

CALIFORNIA COASTAL COMMISSION

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Th12a

MEMORANDUM

Date: September 7, 2022

To: Commissioners and Interested Persons

From: Shana Gray, Deputy Director
Melissa Kraemer, District Manager
Tamara Gedik, Supervising Analyst

Subject: Addendum to Commission Meeting for Thursday, September 8, 2022
Item Th12a, CDP Application No. 1-20-0711
(City of Arcata)

The purpose of this addendum is to modify the staff recommended findings to respond to comments received on the staff report published on August 25, 2022. The Commission received two public comment letters, including one comment letter dated September 2, 2022 and submitted on behalf of Humboldt Baykeeper, Northcoast Environmental Center, Environmental Protection Information Center, and Coalition for Responsible Transportation Priorities in support of the staff recommendation, and one comment letter from the applicant City of Arcata, dated September 2, 2022 requesting certain changes to the staff recommendation. The applicant's letter requests deleting Special Condition 10 (Waiver of Rights to Future Shoreline Protective Devices) or, in the alternative, modifying Special Condition 10 to include language from the staff report regarding the Commission's ability to approve shoreline protection in the future. All of the correspondence received is included under [the correspondence tab](#) for this item on the Commission's website.

As discussed below, staff continues to recommend Special Condition 10 with no changes to ensure the project, as conditioned, would be consistent with the Coastal Act. Staff continues to recommend that the Commission, upon completion of the public hearing, approve the coastal development permit with the special conditions and findings included in the staff recommendation of August 25, 2022.

1. Changes to Staff Report

Commission staff recommends changes to the staff report dated August 25, 2022 to address the comments from the applicant. A 'Response to Comments' section is added

to the staff report as Section O just prior to the CEQA finding (thus making the CEQA finding Section P), starting on page 91, to provide additional context and information regarding the applicant's comments. Text to be added is shown in double underline format, as specified below.

The applicant, City of Arcata, has requested deleting Special Condition 10 (Waiver of Rights to Future Shoreline Protective Devices) or, in the alternative, modifying Special Condition 10 to include language in the findings regarding the Commission's ability to approve shoreline protection in the future. Special Condition 10 ensures that the applicant acknowledges that the significant changes approved pursuant to the subject permit constitute redevelopment of the Arcata Wastewater Treatment Facility (AWTF) and therefore the entire facility does not have an automatic entitlement to a shoreline protective device in the future, to minimize the risk that the applicant asserts such a right exists. Special Condition 10 and Special Condition 9 (assumption of risk) together establish that the applicant bears the risks of development in a hazardous area and maintains the Commission's discretion to approve or deny any future applications for a shoreline protective device for the AWTF.

The City's proposed modifications to Special Condition 10 are not appropriate conditions of this permit, because the City's proposed language is not necessary to ensure the project is consistent with the Coastal Act, and the content of the City's proposed language is self-evident from the condition, i.e., the condition does not prohibit the Commission from approving an application for a shoreline protective device. The City's proposed language merely clarifies the condition and is already, and more appropriately, reflected in the findings herein (including but not limited to Section IV.H). The findings also make clear that the facility is vulnerable to coastal hazards, and the City bears the risks of any further investments in the AWTF. Page 62 of the August 25, 2022 staff report states in part:

While the Commission could potentially authorize some form of continued reliance on protective levees or similar forms of shoreline protection, because the AWTF has been redeveloped and has no right to additional or augmented armoring under section 30235 of the Coastal Act, the City must develop and analyze a full suite of adaptation strategies, prioritizing alternatives to hard shoreline armoring, up to and including the possibility of relocating all or portions of the AWTF inland to less hazardous locations. Importantly, in this action the Commission is not approving any shoreline protection; and, in approving the proposed improvements to the AWTF, the Commission is not under any obligation to approve shoreline protection of the facility in this hazardous location in the future. To the contrary, the City bears the risks of any further investments in the AWTF, with the understanding that the facility is not legally entitled to shoreline protection under the Coastal Act and such protection may not be authorized by the Commission in the future.

The City's request focuses on its expressed desire to incrementally augment levees around the wastewater treatment facility in the near term. According to the September 2, 2022 letter, for the past six years the City has been actively seeking funding for levee

augmentation that would establish a freeboard (clearance) between floodwaters and the core wastewater treatment facility in the event of combined extreme storm and tide events. The City's letter highlights that incremental levee augmentation was expressly detailed in its January 26, 2022 and April 14, 2022 submittals in response to CDP application filing information requests. However, in a letter to the City from Commission staff dated February 25, 2022, it was noted that the levee augmentation information provided on January 26 was too preliminary to evaluate potential impacts, stating in part the following:

Although the City later removed levee augmentation from its project description, the January 26, 2022 transmittal repeatedly describes a reliance not only on existing levees but also future envisioned levee improvements with phased augmentations increasing the height first to 15 feet and later to 17 feet. The January 26, 2022 transmittal describes that levee improvements would be part of a future proposed project. Commission staff have thus far not received any details about the proposed levee augmentation and the extent of its impacts¹ and thus it remains unclear whether future proposed levee improvements would be consistent with the Chapter 3 policies of the Coastal Act.

In response to the February 25 letter, the City submitted supporting documentation on April 14, 2022 indicating that "the current levee system will protect the AWTF natural systems through 2055 in the medium-high risk aversion scenario and the mechanical system area through 2050 with a 95% probability (1-in-20 chance)." The April 14 letter also states in part "Inundation of the core treatment area could occur as early as 2030 in a 50-year event (0.5% probability), if no improvements occur to the levee system. However, we note that such lower likelihood, lower inundation, temporary events would be addressed using standard flood event management practices. Such events would not affect plant operations." The adopted findings herein describe the applicant's proposed routine flood management practices as including stormwater pumping and deployment of onsite, temporary sandbags, thus further minimizing the risks associated with flooding. Thus, the City's April 14, 2022 letter and accompanying documentation demonstrated that the currently proposed project components are designed to minimize risks associated with coastal hazards over their 30-year lifetime without the need for levee augmentation.

As the findings make clear, consistent with prior Commission actions, as a redeveloped facility, the AWTF would not be entitled to shoreline armoring under section 30235 of the Coastal Act, because it would not qualify as an "existing" structure in danger of erosion. In addition, as shoreline protective devices are almost always inconsistent with

¹ The January 26, 2022 transmittal contains discrepancies in the general descriptions and potential impacts of future levee improvements, stating in part that "Raising the height of the existing levees would not increase the outboard footprint further into Humboldt Bay. As such, the City does not expect levee improvements to adversely impact habitat or other public resources..." In apparent contrast, the transmittal also states "The levee improvement project will protect the facility from tsunamis and severe storm events by raising the elevation of the existing rock-armored earthen levee, **extending the length of the levee, and installing a concrete floodwall in locations where construction of a levee is not feasible.**" (emphasis added).

section 30253 of the Act, in conjunction with other Coastal Act public access and resource protection policies, because of their significant impacts on natural shorelines, beaches, and public use and enjoyment of the coast, they are rarely approvable unless required under section 30235.

While the Commission could potentially authorize some form of continued reliance on protective levees or similar forms of shoreline protection, because the AWTF has been redeveloped and has no right to additional or augmented armoring under section 30235 of the Coastal Act, the City must develop and analyze a full suite of adaptation strategies, prioritizing alternatives to hard shoreline armoring, up to and including the possibility of relocating all or portions of the AWTF inland to less hazardous locations. Importantly and as noted in Finding IV.H above, in this action the Commission is not approving any shoreline protection; and, in approving the proposed improvements to the AWTF, the Commission is not under any obligation to approve shoreline protection of the facility in this hazardous location in the future. To the contrary, the City bears the risks of any further investments in the AWTF, with the understanding that the facility is not legally entitled to shoreline protection under the Coastal Act and such protection may not be authorized by the Commission in the future.

Thus, the Commission does not adopt the City's proposed changes to Special Condition 10.