive Director of the California Coastal Commission has determined that the proposed CDP amendment is immaterial for the following reasons:

The subject site is a tree-covered headland on the south side of Mendocino Bay visible from the Town of Mendocino and Mendocino Headlands State Park. The property is within an area designated as highly scenic under the Mendocino County certified LCP where LCP policies require that new development be subordinate to the natural setting. Accordingly, Special Condition 1 of the original CDP imposed several design restrictions on the authorized structures related to color, glazing, and lighting. The proposed development is consistent with this condition and with the visual resources protection policies of the LCP, because (1) the house siding, trim, and new roofing will be dark

brown in color and therefore will blend with the natural setting, and (2) the proposed new windows will be non-reflective and with dark brown exterior aluminum clad frame color. This condition continues to apply to the authorized development as amended. In addition, the existing deck to be expanded is not visible from public vantage points to the north and east.

The cumulative calculated alterations to the existing residential structure considering the proposed 7-foot by 7-foot addition, current proposed remodel plans, and past permitted remodel plans represent a total increase of 24% gross floor area and alterations to less than 50% of the total structure in terms of major structural components. Thus, the proposed improvements do not rise to the level of a major remodel as that term has been applied by the Commission and does not constitute a replacement structure or new development.

Finally, all proposed development will be at least 56 feet from the bluff edge, which, according to an updated geologic assessment completed in support of the application, is sufficiently sited beyond the recommended 36-foot bluff-edge setback to assure stability and structural integrity and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. The setback distance also is sufficient to prevent impacts to rare plant ESHA that has been documented more than 50 feet from the proposed development on the bluff face.

Therefore, as the amended development does not have a potential for adverse impacts, either individually or cumulatively on coastal resources or public access, the Executive Director has determined that the proposed amendment is immaterial.

Coastal Commission Review Procedure

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If you have any questions about the proposal or wish to register an objection, please contact Tatiana Garcia in the North Coast District office.

cc: Mendocino County Department of Planning and Building Services

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NOTICE OF PROPOSED PERMIT AMENDMENT

Date: January 28, 2022

To: All Interested Parties

From: Melissa B. Kraemer, North Coast District Manager
Catherine Holloway, Coastal Planner

Subject: Amendment to Coastal Development Permit (CDP) 1-01-010-A1
Applicant: Brian Headman

Project Site

3090 Patrick's Point Drive, Humboldt County (APN 517-271-09)

Original CDP Approval

CDP 1-01-010 was approved by the Coastal Commission on June 9, 2004 and authorized (1) adjusting the boundary line between a 1.28-acre parcel and a 9.83-acre parcel resulting in two adjusted parcels of 3.80 acres and 7.60 acres, (2) demolishing and removing a garage, and (3) replacing the original 1940's era on-site sewage system serving an existing single-family home with a new septic tank and an intermittent sand filter system with a pressure distributed, in-ground primary leachfield.

Proposed CDP Amendment

Replace failing on-site sewage system with a new system by (1) installing a 1,500-gallon replacement infiltrator septic tank with sealed access risers; (2) connecting septic tank to existing reserve leachfield; and (3) decommissioning the previously installed plastic septic tank by pumping it out and filling it with gravel slurry. The Commission's reference number for this proposed amendment is **1-01-010-A1**. Proposed changes to the CDP conditions are set forth below.

Executive Director's Immateriality Determination

Pursuant to Title 14, Section 13166(b) of the California Code of Regulations, the Executive Director of the California Coastal Commission has determined that the proposed CDP amendment is immaterial for the following reasons:

Although the existing septic system was constructed in 2004, the septic tank failed a recent inspection and capacity test by the County Department of Environmental Health (DEH). The proposed septic system replacement will avoid a future failure that could result in sewage back-up and contamination of groundwater and an onsite spring that is approximately 120 feet downslope from the septic system. The existing septic tank will be pumped out and filled with gravel slurry as required by County DEH.

County DEH has reviewed and approved the design and location of the new septic tank. The new septic tank will be located approximately 15 feet north of the existing tank in a disturbed grassy yard area adjacent to an existing paved pathway that necessitates no major vegetation removal or grading. The new septic tank will connect to the existing 2,550-square-foot pressure distributed in-ground leachfield, which is located approximately 55 feet from the bluff edge at its closest point. The new septic tank will be installed inland of the existing system and will be set back at least 80 feet from the bluff edge to minimize the risks of geologic hazards consistent with the original CDP findings, which state that the septic system should be located at least 55 feet from the bluff edge to minimize risks, ensure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the future construction of protective device. As proposed, the applicant will implement erosion control and other best management practices during construction and will redirect site drainage away from the leachfield and bluff to control runoff and avoid any potential for erosion.

As proposed, the prohibition of shoreline protection in Special Condition 3 of the original permit applies to the replacement septic system, as does the assumption of risk and waiver of liability in Special Condition 4, and the limitations on future development in Special Condition 5. In addition, the applicant will record a deed restriction (Special Condition 6) to ensure that future owners of the property are aware of the modified permit conditions. A full listing of the special conditions of the permit as amended is attached as Appendix A.

As the amended development does not have a potential for adverse impacts, either individually or cumulatively, on coastal resources or public access, the Executive Director has determined that the proposed amendment is immaterial.

AMENDMENTS TO SPECIAL CONDITIONS OF CDP 1-01-010 (CDP Amendment 1-01-010-A1)

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3. No Future Bluff or Shoreline Protective Device

- A. By acceptance of this permit, the applicants agree, on behalf of themselves and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the septic system approved pursuant to Coastal Development Permit No. 1-01-010 **as amended**, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, ground subsidence or other natural hazards in the future. By acceptance of this permit, the applicants hereby waive, on behalf of themselves and all successors and assigns, any rights to

construct such devices that may exist under Public Resources Code Section 30235.

- B. By acceptance of this Permit, the applicants further agree, on behalf of themselves and all successors and assigns, that the landowner(s) shall remove the septic system authorized by this permit, as amended, in the event that the development is threatened with damage or destruction from any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.
- C. In the event the edge of the bluff recedes to within 10 feet of the septic system, a geotechnical investigation shall be prepared by a licensed geologist or civil engineer with coastal experience retained by the applicant, that addresses whether any portions of the septic system are threatened by wave, erosion, storm conditions, or other natural hazards. The report shall identify all those immediate or potential future measures that could stabilize the septic system without shore or bluff protection, including but not limited to removal or relocation of portions of the septic system. The report shall be submitted to the Executive Director and the appropriate local government official. If the geotechnical report concludes that the septic system or any portion of the septic system is unsafe for occupancy, the permittee shall, within 90 days of submitting the report, apply for a coastal development permit amendment to remedy the hazard which shall include removal of the threatened portion of the septic system.

4. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, as amended, the applicants acknowledge and agree: (i) that the site may be subject to hazards from landslide, bluff retreat, erosion, subsidence, and earth movement; (ii) to assume the risks to the applicants and the property 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 the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project 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.

5. Future Development Restriction

This permit is only for the development described in coastal development permit No. 1-01-010, as amended. Pursuant to Title 14 California Code of Regulations section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 1-01-010, as amended. Accordingly, any future improvements to this structure authorized by this permit shall require an amendment to Permit No. 1-01-010 from the Commission or shall require an additional coastal permit from the Commission or from the applicable certified local government. In addition thereto, an amendment to Permit No. 1-01-010 from the Commission or an additional coastal permit from the Commission or from the applicable certified local government shall be required for any repair or maintenance identified as requiring a permit in Public Resources Code Section 30610(d) and Title 14, California Code of Regulations Sections 13252(a)-(b).

6. Deed Restriction

WITHIN 90 DAYS OF COMMISSION APPROVAL OF CDP AMENDMENT NO. 1-01-010-A1, the permittee shall submit to the Executive Director for review and approval documentation demonstrating that the permittee has executed and recorded against the parcel(s) governed by the permit, as amended, a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, as amended, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit, as amended, as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit as amended. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of the permit as amended, shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property. This deed restriction shall supersede and replace the deed restriction recorded pursuant to Special Condition 2 of Coastal Development Permit 1-01-010, approved on June 9, 2004, which deed restriction is recorded as Instrument No. 2004-20671-14 in the official records of Humboldt County.

Coastal Commission Review Procedure

The CDP may be amended as proposed if no written objections are received in the North Coast District office within ten working days of the date of this notice. In addition to the regular means required by the regulations or statute, please make sure that you

also send a copy of all correspondence or other documents electronically to NorthCoast@coastal.ca.gov. If such an objection is received, the objection and the Executive Director's response to it will be reported to the Commission on Friday, February 11. If three or more Commissioners object to the Executive Director's determination of immateriality at that time, then the application shall be processed as a material CDP amendment.

IMPORTANT! PLEASE NOTE THAT THIS WILL BE A VIRTUAL MEETING.

As a result of the COVID-19 emergency and following California Assembly Bill 361 and the Governor's Executive Orders N-1-22, N-15-21, N-29-20 and N-33-20, this Coastal Commission meeting will occur virtually through video and teleconference. Please see the Coastal Commission's Virtual Hearing Procedures posted on the Coastal Commission's webpage at www.coastal.ca.gov for details on the procedures of this hearing. If you would like to receive a paper copy of the Coastal Commission's Virtual Hearing Procedures, please email NorthCoast@coastal.ca.gov or call 415-904-5202. **If you have any questions about the proposal or wish to register an objection, please contact Catherine Holloway in the North Coast District office.**

cc: Brian Headman, Applicant
Humboldt County Planning & Building Dept.

Appendix A: Conditions of CDP 1-01-010 as amended through -A1

CALIFORNIA COASTAL COMMISSION

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January 28, 2022

NOTICE OF EXTENSION REQUEST FOR COASTAL DEVELOPMENT PERMIT

Notice is hereby given that City of Eureka has applied for a one-year extension of Coastal Development Permit (CDP) 1-17-0926 granted by the California Coastal Commission on December 13, 2018.

The permit granted approval of the Elk River Estuary Intertidal Wetlands Enhancement Project involving tide gate modifications, habitat restoration, installation of a non-motorized boating access point, construction of a one-mile-long extension of the California Coastal Trail, and installation of interpretive signage and nature-study viewing platforms across approximately 114 acres of existing agricultural and marsh lands.

The project is located near the mouth of the Elk River at Humboldt Bay, west of Highway 101, between Pound Road and the southern end of Tooby Road, in Eureka, Humboldt County.

Pursuant to Section 13169 of the Commission Regulations, the Executive Director has determined that there are no changed circumstances affecting the proposed development's consistency with the Coastal Act. The Commission Regulations state that "if no objection is received at the Commission office within ten (10) working days of publishing notice, this determination of consistency shall be conclusive... and the Executive Director shall issue the extension." If an objection is received, the extension application shall be reported to the Commission for possible hearing.

Persons wishing to object or having questions concerning this extension application should contact the district office of the Commission at the above address or phone number.

Sincerely,

John Ainsworth
Executive Director

Tamara L. Gedik
Coastal Program Analyst

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
1385 EIGHTH STREET, SUITE 130
ARCATA, CALIFORNIA 95521-5967
PH (707) 826-8950 FAX (707) 826-8960
WWW.COASTAL.CA.GOV

**EMERGENCY PERMIT**

Issue Date: December 23, 2021
Emergency Permit Number: G-1-21-0058

APPLICANTS:

California Department of Fish and Wildlife and County of Del Norte

LOCATION OF EMERGENCY:

Sandbar between the Pacific Ocean and the Lake Earl/ Lake Tolowa lagoon complex (APN: 106-010-34)

EMERGENCY WORK:

Mechanically breach the sandbar between the Lake Earl/ Lake Tolowa lagoon complex and the Pacific Ocean.

This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. I understand from your information that an unexpected occurrence in the form of winter storms has resulted in rising lagoon levels that pose a flooding threat that requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services pursuant to 14 Cal. Admin. Code Section 13009. The Executive Director of the California Coastal Commission hereby finds that:

(a) An emergency exists that requires action more quickly than permitted by the procedures for administrative or ordinary coastal development permits (CDPs), and that the development can and will be completed within 30 days unless otherwise specified by the terms of this Emergency Permit; and

(b) Public comment on the proposed emergency development has been reviewed if time allows.

The emergency work is hereby approved, subject to the conditions listed on the attached pages.

Sincerely,

John Ainsworth
Executive Director

A handwritten signature in black ink, appearing to read 'TG'.

Tamara Gedik, Coastal Program Analyst

Enclosures: 1) Acceptance Form

Emergency Permit Number:
G-1-21-0058

CONDITIONS OF APPROVAL:

1. The enclosed Emergency Permit Acceptance form must be signed by the PROPERTY OWNER and returned to our office within 15 days.
2. Only that work specifically described in this permit and for the specific property listed above is authorized. Any additional work requires separate authorization from the Executive Director.
3. All work shall take place in a time and manner to minimize any potential damages to any resources, and to minimize impacts to public access. The emergency breaching shall be performed in the specific location and manner described in the emergency permit application, including, but not limited to, proposed protocols for flushing Western snowy plovers, brown pelican, and other birds from the breach site; and for surveying disconnected ponds of water remaining below the maximum elevation of the lagoon after the breach for tidewater gobies and anadromous salmonids and returning stranded fish to the main basin of the lagoon.
4. The sandbar shall be breached in the middle of the open sandy area and midway between the existing vegetated areas on either side of the breaching site.
5. The permittee shall monitor and document the following every month after the sand bar is breached until such time that the lagoon mouth closes again:
 - a. lagoon elevation;
 - b. location of the lagoon mouth relative to the breach location to determine if the mouth is migrating; and
 - c. depth of mouth of lagoon relative to the surrounding sand bar to determine how quickly the mouth is closing.

Documentation shall include at a minimum: (a) photographs of the breach site and current lagoon mouth at established photo points, (b) recordation of the lagoon level, (c) recordation of the time and date of each data collection event, (d) an estimate of the location of the lagoon mouth relative to the breach location, and (d) an estimate of the depth of the mouth of lagoon relative to the surrounding sand bar. Monitoring results shall be submitted to the Executive Director each month after each data collection event with the documentation required above. The work authorized by this permit must be completed within 30 days of the date of this permit, which shall become null and void unless extended by the Executive Director for good cause.

Emergency Permit Number:
G-1-21-0058

6. The applicant recognizes that the emergency work is considered temporary and subject to removal unless and until a regular coastal development permit permanently authorizing the work is approved. A regular permit would be subject to all of the provisions of the California Coastal Act and may be conditioned accordingly. These conditions may include provisions for public access (such as offers to dedicate, easements, in-lieu fees, etc.) and/or a requirement that a deed restriction be placed on the property assuming liability for damages incurred from storm waves.
7. In exercising this permit, the applicant agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that may result from the project.
8. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies, including but not limited to the California Department of Fish & Wildlife, U.S. Fish & Wildlife Service, U.S. Army Corps of Engineers, NOAA-Fisheries (NMFS), Regional Water Quality Control Board, and the California State Lands Commission.

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EMERGENCY PERMIT

Issue Date: January 11, 2022
Emergency Permit Number: G-1-22-0002

APPLICANT:

California Department of Transportation District 1
1656 Union Street
Eureka, CA 95501

LOCATION OF EMERGENCY:

Highway 101 at approximately post mile 15.76, within Del Norte Coast Redwoods State Park, Del Norte County.

EMERGENCY WORK:

Felling of one dead or dying old growth redwood tree that is approximately 200 feet tall and approximately 13 feet in diameter-at-breast-height, approximately 30 feet from the edge of the roadway in the Caltrans Highway 101 right-of-way¹.

This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. I understand from the information you submitted that one dead or dying redwood tree along Highway 101 presents a safety threat to the traveling public along Highway 101 in the above-described area and requires immediate action to prevent or mitigate loss or damage to life, health, property, or essential public services pursuant to 14 Cal. Admin. Code Section 13009. The Executive Director of the California Coastal Commission hereby finds that:

(a) An emergency exists that requires action more quickly than permitted by the procedures for administrative or ordinary coastal development permits (CDPs), and that the development can and will be completed within 30 days unless otherwise specified by the terms of this Emergency Coastal Development Permit; and

¹ The California Department of Transportation notified the Commission's North Coast District staff on 12/30/2021 that they had already felled one dead or dying redwood tree and were planning to fell a second redwood tree soon thereafter. This ECDP temporarily authorizes the felling of only the second redwood tree. Authorization for the felling of the first tree will be addressed after the fact through the follow up application required for the second tree, as described in the conditions listed below.

Emergency Permit Number:
G-1-22-0002

(b) Public comment on the proposed emergency development has been reviewed if time allows.

The emergency work is hereby approved, subject to the conditions listed on the attached pages.

Sincerely,

John Ainsworth
Executive Director

Original on File signed by:

A handwritten signature in black ink that reads "Amber Leavitt". The signature is written in a cursive, flowing style.

Amber Leavitt, Transportation Program Analyst

cc: California Department of Parks and Recreation
County of Del Norte

Enclosures: 1) ECDP Acceptance Form

Emergency Permit Number:
G-1-22-0002

CONDITIONS OF APPROVAL:

1. The enclosed Emergency Coastal Development Permit (ECDP) Acceptance Form must be signed by the Permittee and returned to the North Coast District Office within 15 days of the issue date of this permit (by 1/26/2021), and prior to the commencement of the emergency work authorized herein. This ECDP is not valid unless and until the signed ECDP Acceptance Form has been received in the North Coast District Office.
2. Only that work specifically described in this ECDP as more specifically described in the Commission's file for the ECDP and for the specific property listed above is authorized. The work permitted under this ECDP only allows for the minimum necessary to address the emergency situation at hand. Any additional work requires separate authorization from the Executive Director.
3. All work shall take place in a time and manner to minimize any potential damages to coastal resources and to minimize impacts to public access. Work shall be conducted pursuant to best management practices designed to avoid coastal resource impacts, including at a minimum:
 - a. The tree to be felled shall be surveyed within 72 hours prior to felling by a licensed biologist for the presence of nesting birds, sensitive bat species, and any other federally listed or threatened species. If any sensitive species are located, the biologist shall coordinate with the California Department of Fish and Wildlife to establish appropriate species-specific buffer(s) and any monitoring requirements, which shall be implemented prior to the commencement of any work.
 - b. No grading shall occur.
 - c. Equipment shall be limited to a crane truck, chainsaws, and other hand tools, unless specifically authorized by the Commission's Executive Director.
 - d. The Permittee shall maintain good construction site housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain; dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the project area). The Permittee shall inspect the project area at the completion of the work to ensure that no debris, trash, or construction materials are left at the site, except as otherwise specified by part e below.
 - e. The felled tree shall be left on the ground within the State Park and shall not be chipped or cut into pieces except as strictly necessary to fell the

Emergency Permit Number:
G-1-22-0002

- tree, or as otherwise determined in consultation with the California Department of Parks and Recreation.
- f. The Permittee shall clean public roadway surfaces adjacent to the project site and any staging areas.
 - g. Any access points adversely affected by development activities shall be restored to their pre-construction condition or better within three days of completion of construction.
 - h. Construction and removal activities (including but not limited to equipment staging and storage) are prohibited outside of the limits of designated construction, staging, and storage areas.
 - i. The Permittee shall ensure that work crews are briefed on the importance of observing the appropriate precautions and the reporting of any accidental spills, sightings of any potentially sensitive wildlife, etc.
 - j. The Permittee shall conduct work during daylight hours and shall minimize impacts to public access.
 - k. The Permittee shall notify the Coastal Commission's North Coast District Office immediately upon completion of work and required site cleanup activities. If Commission staff should identify reasonable restoration measures, such measures shall be implemented immediately.
4. The work authorized by this permit must be completed within 30 days of the date of this permit (by 2/10/2021), and this ECDP shall become null and void unless extended by the Executive Director for good cause.
5. The Permittee recognizes that the emergency development authorized by this ECDP is considered temporary and subject to removal unless and until a regular Coastal Development Permit (CDP) permanently authorizing the work is approved. A regular CDP will be subject to all of the provisions of the California Coastal Act and may be conditioned accordingly.
6. In exercising this ECDP, the Permittee agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that may result from the project.
7. This ECDP does not obviate the need to obtain necessary authorizations and/or permits from other agencies, including but not limited to the California Department of Fish & Wildlife, U.S. Fish & Wildlife, and the California Department of Parks and Recreation.

Emergency Permit Number:
G-1-22-0002

8. This ECDP only authorizes the temporary emergency development identified herein, although the Executive Director may modify and/or extend the authorization to additional and closely related temporary emergency development for good cause provided that: such modification/extension is also necessary to temporarily abate the identified emergency; such modification/extension is sited and designed in such a way as to protect coastal resources as much as possible, including through imposition of additional ECDP conditions if necessary; and such modification/extension is subject to all of the terms and conditions of this ECDP, including any additional ECDP conditions added by the Executive Director in modifying/extending the authorization.
9. Within 30 days of completion of the development authorized by this ECDP, the Permittee shall submit documentation clearly identifying all development and removal completed under this emergency authorization (comparing the site condition prior to the emergency work occurring to the site condition after the work has occurred), and a narrative description of all emergency development activities undertaken pursuant to this emergency authorization. The documentation shall include a description of (i) the dates and timing of the completed emergency work; (ii) all vegetation management work performed and the location(s), noting any differences between work that was performed and work that is described in this ECDP; (iii) the location and condition in which the felled tree was left; (iv) the location(s) where any materials and debris were disposed of, if applicable; and (v) any observations and handling of sensitive, threatened, or endangered plant and animal species that occurred during the emergency work. Photos showing the project site before the emergency (if available), during emergency project activities, and after the work authorized by this ECDP is complete shall also be provided. The photos shall clearly show any ground disturbance and vegetation removal that was required to access the tree, the location of the tree before and after the work, and any locations where staging or stockpiling occurred.
10. Within 60 days of issuance of this ECDP (by 3/12/2021), or as extended by the Executive Director through correspondence, for good cause, the Permittee shall submit a complete follow-up Coastal Development Permit (CDP) application that satisfies the requirements of Section 13056 of Title 14 of the California Code of Regulations. The follow-up CDP application shall encompass the emergency development included in this ECDP, the redwood tree removal that occurred in December 2021 at this location and which California Department of Transportation staff notified Commission staff of after the fact on December 30, 2021, and any other related emergency tree removal action.

Emergency Permit Number:
G-1-22-0002

If the Executive Director determines that the follow-up CDP application is incomplete and requests additional information, the Permittee shall submit this additional information by a certain date, as established by the Executive Director. If such a follow-up CDP application is withdrawn by the Permittee or is denied by the Commission, or if the follow-up CDP application remains incomplete for a period of 120 days after the Executive Director informs the Permittee that the application is incomplete, all affected areas restored to their prior condition, after consultation with CCC staff and consistent with the Coastal Act, within 120 days, subject to any regulatory approvals necessary for such restoration.

11. Failure to a) submit a complete follow-up CDP application that complies with Condition 10 above, or b) restore all affected areas to their prior condition after consultation with CCC staff, and consistent with the Coastal Act (if required by this ECDP) by the date specified in this ECDP², or c) comply with all terms and conditions of the required follow-up CDP, including any deadlines identified therein, or d) restore all affected areas to their prior condition after consultation with CCC staff and consistent with the Coastal Act immediately upon denial of the required follow-up CDP³ will constitute a knowing and intentional violation of the Coastal Act⁴ and may result in formal enforcement action by the Commission or the Executive Director. This formal action could include a recordation of a Notice of Violation; the issuance of a Cease and Desist Order and/or a Restoration Order; imposition of administrative penalties for violations involving public access; and/or a civil lawsuit, which may result in the imposition of monetary penalties, including daily penalties of up to \$15,000 per violation per day, and other applicable penalties and other relief pursuant to Chapter 9 of the Coastal Act.

If you have any questions about the provisions of the ECDP, please contact Amber Leavitt in the Commission's North Coast District Office at amber.leavitt@coastal.gov or (707) 826-8950.

² In some instances, a permit may also be required for restoration.

³ As noted above, in some instances, a permit may also be required for restoration.

⁴ The Coastal Act is codified in sections 30000 to 30900 of the California Public Resources Code. All further section references are to that code, and thus, to the Coastal Act, unless otherwise indicated.

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**EMERGENCY PERMIT ACCEPTANCE FORM**

TO: CALIFORNIA COASTAL COMMISSION
North Coast District Office
1385 Eight Street, Suite 130
Arcata, California 95521-5967

RE: Emergency Permit No. G-1-22-0002

INSTRUCTIONS: After reading the attached Emergency Permit, please sign this form and return to the North Coast District Office within 15 days from the permit's date.

I hereby understand all of the conditions of the emergency permit being issued to me and agree to abide by them.

I also understand that the emergency work is TEMPORARY and that a regular Coastal Development Permit is necessary for any permanent authorization. I agree to complete the regular Coastal Development Permit application within 60 days of the date of the emergency permit or I will fully restore the affected area within 60 days of the date of the emergency permit (i.e., by March 12, 2022), consistent with other potentially applicable requirements. Finally, I understand that my failure either to:

- a) submit a complete follow-up Coastal Development Permit (CDP) Application that satisfies the requirements of Section 13056 of Title 14 of the California Code of Regulations by the date specified in this Emergency Permit, which may be extended by the Executive Director for good cause, or
- b) restore all affected areas to their prior condition after consultation with Coastal Commission staff consistent with the Coastal Act, will constitute a knowing and intentional violation of the Coastal Act and may result in formal enforcement action by the Commission or the Executive Director.

In some instances, a permit may be required for restoration (if required by this Emergency Permit) by the date specified in this Emergency Permit. This formal action could include a recordation of a Notice of Violation on my property; the issuance of a Cease and Desist Order and/or Restoration Order; imposition of administrative penalties for violations involving public access, and/or a civil lawsuit, which may result in the imposition of monetary penalties, including daily penalties of up to \$15,000 per violation per day, and other applicable penalties and other relief pursuant to Chapter 9 of the Coastal Act. Further, failure to follow all the terms and conditions of this Emergency Permit will constitute a knowing and intentional Coastal Act violation.

Signature of Property Owner or
Authorized Representative

Address: _____

Print Name

Date of Signing

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
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ARCATA, CALIFORNIA 95521-5967
PH (707) 826-8950 FAX (707) 826-8960
WWW.COASTAL.CA.GOV

**EMERGENCY PERMIT**

Issue Date: January 28, 2022
Emergency Permit Number: G-1-22-0004

APPLICANT:

Pacific Gas and Electric Co. (Attn: Nicole Reese)
2730 Gateway Oaks
Sacramento, CA 95833

LOCATION OF EMERGENCY:

Along the following 12 kilovolt (kV) distribution lines in Humboldt County: Trinidad 1102, Fairhaven 1103, and Humboldt State Parks North

EMERGENCY WORK:

Vegetation maintenance activities, including trimming of one tree at one location (Trinidad 1102); removal of one tree at one location (Fairhaven 1103); and removal of 61 trees at 48 locations, trimming of 185 trees at 169 locations, removal of 98 brush units at 27 locations, and trimming of 18 brush units at 4 locations (Humboldt State Parks North)

This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. I understand from your initial emergency permit application that an unexpected occurrence in the form of vegetation growth along power lines and encroachment within the proximity of critical safety minimum clearance requirements poses a threat to electrical distribution and transmission structures in Humboldt County (as identified in the project work areas more specifically identified in Attachment 3)¹ and requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services pursuant to 14 Cal. Admin. Code Section 13009. The Executive Director of the California Coastal Commission hereby finds that:

(a) An emergency exists that requires action more quickly than permitted by the procedures for administrative or ordinary coastal development permits (CDPs), and that the development can and will be completed within 60 days unless otherwise specified by the terms of this Emergency Permit; and

¹ See emergency permit application file "04_Att_3_State ECDP_Trinidad 1102_Fairhaven 1103_Humboldt SP_project_work_areas"

Emergency Permit Number:
G-1-22-0004

(b) Public comment on the proposed emergency development has been reviewed if time allows.

The emergency work is hereby approved, subject to the conditions listed on the attached pages.

Sincerely,

John Ainsworth
Executive Director

DocuSigned by:

DocuSigned by:
Daniel Nathan
02DB1BC8B261449...

01/28/2022

Daniel Nathan, Coastal Program Supervisor

cc: John H. Ford, Director, Humboldt County Planning and Building Department
Trevor Estlow, Senior Planner, Humboldt County Planning and Building Department

Enclosures: 1) Acceptance Form

Emergency Permit Number:
G-1-22-0004

CONDITIONS OF APPROVAL:

1. The enclosed Emergency Permit Acceptance form must be signed by the PERMITTEE and returned to our office prior to onset of activity and within 15 days of the date of this permit. This emergency permit is not valid unless and until the acceptance form has been received in the North Coast District Office.
2. Only that work specifically described in this permit and for the specific locations listed above is authorized. Work is further limited to the minimum necessary to abate the emergency and as detailed in the emergency permit application materials received electronically on January 5, 2022. Any additional work requires separate authorization from the Executive Director.
3. The work authorized by this permit must be completed within 60 days of the date of this permit, which shall become null and void unless extended by the Executive Director for good cause.
4. The applicant recognizes that the emergency work is considered temporary unless and until a regular coastal development permit permanently authorizing the work is approved. A regular permit would be subject to all of the provisions of the California Coastal Act and may be conditioned accordingly.
5. In exercising this permit, the applicant agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that may result from the project.
6. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies, including but not limited to the California Department of Fish & Wildlife, U.S. Fish & Wildlife, U.S. Army Corps of Engineers, and the California State Lands Commission.
7. All work shall take place in a time and manner to avoid (where feasible) and minimize any potential damages to any coastal resources, including but not limited to, environmentally sensitive habitat areas (ESHA), water quality, cultural resources, and public access and recreation. The permittee shall use relevant best management practices (BMPs) to protect on-site wetlands and other ESHA from water quality impacts during vegetation removal activities, as detailed in Attachment 7 of PG&E's emergency permit application (see "08_Att_7_MRHCP VM Measures").

Emergency Permit Number:
G-1-22-0004

8. If it is not feasible to remove vegetation that may provide potential nesting habitat outside of the avian nesting season (mid-March to mid-August), a survey for nesting birds in and adjacent to the project work area shall be conducted by a qualified biologist according to current California Department of Fish and Wildlife (CDFW) protocols no more than seven (7) days prior to the commencement of vegetation removal activities. If any active nest is identified during pre-activity surveys, the biologist, in consultation with CDFW², shall determine the extent of an activity-free buffer zone to be established around the nest, and activity in the buffer zone shall be delayed until after the young have fledged, as determined by additional surveys conducted by a qualified biologist.
9. Herbicide use shall ensure the protection of coastal resources through the implementation of Best Management Practices, as detailed in Attachment 7 of the Permittee's emergency permit application (see "08_Att_7_MRHCP VM Measures"). Herbicide use shall be limited to hand application for cut-stump application only, pursuant to the Herbicide Management Plan submitted as part of the emergency permit application (see "16_Att_15_Herbicide Plan_Dist Routine_121021").
10. All staging of equipment and access to work locations shall be limited to existing roads, such as PG&E access roads, as well as existing footpaths.
11. Equipment that is used to trim and remove vegetation, including removal of trees, shall be limited to pickup trucks, chippers, lift trucks, chain saws, and other hand tools.
12. On-site chipping and stockpiling of removed vegetation and debris shall be limited to existing roads; vegetation debris shall be removed from the project sites to the extent feasible and disposed of lawfully at licensed disposal facilities.
13. Within 30 days of completion of the authorized emergency work, or as extended by the Executive Director for good cause, the permittee shall submit, for the review and approval of the Executive Director, documentation of the vegetation management work performed pursuant to this emergency permit that includes a

² Contact CDFW Northern Region staff (Senior Environmental Scientist Michael Van Hattem) at 707-499-9457.

Emergency Permit Number:
G-1-22-0004

summary report and photo-documentation for the authorized emergency work. The summary report shall include a description of (i) the dates of the emergency work conducted; (ii) the vegetation pruning or removal work performed at each specific location within the project area, noting any differences between locations where work was performed and those proposed in the emergency permit application; (iii) the total area (in square feet) of wetland and riparian vegetation affected by the work performed and the total volume (in cubic yards) of vegetation removed; (iv) the BMPs and erosion control measures employed through the course of the emergency work; (v) the location(s) where debris were disposed of; and (vi) any handling of and observed impacts to sensitive, threatened, or endangered plant and animal species that occurred through the course of the authorized emergency work. The photo-documentation shall include representative photographs of locations where vegetation clearing was performed around the transmission lines and distribution lines, including photos showing the project site(s) before the emergency work occurred (if available), during the emergency work, and after the emergency work authorized pursuant to this emergency permit. A map identifying all locations where staging and stockpiling occurred shall be submitted as well for each project site.

14. Within 90 days of issuance of this Emergency Permit, or as extended by the Executive Director through correspondence, for good cause, the applicant shall submit a complete follow-up Coastal Development Permit (CDP) that satisfies the requirements of Section 13056 of Title 14 of the California Code of Regulations. The application shall additionally include a mitigation and monitoring plan to compensate for temporal and permanent loss of environmentally sensitive habitat areas (ESHA), including riparian wetland habitat, resulting from project activities. The mitigation and monitoring plan shall specify proposed locations for mitigation within the same watershed. If the Executive Director determines that the follow-up CDP application is incomplete and requests additional information, the applicant shall submit this additional information by a certain date, as established by the Executive Director. If such a follow-up CDP application is withdrawn by the applicant or is denied by the Commission, or if the follow-up CDP application remains incomplete for a period of 120 days after the Executive Director informs the applicant that the application is incomplete, all affected areas shall be restored to their prior condition, after consultation with CCC staff and consistent with the Coastal Act, within 180 days, subject to any regulatory approvals necessary for restoration.

Emergency Permit Number:
G-1-22-0004

Failure to a) submit a complete follow-up CDP Application that complies with Condition 14 above, or b) restore all affected areas to their prior condition after consultation with CCC staff, and consistent with the Coastal Act (if required by this Emergency Permit) by the date specified in this Emergency Permit³, or c) comply with all terms and conditions of the required follow-up CDP, including any deadlines identified therein, or d) restore all affected areas to their prior condition after consultation with CCC staff and consistent with the Coastal Act immediately upon denial of the required follow-up CDP⁴ will constitute a knowing and intentional violation of the Coastal Act⁵ and may result in formal enforcement action by the Commission or the Executive Director. This formal action could include a recordation of a Notice of Violation on the applicant's property; the issuance of a Cease and Desist Order and/or a Restoration Order; imposition of administrative penalties for violations involving public access; and/or a civil lawsuit, which may result in the imposition of monetary penalties, including daily penalties of up to \$15,000 per violation per day, and other applicable penalties and other relief pursuant to Chapter 9 of the Coastal Act. Further, failure to follow all the terms and conditions of this Emergency Permit will constitute a knowing and intentional Coastal Act violation.

³ In some instances, a permit may also be required for removal.

⁴ As noted above, in some instances, a permit may also be required for removal.

⁵ The Coastal Act is codified in sections 30000 to 30900 of the California Public Resources Code. All further section references are to that code, and thus, to the Coastal Act, unless otherwise indicated.

CALIFORNIA COASTAL COMMISSION

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FAX (707) 826-8960



January 24, 2022

Lorna McFarlane, Senior Resource Specialist
Caltrans District 1
1656 Union Street
Eureka, CA 95501

RE: Gualala River Bridge Emergency Debris Removal, Highway One, Mendocino County (Emergency CDP Waiver No. G-1-21-0009-W)

Dear Ms. McFarlane:

The purpose of this letter is to formally notify Caltrans that the Executive Director has determined that the subject emergency work qualifies for an emergency coastal development permit (CDP) waiver under Section 30611 of the Coastal Act.

On December 7, 2021, the Executive Director received notification from Caltrans District 1 staff that emergency work would be conducted on Highway One at the Gualala River Bridge (approximately post mile 0.1) within the community of Gualala, Mendocino County. The emergency work involved the necessary removal of a large mass of woody debris (approximately 50-65' across by 16-20' wide by 20' high) that had accumulated within the river around pier 4 of the Highway One bridge. The work was deemed necessary by Caltrans engineers and maintenance staff to protect the bridge from imminent threat of damage to the structure that would result from impending winter high flow events combined with additional material expected to flow downstream and accumulate against the debris mass, which, if not dislodged, could exert enough force against the pier to cause significant damage to the substructure or foundation. This in turn would pose a safety threat to the traveling public and necessitate bridge closure. Following submittal of additional information to Commission staff on December 9th, the emergency work was implemented. All work occurred from the bridge deck using a large mobile crane with bucket trucks and from a small boat. The debris mass was successfully dislodged and allowed to flow naturally to the downstream estuary. As confirmed through follow-up information submitted by Caltrans staff on December 29th, which included photos and plans for the completed emergency work, there was no permanent development associated with the emergency actions.

Section 30611 waives the requirements for obtaining a CDP in cases when immediate action by a person or public agency performing a public service is required to protect life and public property from imminent danger or in other cases of emergency and when the development does not involve permanent development valued at more than \$25,000. Section 13144 of the Commission's regulations requires notification of the Executive Director within seven days of taking action as to why the emergency action was taken

G-1-21-0009-W
Caltrans District 1

and providing verification that the action complied with the expenditure limits set forth in Section 30611.

The Executive Director has determined that the debris removal work described in Caltrans staff's emails and attachments on December 7th, 9th, and 29th complies with the requirements of Section 30611 and the requirement to obtain a CDP for the project as described is waived. Commission staff will be reporting this determination to the Commission at its virtual meeting on February 11th.

Thank you for communicating and coordinating with us during this emergency. If you have any questions, please contact me at amber.leavitt@coastal.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Amber Leavitt". The script is cursive and fluid.

Amber Leavitt
Transportation Program Analyst

Att. Information related to the emergency received from Caltrans

Cc: Mendocino County Planning and Building Services

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
1385 8th STREET SUITE 130
ARCATA, CA 95521
VOICE (707) 826-8950
FAX (707) 826-8960



Prepared February 1, 2022 for the February 11, 2022 Hearing

TO: Coastal Commissioners and Interested Persons

FROM: John Ainsworth, Executive Director
Melissa B. Kraemer, North Coast District Manager

SUBJECT: Executive Director's determination that the action of the County of Humboldt accepting the Commission's certification of LCP Amendment No. LCP-1-HUM-21-0030-1 (Samoa Peninsula Wastewater Project) is legally adequate.

On December 16, 2021, the Commission approved the County of Humboldt's Local Coastal Program (LCP) Amendment No. LCP-1-HUM-21-0030-1 with suggested modifications. The project-driven LCP amendment amends the County's certified Humboldt Bay Area Plan Land Use Plan and Implementation Program to allow for the extension of sewer services across an approximately 4.5-mile-long area on the Samoa Peninsula outside of the town of Samoa for the Samoa Peninsula Wastewater Project. The suggested modifications principally relate to disclosure and deed restriction requirements for geologic and flood risks in the residential portion of Fairhaven; restrictions on future uses allowed in the residential portion of Fairhaven; and requirements that improvements to and replacement of existing homes in Fairhaven be required to meet to the various special restrictions for minimizing risk that would apply to new development on infill lots in Fairhaven.

By its actions adopting Resolution No. 22-08 and Ordinance No. 2687 on January 25, 2022, the Humboldt County Board of Supervisors has acknowledged and accepted the Commission's suggested modifications. Pursuant to section 13544 of Title 14 of the California Code of Regulations, the Executive Director has determined that the actions taken by the County are legally adequate to satisfy the terms and requirements of the Commission's certification.

Attachments

Att. 1: Notification of Effective Certification Letter (to send after Commission action)

Att. 2: Resolution No. 22-08

Att. 3: Ordinance No. 2687

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
1385 EIGHTH STREET, SUITE 130
ARCATA, CA 95521
VOICE (707) 826-8950
FAX (707) 826-8960



February 14, 2022

Humboldt County Planning and Building Dept.
Attn: John Ford, Director
3015 H Street
Eureka, CA 95501

RE: Effective Certification of County of Humboldt's Local Coastal Program (LCP)
Amendment No. LCP-1-HUM-21-0030-1 (Samoa Peninsula Wastewater Project)

Dear Mr. Ford:

The Executive Director of the Coastal Commission has reviewed Board of Supervisors Resolution No. 22-08 and Ordinance No. 2687 for effective certification of the County's LCP Amendment No. LCP-1-HUM-21-0030-1, approved with suggested modifications by the Coastal Commission at its December 16, 2021 meeting. By its actions on January 25, 2022, the County formally acknowledged and accepted the Commission's certification of the LCP amendment including the suggested modifications. The County's acknowledgement agrees to issue coastal development permits in conformance with the certified LCP.

The Executive Director has found that the County's resolutions and ordinances fulfill the requirements of Section 13544(a) of Title 14 of the California Code of Regulations. In accordance with Section 13544(b) of the regulations, the Director has determined that the County's actions are legally adequate. This determination was reported to the Coastal Commission at its meeting of February 11, 2022.

Commission approval and the amendment process are now complete. Commission staff remains available to assist you and your staff as you continue to develop and implement the County's LCP. If you have any questions, please contact me at (707) 826-8650 ext. 9 or Melissa.Kraemer@coastal.ca.gov.

Sincerely,

Melissa B. Kraemer
North Coast District Manager

Att: Certified LCP Amendments

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA
Certified copy of portion of proceedings; meeting on January 25, 2022

RESOLUTION NO. 22-08 OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT REPEALING AND REPLACING RESOLUTION 21-19 WHICH WAS APPROVED FEBRUARY 9, 2021, MAKING FINDINGS THE HUMBOLDT BAY AREA PLAN AND ZONING MAP AMENDMENTS ARE EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AND MAKING ALL THE REQUIRED FINDINGS FOR CONSISTENCY WITH THE GENERAL PLAN, ZONING ORDINANCE AND THE COASTAL ACT, APPROVING HUMBOLDT BAY AREA PLAN AMENDMENTS, ACKNOWLEDGING RECEIPT OF, ACCEPTING, AGREEING TO AND APPROVING MODIFICATIONS AS ADOPTED BY THE CALIFORNIA COASTAL COMMISSION ON DECEMBER 16, 2021; AND TRANSMITTING THEM ALONG WITH THE AMENDMENT TO THE ZONING MAP TO THE CALIFORNIA COASTAL COMMISSION FOR THEIR REVIEW AND CERTIFICATION TO ALLOW THE SAMOA PENINSULA WASTEWATER PROJECT TO PROCEED

WHEREAS, California Government Code Section 65850, and following. authorizes counties to regulate land use, and to adopt and amend general plans and zoning and building ordinances for such purposes, and sets forth procedures governing the adoption and amendment of such ordinances; and

WHEREAS, on February 9, 2021, by Resolution No. 21-19, the Board of Supervisors approved an Amendment to the Humboldt Bay Area Plan and Ordinance No. 2665 amending Section 311-7 of Chapter 1, Division 1, Title III of the Humboldt County Code to Rezone Property in Fairhaven to allow the Samoa Peninsula Wastewater Project to proceed forward to construction; and

WHEREAS, the Local Coastal Plan Amendment to the Humboldt Bay Area Plan and Implementation Program amendment to the Humboldt County Zoning Maps to Allow the Samoa Peninsula Wastewater Project application was transmitted to the Coastal Commission and received on March 2, 2021 as LCP-1-HUM-21-0030-1, and deemed "submitted" on June 14, 2021; and

WHEREAS, on December 16, 2021, the California Coastal Commission adopted a resolution denying certification of LUP Amendment LCP-1-HUM-21-0030-1 as submitted by the County, and adopted a resolution certifying LUP Amendment LCP-1-HUM-21-0030-1 if it is modified as suggested by the Coastal Commission as provided by Suggested Modifications Appendix A of the Coastal Commission staff report dated December 3, 2021, and attached hereto as Exhibit B; and

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WHEREAS, on December 16, 2021, the California Coastal Commission adopted a resolution denying certification of IP Amendment LCP-1-HUM-21-0030-1 as submitted by the County, and adopted a resolution certifying IP Amendment LCP-1-HUM-21-0030-1 if it is modified as suggested by the Coastal Commission as provided by Suggested Modifications in Appendix B, and attached hereto as Exhibit B; and

WHEREAS, the Coastal Commission's certification is also contingent upon the Board of Supervisors' acknowledged receipt of resolutions adopted by the Coastal Commission on December 16, 2021, and acceptance of and agreement to the suggested modifications by June 14, 2021; and

WHEREAS, the Coastal Commission's certification is further contingent upon the Board of Supervisors agreeing to issue coastal development permits subject to the approved Local Coastal Program; and

WHEREAS, Resolution 21-19 directs that modifications to the Samoa Peninsula Wastewater Project Local Coastal Program Amendment required by the Coastal Commission for certification shall first be brought back to the Board of Supervisors for consideration prior to certification by the Coastal Commission; and

WHEREAS, the Suggested Modifications may be approved if all of the required findings described below for approving amendments to the General Plan and Zoning Regulations, contained herein, can be made; and

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

WHEREAS, this Resolution is intended to accept and implement the Coastal Commission's Suggested Modifications to the Local Coastal Program Amendment for the Samoa Peninsula Wastewater Project.

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

CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

1. **FINDING:** The proposed HBAP and Coastal Zoning Regulation amendments incorporating the Coastal Commission's Suggested Modifications (hereafter LCP amendment) are exempt from environmental review.
- EVIDENCE:** a) Public Resources Code Section 21080.5 and 21080.9 and Sections 15250, 15251(f) and 15265 of the CEQA Guidelines identify that CEQA does not apply to the activities of a local government for the preparation and adoption of a Local Coastal Program, and therefore the County adoption of the LCP Amendment is statutorily exempt from environmental review. Approval of the LCP amendment by the California Coastal Commission is the functional equivalent of the environmental review process required by CEQA.

CONSISTENCY WITH THE GENERAL PLAN.

2. **FINDING:** Humboldt County General Plan states the General Plan may be amended if base information or physical conditions have changed. The base information and physical conditions underlying the General Plan has changed.
- EVIDENCE:** a) The purpose of the LCP amendment is to allow the SPWP to be implemented is to eliminate an ongoing threat to the public health, safety and welfare associated with significant water quality impacts to groundwater and Humboldt Bay caused by failing onsite septic systems. Since the HBAP was drafted, several on-site sewage disposal systems in Fairhaven have failed, resulting in repair work that cannot meet current standards of the Regional Water Quality Control Board.
- b) The change in base physical conditions resulting from current and projected increases in mean sea level were not known at the time that the HBAP was certified containing policies that prohibit the extension of municipal wastewater systems to address failing onsite septic systems. Projected sea level rise will exacerbate this public health hazard and water pollution. The proposed LCP Amendment with the Coastal Commission's modifications would provide essential exceptions to public services related policies to address the worsening public health and water quality problems that would occur due to projected changes in sea level.

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- 3. FINDING:** Humboldt County General Plan and state General Plan Law stipulates the General Plan Amendment must be in the public interest. The proposed LCP amendment is in the public interest. The suggested modifications by the California Coastal Commission add requirements to further minimize risk to life and property from significant geologic and flood hazards which strengthen the finding that the proposed LCP amendment is in the public interest.

- EVIDENCE:**
- a) The purpose of the LCP amendment is to allow the SPWP to be implemented is to eliminate an ongoing threat to the public health, safety and welfare associated with significant water quality impacts to groundwater and Humboldt Bay caused by failing onsite septic systems. An amendment to the Local Coastal Program to allow public infrastructure improvements to address threats to health and water pollution, and environmental impacts that would otherwise become worse over time without such amendments, is in the public interest.
 - b) The suggested modifications by the California Coastal Commission increase requirements for the disclosure of the presence of coastal hazards to current and future landowners and limit the uses that may be developed in Fairhaven which would further minimize risk to life and property from significant geologic and flood hazards which strengthen the finding that the proposed LCP amendment is in the public interest.

CONSISTENCY WITH STATE GENERAL PLAN LAW.

- 4. FINDING:** Government Code Section 65302.8 requires any General Plan Amendment that operates to limit the number of housing units which may be constructed on an annual basis to contain findings which justify reducing the housing opportunities of the region. The proposed LCP amendment and suggested Coastal Commission modifications do not limit the number of housing units which may be constructed on an annual basis.

- EVIDENCE:**
- a) The proposed LCP amendment will allow construction of a public wastewater collection system to eliminate an ongoing threat to the public health, safety and welfare associated with significant water quality impacts to groundwater and Humboldt Bay caused by failing onsite septic systems. No changes to the General Plan will limit new housing. The proposed amendments to the Zoning Maps will continue the status quo by allowing new housing to be constructed if it is served by on-site wastewater systems that meet current standards. New homes may be constructed and connected to the new public wastewater system homes where they can meet prescribed

performance standards related to mitigating hazards from sea level rise and tsunami and impacts to environmentally sensitive habitats.

- b) The suggested modifications by the California Coastal Commission increase requirements for the disclosure of the presence of coastal hazards to current and future landowners, limit allowable uses, and require performance standards for substantial remodels or replacement of existing homes, but would allow new homes in the same manner as the original LCP amendment.

CONSISTENCY WITH THE ZONING ORDINANCE.

- 5. FINDING:** Section 312-50.3.1 of the Zoning Regulations requires changes to the Zoning Regulations to be in the public interest. The proposed Ordinance amending the Zoning Regulations is in the public interest. The suggested modifications by the California Coastal Commission add requirements to further minimize risk to life and property from significant geologic and flood hazards which strengthen the finding that the proposed LCP amendment is in the public interest.

- EVIDENCE:**
- a) The purpose of the proposed amendments to the Zoning Map is to ensure new infill development in Fairhaven is consistent with the coastal resource and hazard policies of the HBAP and the Coastal Act, including but not limited to those policies addressing wetlands, Environmentally Sensitive Habitats, flooding, sea level rise and tsunami risk. Protecting new development in Fairhaven from coastal inundation hazards and ensuring that such development is protective of Environmentally Sensitive Habitats, and consistent with the Coastal Act and HBAP, is in the public interest.
 - b) The suggested modifications by the California Coastal Commission increase requirements for the disclosure of the presence of coastal hazards to current and future landowners, require performance standards for substantial remodels or replacement of existing homes, and limit the uses that may be developed in Fairhaven which would further minimize risk to life and property from significant geologic and flood hazards which strengthen the finding that the proposed LCP amendment is in the public interest.

- 6. FINDING:** Section 312-50.3.2 of the Zoning Regulations requires changes to the Zoning Regulations to be consistent with the General Plan. The proposed Ordinance amendment along with the suggested modifications by the California Coastal Commission are consistent with the General Plan.

- EVIDENCE:**
- a) The proposed amendments to the Zoning Map are consistent with, and implement, the proposed amendments to HBAP Section 3.22.B,

Development Policies, (1) Extension of Services, by applying specified performance standards by ordinance that ensure that new development in Fairhaven will be protective of public health, safety and welfare, and coastal resources relative to sea level rise and tsunami inundation, and will be protective of Environmentally Sensitive Habitats, based on site-specific investigations prepared by qualified experts.

- b) The suggested modifications to the Zoning Regulations apply requirements that implement the proposed LCP amendments which increase requirements for the disclosure of the presence of coastal hazards to current and future landowners, require performance standards for substantial remodels or replacement of existing homes, and limit the uses that may be developed in Fairhaven to further ensure that new development in Fairhaven will be protective of public health, safety and welfare, and coastal resources relative to sea level rise and tsunami inundation, and will be protective of Environmentally Sensitive Habitats, based on site-specific investigations prepared by qualified experts.

7. **FINDING:** Section 312-50.3.4 of the Zoning Regulations requires changes to the Zoning Regulations to not reduce the residential density for any parcel below that utilized by the State Department of Housing and Community Development (HCD) in determining compliance with housing element law. The proposed amendment and the suggested modifications by the California Coastal Commission do not reduce the residential density for any parcel below that utilized by the State Department of Housing and Community Development (HCD) in determining compliance with housing element law.

- EVIDENCE:** a) There are no parcels in the Community of Fairhaven or within the Peninsula Community Services District (CSD) boundaries outside the Samoa Town Master Plan (STMP) Overlay Zone that are part of the 2019 Housing Element Housing Inventory. Parcels in the STMP Overlay Zone that are part of the 2019 Housing Element Housing Inventory are not a part of this project, and this project does not affect the capacity of the wastewater system for those parcels. Therefore, the proposed changes to the Local Coastal Program would not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law (the mid point of the density range specified in the plan designation).

8. **FINDING:** Zoning Regulations Section 312-50.3.3 specifies that any changes to the Zoning Regulations that require an LCP amendment, the

amendment is in conformity with the policies of Chapter 3 (commencing with Section 30200) of the Coastal Act. Chapter 3 of the Coastal Act sets forth policies regarding the following issues:

- a) **Access** (including provisions for access with new development projects, public facilities, lower cost visitor facilities, and public access)
- b) **Recreation** (including protection of water-oriented activities, ocean- front land protection for recreational uses, aquacultural uses, and priority of development purposes)
- c) **Marine Resources** (including protecting biological productivity, prevent hazardous waste spills, diking, filling and dredging, fishing, revetments and breakwaters, and water supply and flood control)
- d) **Land Resources** (including environmentally sensitive habitats, agricultural lands, timberlands, and archaeological resources)
- e) **Development** (including scenic resources, public works facilities, safety, and priority of coastal dependent developments)
- f) **Industrial Development** (including location and expansion, use of tanker facilities, oil and gas development and transport (both onshore and off), and power plants).

EVIDENCE: a) Access

The HBAP Access Inventory (Section 3.50(C)) shows ten Coastal Access Points within the boundaries of the Peninsula CSD (#14 Samoa Beach Power Pole (deleted); #16 USS Milwaukee Marker; #15 Samoa Beach (deleted); #17 Samoa Beach (2); #19 North Coast Export Company; #20 Realignment of New Navy Base Road; #26 Fairhaven/Park Street; #21 Eureka Airport/Dragstrip; #21A City Wallflower Mitigation Bank; and the # 24 Samoa Boat Launch. The proposed amendments would allow the construction of an underground wastewater system to serve existing structures with failing onsite wastewater systems and to expand an already permitted wastewater treatment plant within the STMP a site that is already permitted for such development.

The wastewater system improvements include underground wastewater pipelines installed in-road, three pump stations

(Fairhaven, Finntown, and the Humboldt County Park at the Samoa Boat Launch), and the expansion the approved STMP wastewater treatment plant. The proposed wastewater improvements would not have any effect on public access to and along the shoreline, either directly or indirectly. The development of proposed wastewater improvements would not affect access to the mapped public access points identified above, either directly or indirectly, and would be subject to the approval of a Coastal Development Permit by Humboldt County.

The suggested modifications by the California Coastal Commission add requirements to disclose coastal hazards to current and future property owners, limit allowable uses, and require performance standards for substantial remodels or replacement of existing homes in Fairhaven to further minimize risk to life and property from significant geologic and flood hazards which have no additional affect on access to the mapped public access points identified above.

b) **Recreation**

The proposed Samoa Peninsula Wastewater project will provide feasible wastewater service to existing structures on the Samoa Peninsula to address public health and water quality problems, including to visitor serving uses at the Eureka Samoa Field airport and recreation uses such as the Samoa Boat Launch County Park. Public wastewater service, as opposed to on-site wastewater systems, will protect public health and water quality for recreation uses along Humboldt Bay including for water-based activities such as surfing, kayaking, and canoeing.

Upon certification of the proposed HBAP amendments and construction of the wastewater system, public wastewater service would be available to new industrial uses, coastal-dependent uses, and to Interim Conditionally Permitted uses in the Industrial/Coastal Dependent Zone, and available to new residential development in Fairhaven on lots planned and zoned for residential use based on the certified HBAP and located within 300 feet of a Samoa Peninsula Wastewater Project sewer main, subject to performance standards, adopted by ordinance, that will ensure that such development will be protective of public health, safety and welfare, and coastal resources relative to sea level rise and tsunami inundation, and will be protective of Environmentally Sensitive Habitats, based on site-specific investigations prepared by qualified experts.

The Draft EIR for the Samoa Peninsula Wastewater Project assumed that up to 62 new single-family residences may connect to the public sewer system in Fairhaven, based on ESHA constraints and proximity to the sewer main. The assumption that 62 new single-family residences may connect was not based on a rigorous analysis on population growth within the unincorporated area and the likely absorption of such growth within the Samoa Peninsula.

Rather, this assumption was solely based on the lots proximate to the public sewer line that were not believed to be constrained by potential ESHA. New residential development may occur overtime in Fairhaven; however, the State Department of Finance (DOF) projects that there will be no appreciable population growth within Humboldt County in the foreseeable future. As a result, significant population growth is not expected to occur in Fairhaven in the foreseeable future, and the Draft EIR prepared for the project determined that any growth that may occur would not have a significant effect on existing recreation facilities within the Samoa Peninsula (Samoa Peninsula Wastewater Project Draft EIR, Section 4.12 Public Services and Recreation). In addition, for all allowed uses that may connect in the future to the proposed Samoa Peninsula Wastewater project, a Coastal Development Permit is required that would assesses recreation impacts in accordance with the local coastal plan. Therefore, the proposed wastewater system will have no direct effect on the availability of recreation.

The suggested modifications by the California Coastal Commission add requirements to disclose coastal hazards to current and future property owners, limit allowable uses, and require performance standards for substantial remodels or replacement of existing homes in Fairhaven which have no additional effect on the availability of recreation.

c) **Marine Resources**

The proposed amendments to the Humboldt Bay Area Plan would allow the extension of public wastewater service outside the Urban Limit Line to connect to existing structures served by failing OWTS in order to address existing public health and water pollution problems. Therefore, the amendments to the HBAP and construction of the proposed wastewater system would improve water quality and biological productivity within Humboldt Bay.

The wastewater system would rely on wastewater treatment using the approved STMP wastewater treatment plant (including treatment, disinfection, and solids removal), and would discharge treated effluent using the HBHRCO Ocean Outfall. The Approved Samoa WWTF has obtained a permit from the RWQCB which specifies the acceptable level of a pollutant or pollutant parameter including physical properties, solids, biologicals, and chemicals in a discharge to ensure that the state's mandatory standards for clean water are met. These are the regulated standards that would be required to be met during operation, prior to discharge through the ocean outfall pipe, and would require monitoring to determine compliance with established effluent limitations, establish a basis for enforcement actions, assess treatment efficiency, characterize effluents, and characterize the receiving water.

Because the ocean outfall is regulated by existing standards established for the purpose of protecting the ocean, and the additional flow from the project would contribute a small fraction of the existing discharge and Approved Samoa WWTF discharge, the Samoa Peninsula Wastewater Project EIR determined that the impact to the ocean environment from increased discharge from the project would not be significant.

The suggested modifications by the California Coastal Commission add requirements to disclose coastal hazards to current and future property owners, limit allowable uses, and require performance standards for substantial remodels or replacement of existing homes in Fairhaven which have no additional effect on marine resources.

d) **Land Resources**

The proposed project site includes active roadways, and many areas are covered with old asphalt, fractured concrete, compacted gravel on former log decks, and railroad infrastructure. Installation of the wastewater collection system is proposed to occur within the existing roadways to minimize impacts to sensitive coastal habitat, although ground disturbance may occur out to 10 feet beyond existing edge of pavement.

The Peninsula CSD is required by mitigation measures in the project EIR to protect jurisdictional wetlands during construction.

Prior to the start of construction, where construction activities occur within close proximity (100 feet) to delineated wetlands, high visibility construction fencing shall be erected to establish a no-disturbance buffer that would be adequate for the protection of the wetlands, determined by a qualified biologist. The fencing shall be checked weekly by a biological monitor to ensure its continued correct placement and stability.

The potential for the project to have a significant effect related to biological resources has been mitigated to a less than significant level with incorporation of mitigation measures in the EIR. Impacts to biological resources will be minimized by mitigation measures in the EIR implemented prior to and during construction to avoid permanent impacts to wetlands and Environmentally Sensitive Habitat Areas, to restore pre-project conditions for temporary wetland and ESHA impacts, and to identify the locations of biological resources and establish and maintain protective buffers around them through the duration of the project activities. (DEIR pages 4.3-27 to 4.3-42 and FEIR pages 2-26 and 2-27).

In accordance with Senate Bill 18 and Government Code 65352.3, Assembly Bill 52, and Public Resources Code (PRC) 21080.3.2, the County requested a list of Tribal Organization contacts from the Native American Heritage Commission and sent notifications of the project on October 16, 2017, to the appropriate tribal organizations in compliance with SB 18 and AB 52, inviting the tribes to consult on the project and soliciting comments and suggestions.

On March 9, 2018, Humboldt County met with Tribal representatives who requested consultation to present the project and solicit input and comments. Tribal consultation resulted in comments on the Notice of Preparation, and a request to include in project mitigations, the Humboldt Bay Harbor District's Protocols for Inadvertent Archaeological Discoveries for Ground Disturbing Project Permits, Leases and Franchises Issued by The Humboldt Bay Harbor, Recreation and Conservation District, Humboldt Bay, California (adopted in May 2015).

Potentially significant impacts to cultural and tribal cultural resources, including historic resources within the town of Samoa historic district, undiscovered archaeological, paleontological resources and human remains, and tribal cultural resources, have been mitigated to less than significant levels with the incorporation

of mitigation measures in the project EIR.

Impacts to cultural and tribal cultural resources will be minimized by mitigation measures in the EIR requiring consistency with the STMP "D" Design Control Combining Zone design requirements; should an archaeological resource be inadvertently discovered during ground-disturbing activities, by immediately notifying Tribal Historic Preservation Officers and retaining a qualified archaeologist with local experience to consult with the Peninsula CSD to protect unknown archaeological resources and if avoidance is not feasible, implementing a mitigation plan in accordance with the Harbor District's Standard Operating Procedures; should a paleontological resource be inadvertently discovered during ground-disturbing activities, by notifying a qualified paleontologist to document the discovery as needed, evaluate the potential resource, and assess the significance of the find under the criteria set forth in CEQA Guidelines Section 15064.5; should human remains inadvertently be encountered during construction, by halting work immediately, contacting the Peninsula CSD and County Coroner, and following the Harbor District's Standard Operating Procedures, consistent with Public Resources Code § 5097.9 and Health and Safety Code § 7050.5. (DEIR pages 4.4-16 to 4.4-26 and FEIR page 2-47 and 2-65).

There are no agricultural or timber lands within the Peninsula Community Services District Boundary; therefore, there is no potential for impacts to agricultural or timber lands.

The suggested modifications by the California Coastal Commission add requirements to disclose coastal hazards to current and future property owners, limit allowable uses, and require performance standards for substantial remodels or replacement of existing homes in Fairhaven which have no additional effect on land resources.

e) Development

The proposed Samoa Peninsula Wastewater Project does not involve new residential, commercial, or industrial development nor does the proposed project involve a change to existing planned land uses or land divisions. However, the project would improve public service capacity for existing development and planned uses consistent with the certified HBAP. Although not a component of the wastewater project, the wastewater system may provide service to the following use types, to the extent that the such uses are

consistent with the HBAP and their development is approved through a Coastal Development Permit: new industrial uses; Interim Conditionally Permitted Uses in the MC - Industrial/Coastal-Dependent zone; and to coastal-dependent and to other uses that are consistent with the HBAP and located within 300 feet of a Samoa Peninsula Wastewater Project sewer main subject to the approval of a Coastal Development Permit.

The proposed project would not affect coastal scenic or visual qualities. Aside from construction of new wastewater treatment facilities at the Approved Samoa Town Master Plan Wastewater Treatment Facility (STMP WWTF), the project involves only underground construction that would not result in impacts to coastal scenic or visual qualities. Improvements to the STMP WWTF would be subject to the "D" combining zone design review requirements to ensure the conformance of new development with the policies and standards of the of the STMP and to provide for a design review process where neighborhoods within the same zone district desire to preserve or enhance the area's historical, cultural or scenic values.

Potentially significant impacts to geology, soils, and seismicity have been mitigated by the project EIR to a less than significant level through mitigation measures that would reduce significant impacts from strong seismic ground shaking and ground failure to a less-than-significant level by implementing design and construction measures identified in a site-specific geotechnical study. (DEIR pages 4.5-10 to 4.5-15).

Portions of the project area are subject to sea level rise. As identified in the Draft EIR (Sections 3.3.1, 3.5.3, and 4.14.1) and PER, the project area has a high groundwater table. The project pipelines would be designed to account for infiltration and liquefaction from this condition. New "tight" C900 PVC piping with rubber gasketed push-on joints would be utilized to prevent the infiltration of groundwater as much as possible. Pipes would be bedded and buried at appropriate depths to prevent flotation and minimize the impact of fluidization of the sand during an earthquake on the slope of the pipes.

As noted in Response to Comment 2-14, the Approved Samoa WWTF is located well above estimated sea level rise for year 2070. Furthermore, "future impaired functionality" due to erosion, etc., as exacerbated by sea level rise would be speculative.

The proposed wastewater project is specifically designed to

accommodate needs generated by existing development served by failing OWTS and will accommodate planned uses consistent with the HBAP, in particular Industrial, Coastal-Dependent uses which are priority coastal uses and essential for the regional economy.

The suggested modifications by the California Coastal Commission add requirements to disclose coastal hazards to current and future property owners, and require performance standards for substantial remodels or replacement of existing homes in Fairhaven similar to the performance standards that apply to the development of new homes. These additional requirements will not significantly affect development in the area.

The suggested modifications by the Coastal Commission will eliminate conditionally permitted uses from the list of allowed uses in the area subject to the Q-Qualified Zone, and will not allow Accessory Dwelling Units in that area. Conditionally permitted uses no longer allowed are:

- Manufactured Home Parks,
- Guest Houses,
- Community Assembly,
- Public and Private Recreation and Open Space,
- Bed and Breakfast Establishments,
- Neighborhood Commercial; and
- Private Institutions.

Although property owners will no longer be able to seek approval for the development of these uses in Fairhaven, based on Planning and Building Department files there no record of any Conditional Use Permit applications being submitted in Fairhaven in the past 30 years or more, so this modification is unlikely to have any significant impact on new development in the area.

Permitting ADUs is similarly unlikely in Fairhaven under the current regulatory framework, so deleting that use from the list of allowable uses is also not likely to have any significant impact on new development. Currently, ADUs may only be approved in tsunami runup areas of the HBAP if a licensed professional civil engineer with substantial experience evaluating tsunami hazards concludes the ADU will be safe from catastrophic failure or inundation caused by a local great Cascadia Subduction Zone earthquake event and accompanying tsunami. To date, there have

been no ADUs approved anywhere in the HBAP tsunami runup area, including Fairhaven. Realistically, due to the extensive HBAP standards required for the development of ADUs, there may be no real expectation that one would be feasibly constructed in Fairhaven.

The Draft Environmental Impact Report (EIR) for the Samoa Peninsula Wastewater Project certified by the Board of Supervisors on October 6, 2020 (Item I-2) described the amendments to the HBAP relating to coastal hazards occurring in two phases. The first phase, which is the proposed LCP amendments with the modifications suggested by the Coastal Commission, is intended to be an interim step to allow connection of existing homes to the new sewer line. After the first phase is completed, and following comprehensive amendments to the HBAP addressing sea level rise and tsunami hazard issues, Planning and Building Department staff will initiate Phase II, which will delete the Q-Zone and restore the conditionally permitted use allowances of the RS Zone and the allowance for ADU's to those properties.

f) **Industrial Development.**

An objective of the proposed Samoa Peninsula Wastewater Project is to facilitate Coastal-Dependent, Industrial and Port of Humboldt development consistent with HBAP land use designations and policies, and with zone classifications. The proposed project does not involve oil or gas development, nor is such development anticipated in the near future. However, the Samoa Peninsula Wastewater Project is intended to support new port development which could include projects such as new tanker facilities. The proposed wastewater project anticipates serving the DG Fairhaven Powerplant and could serve additional power plants in the event such new uses are approved.

The suggested modifications by the California Coastal Commission add requirements to disclose coastal hazards to current and future property owners, limit allowable uses, and require performance standards for substantial remodels or replacement of existing homes in Fairhaven which have no additional effect on to further minimize risk to life and property from significant geologic and flood hazards and which have no additional effect on industrial development.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA
Certified copy of portion of proceedings; meeting on January 25, 2022

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

1. Orders this Resolution repeals and replaces Resolution No. 21-19, approved on February 9, 2021;
2. Adopts the findings contained herein;
3. Acknowledges receipt of the Resolutions adopted by the California Coastal Commission on December 16, 2021, and accepts and agrees to Coastal Commission suggested modifications contained in Appendix A, LUP Amendment Suggested Modifications, and in Appendix B, IP Amendment Suggested Modifications, to the report prepared on December 3, 2021, for the December 16, 2021, for Hearing item Th8a, and attached hereto as Exhibit B;
4. Finds that the proposed amendments to the Zoning Map and Coastal Commission suggested modifications conform to and appropriately carry out the policies of the Humboldt Bay Area Plan, as amended, and Chapter 3 of the Coastal Act, and further finds that the proposed Humboldt Bay Area Plan and Zoning Map Amendments will be carried out in accordance with the Coastal Act, and that the Board of Supervisors agrees to issue coastal development permits subject to the approved Local Coastal Program;
5. Finds the project is exempt from the California Environmental Quality Act and directs Planning Department staff to prepare and file a Notice of Exemption with the County Clerk and Office of Planning and Research;
6. Adopts the Humboldt Bay Area Plan Amendments and Coastal Commission suggested modifications as shown in Exhibit A of this Resolution;
7. Finds that the changes to the Humboldt Bay Area Plan and Zoning Maps will become effective immediately upon certification by the Coastal Commission;
8. Authorizes and directs Planning staff to transmit the amended Local Coastal Program Amendment to Allow the Samoa Peninsula Wastewater Project to the California Coastal Commission for their review and certification;
9. Directs the Clerk of the Board to publish the Post-Adoption Summary of the Ordinances within fifteen (15) days after its passage.
10. Directs the Clerk of the Board to give notice of the decision to any interested party.
2. The foregoing Resolution is hereby passed and adopted by the Board of Supervisors on January 25, 2022, by the following vote:

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on January 25, 2022

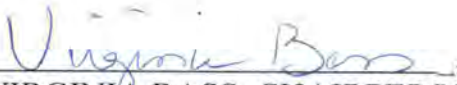
Adopted on motion by Supervisor Wilson, seconded by Supervisor Bass and the following vote:

AYES: Supervisors: Wilson, Bass, Bohn, Bushnell, Madrone

NAYS: Supervisors:

ABSENT: Supervisors:

ABSTAIN: Supervisors:


VIRGINIA BASS, CHAIRPERSON,
HUMBOLDT COUNTY BOARD OF
SUPERVISORS

(SEAL)

ATTEST:

Kathy Hayes, Clerk of the Board of Supervisors
of the County of Humboldt, State of California

By: 
Tracy Damico, Deputy Clerk

EXHIBIT A

**AMENDMENTS TO THE HUMBOLDT BAY AREA PLAN
CHAPTER 3 DEVELOPMENT AND RESOURCE POLICIES**

3.22.B. DEVELOPMENT POLICIES

1) Extension of Services

It is the intent of this chapter that extensive rural public service systems, such as water and sewer, not be developed. This is exclusive of public service systems such as roads, electric, gas, telephone, and fire protection systems appropriate to planned levels of development. No permit shall be issued by any agency of the County to a special district or private utility or mutual system proposing to provide such services outside an urban limit line, except for the following:

- a) Sewer service extensions outside the urban limit line may be provided to industrial uses, including to Interim Conditionally Permitted Uses in the MC - Industrial/Coastal-Dependent zone.
- b) To protect health and water quality from septic systems that are failing or may fail in the foreseeable future due to sea level rise or coastal hazards in a manner that does not induce more development in areas subject to coastal hazards, sewer service may be extended outside the Urban Limit Line established by the Samoa Town Master Plan and within the boundaries of the Peninsula Community Services District (as configured in 2020) hereafter referred to as the Samoa Peninsula Wastewater Project (SPWP), (as described in the Final Environmental Impact Report adopted for the SPWP by the County on October 6, 2020) in compliance with the following:

- (1) **Design and Construction of the Public Sewer System.** The SPWP shall be designed and constructed in conformance with specific recommendations contained in a geotechnical report that considers high groundwater levels,

projected sea level rise, the effects of seismic events including strong ground shaking, liquefaction, other ground failure and tsunami inundation, to prevent damage to, or flotation of, pipelines, pump stations, and other wastewater facilities subject to these hazards, and to prevent sanitary sewer overflows.

(2) Eligible Connections. In addition to uses identified in section 3.22-B-1-a, and in compliance with below subsections (3) through (5), sewer service may only be provided to (i) structures and uses that were legally existing as of October 6, 2020 and (ii) to new single-family residences on legal lots in the portion of Fairhaven planned Residential/Exurban located within 300 feet of a SPWP sewer main (excluding Accessory Dwelling Units, which shall be prohibited to minimize risks to life and property from tsunami and sea-level rise hazards).

(3) **Public Sewer Service to Existing Development.** The immediate provision of public sewer service by the SPWP to structures and uses that were legally existing as of October 6, 2020 that are served by onsite septic systems shall be allowed, and shall not be deemed to encourage or facilitate development nor constitute or be construed to be an amendment or extension of any mapped Urban Limit Line. As a condition of approval for a coastal development permit to construct the SPWP, the Peninsula Community Services District shall be required to disclose to each property within the portion of Fairhaven planned Residential/Exurban receiving a sewer connection and containing existing development all of the requirements of subsection 5 below and that the connection to sewer service does not convey or imply any entitlement or commitment for coastal development permit authorization to be granted for any expansion or replacement of the existing development on the subject property. In addition, the District shall be required to provide a plan for providing such notice to any successors and assigns of such existing development.

- (4) **No Further Extension of Sewer Mains.** Further extensions of the public sewer mains beyond the project boundary as mapped in Figures 1-3, 3-3, 3-7, and 3-9 of the Draft Environmental Impact Report for the SPWP dated January 2019 (SCH #2018042083) shall not be allowed without an amendment to the Humboldt Bay Area Plan, except as allowed under section 3.22-B-1(a).
- (5) **Public Sewer Service to New Residential Development.** Upon the extension of sewer service to the portion of Fairhaven planned Residential/Exurban as part of the SPWP, permits for new residential in the Fairhaven area that is located within 300 feet of a SPWP sewer main and no further, may only be approved subject to the following:
- (i) conformance with all performance standards, adopted by ordinance, that will ensure that such development will be protective of public health, safety and welfare, and coastal resources relative to hazards from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, tsunami inundation, and other geologic and flood hazards, and will be protective of Environmentally Sensitive Habitats, based on site-specific investigations prepared by qualified experts; and
 - (ii) the requirement that property owners execute and record a deed restriction in form and content acceptable to the County/decision-making authority that acknowledges and agrees, on behalf of themselves and all successors and assigns: (a) the current and future projected geologic and flood hazards to which their development is exposed and will be exposed over the economic life of the development, (b) assume the risks of developing in hazardous locations subject to geologic and flood hazards from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, tsunami inundation, and other geologic and flood hazards, (c), acknowledge that, as new development, the property owners do not have any right to shoreline

protection to protect the proposed development from such flood hazards under the LCP or the Coastal Act, and (d) further acknowledge that shoreline protection is unlikely to be authorized for the development due to inconsistencies with LCP and Coastal Act policies protecting public access, recreation, beach and water quality, among others.

c) Extension of water service outside of the urban limit line as defined in this Plan shall be permitted provided that:

- (1) service along the extension will not remove capacity necessary to serve future development on undeveloped lots within the existing serviced areas, whether within the urban limit line or not, to the uses permitted in the plan that;
- (2) developments to be serviced are compatible with the plan;
- (3) the extension of water service will be paid for only by the users of that service;
- (4) the existing system is in no way degraded; and
- (5) the water service extension is found to be in conformance with the resource protection policies of this plan; or
- (6) it is necessary for agricultural or timber operations.

HUMBOLDT BAY AREA PLAN
CHAPTER 4 STANDARDS FOR PLAN DESIGNATIONS

STMP (New Development) Policy 9:

Waste water treatment provided for the lands subject to the STMP-LUP shall be limited to provision of service for development authorized pursuant to the STMP-LUP only. No lands or development outside the STMP-LUP shall be served by wastewater treatment facilities provided for the lands subject to the STMP-LUP except as allowed under the listed exceptions in Section 3.22, Public Services-Rural, subsection B. No pipeline connections to collect or transfer waste water to or from off-site to or through the STMP-LUP lands shall be installed on or adjacent to the lands subject to the STMP-LUP, except for the purpose of transferring treated waste water effluent for disposal to the Redwood Marine Terminal Manhole 5 ocean outfall, and except for the collection of waste water from service connections established in a manner consistent with Section 3.22, Public Services-Rural, subsection B.

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Ordinance Repealing and Replacing Ordinance 2665

Adding a Q – Qualified Zone to Properties in the Fairhaven Area

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on January 25, 2021

ORDINANCE NO. 2687

AN ORDINANCE AMENDING SECTION 311-7 OF CHAPTER 1, DIVISION 1, TITLE III OF THE HUMBOLDT COUNTY CODE TO REZONE PROPERTY IN FAIRHAVEN

The Board of Supervisors of the County of Humboldt do ordain as follows:

SECTION 1. REPEALING PRIOR ORDINANCE. This ordinance hereby repeals in its entirety Ordinance 2665, which was approved on February 9, 2021

SECTION 2. ZONE AMENDMENT. Section 311-7 of the Humboldt County Code is hereby amended by reclassifying lands in the Fairhaven area from Residential Single Family\No Further Subdivision Allowed (RS\X) to Residential Single Family\No Further Subdivision Allowed with a Qualified combining zone (RS\XQ). The area described is also shown on the Humboldt County zoning maps for the Humboldt Bay Area Plan Area and on the map attached as Exhibit A.

SECTION 3. ZONE QUALIFICATION. The special restrictions and regulations set forth in Section 4 herein are hereby made applicable to the property reclassified from "RS\X" to "RS\X-Q" (described in Exhibit A), and that is located within 300 feet of Samoa Peninsula Wastewater Project sewer mains, in accordance with Humboldt County Code Section 313-32.1, which authorizes restriction of the RS zone regulations by application of the "Q" (Qualified Combining Zone).

SECTION 3. PURPOSE OF QUALIFICATIONS. Construction of the Samoa Peninsula Wastewater Project places public sewer mains within 300 feet of vacant residential parcels in the Fairhaven area, triggering a requirement for new development on these parcels to connect to the wastewater system, the SPWP would make these lots appear more desirable for development when in fact there are many other coastal resource protection requirements which must first be addressed. The purposes of the special restrictions and regulations herein imposed on the property described in Exhibit A and that is within 300 feet of a Samoa Peninsula Wastewater Project public sewer main

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are:

- a. to address a health hazards and water quality problems and not to encourage or facilitate development, and
- b. to restrict principally and conditionally permitted uses on parcels that are undeveloped as of January 1, 2020, and are within 300 feet of a Samoa Peninsula Wastewater Project public sewer main to which they would be required to connect to public sewer to ensure such development is consistent with the coastal resource and hazard policies of the Humboldt Bay Area Plan and Coastal Act, including but not limited to those policies addressing wetlands, Environmentally Sensitive Habitats, flooding, sea level rise and tsunami risk.

SECTION 4. SPECIAL RESTRICTIONS. Development on legal lots shall conform with the following standards.

- a. To minimize risks from tsunami inundation and sea-level rise hazards, no permit shall be granted for an Accessory Dwelling Unit (ADU) on any lot or for any of the following conditional uses normally allowed in the RS zone: guest house, manufactured home park, bed and breakfast establishment, community assembly, neighborhood commercial, private institution, and private recreation.
- b. Coastal Development Permits may be granted for Principal Permitted Uses, including for new residential development (excluding ADUs) and for improvements to existing legal residential structures, in accordance with the general rules and supplemental application procedures and required findings of the Humboldt County Code applicable to Coastal Development Permits, with all applicable policies of the certified Humboldt Bay Area Plan, and with the following special findings:

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- (1) There is no less environmentally damaging feasible alternative, adverse environmental effects have been mitigated to the extent feasible, and required mitigation will maintain or enhance the functional capacity of the wetlands or Environmentally Sensitive Habitats to the extent feasible, if present.
- (2) The proposed development is consistent with the Humboldt Bay Area Plan hazard policies related to flooding, tsunamis, and other geologic and flood hazards and a qualified professional with expertise in coastal resources has prepared site-specific geologic and flood hazard analyses for the proposed development that include among other analyses, an evaluation of a range of sea level rise projections; that consider how sea level rise may impact the development and how the development may impact coastal resources considering sea level rise; and that demonstrate that the proposed development will be sited and designed to minimize risk, assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area.
- (3) The proposed development is consistent with the Coastal Act and consistent with the adopted Humboldt Bay Area Plan tsunami hazard policies revised based on the Guidelines for Evaluating and Mitigating Tsunami Hazards in California adopted by the State Mining and Geology Board in accordance with the Seismic Hazards Mapping Act of 1990, or absent such policies, the proposed development meets the requirements of Humboldt Bay Area Plan Section 3.17 Hazards, B. Development Policies, 3. Tsunamis, subsections 1 through 4.

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- (4) Evidence has been presented to demonstrate lot legality including, but not limited to, research of title history and deeds.
- b. A condition of approval of a Coastal Development Permit for new residential development and for replacement or redevelopment of 50 percent or more of an existing structure shall be a requirement that the applicant shall execute and record a deed restriction in a form and content acceptable to the County/decision-making authority acknowledging and agreeing to the following on behalf of themselves and all successors and assigns:
 - (1) the applicant acknowledges that the site may be subject to geologic and flood hazards, including, but not limited to, hazards from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, and tsunami inundation and that the landowner assumes any and all liability from such hazards; and
 - (2) the applicant shall indemnify, defend, and hold the County/decision making authority harmless and its officers, officials, agents, and employees or other third parties with respect to the County's/decision making authority's grant of the Coastal Development Permit from and against any and all loss, liability, damage, expense, costs (including without limitation costs and fees of litigation) and any amounts paid in settlement arising from any injury or damage arising out of or in connection to related to the hazards identified in Section 4(c)(1), the performance of work hereunder, or its failure to comply with any of its obligations contained in this agreement; and
 - (3) the applicant unconditionally waives any claims of damage or liability against the County/decision making authority and its

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officers, officials, agents, and employees for injury or damage related to the hazards identified in Section 4(b)(1) ; and

- (4) the applicant agrees to assume any and all risks of injury or damage to themselves, their heirs, assigns and successors-in-interest in connection with the permitted development on the property that is the subject of this Coastal Development Permit; and
- (5) Except as allowed under Coastal Act Section 30235 (codified in Humboldt Bay Area Plan section 3.30-B-8), no shoreline armoring structures are approved now, nor are such structures authorized in the future for the protection of development within the community of Fairhaven against future hazards that may arise due to the coastal setting of the Fairhaven lands, and the prospect of increased sea level rise in the future, and the present landowners have taken future seal level rise into consideration and have warranted that no such protective structures will be necessary to protect the proposed development within the community of Fairhaven, and further, acknowledges the possibility that no such protective structures would secure approval for construction.

SECTION 6. EFFECTIVE DATE. This ordinance shall take effect immediately upon certification of the proposed amendments to the Local Coastal Program by the California Coastal Commission.

PASSED, APPROVED AND ADOPATED this 25th day of January 2022, by the following vote, to wit:

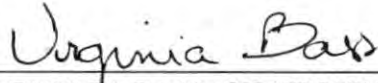
BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

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AYES:

NOES:

ABSENT:

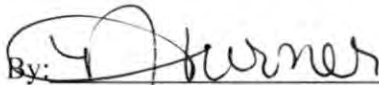


VIRGINIA BASS, CHAIRPERSON,
HUMBOLDT COUNTY BOARD OF
SUPERVISORS

(SEAL)

ATTEST:

Kathy Hayes, Clerk of the Board of Supervisors
of the County of Humboldt, State of California



Nicole Turner, Deputy Clerk

Date: January 25, 2022