

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
710 E STREET • SUITE 200
EUREKA, CA 95501
VOICE (707) 445-7833
FACSIMILE (707) 445-7877

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TO: Commissioners and Interested Parties

DATE: September 30, 2010

FROM: Peter M. Douglas, Executive Director
Robert S. Merrill, District Manager – North Coast District
James R. Baskin AICP, Coastal Program Analyst – North Coast District

SUBJECT: **City of Crescent City LCP Amendment No. CRC-MAJ-1-03 (LCP Update)
(Meeting of October 14, 2010)**

TIMELINE SYNOPSIS

The proposed LCP Amendment was submitted on July 18, 2003 and filed on July 22, 2009. The 90-day time limit for the Commission to act on the proposed LCPA was October 20, 2009. A one-year time extension was granted by the Commission on October 7, 2009. City of Crescent City staff requested that the Commission open the hearing at the September 16, 2010 meeting and then continue the matter to the October meeting to allow more time for City review of the staff report and suggested modifications and for discussion with Commission staff. At the September 16, 2010 meeting, the Commission opened the hearing and then continued the matter to the October 13-15, 2010 meeting.

STAFF NOTES

1. Exhibits to the Staff Report

Exhibit No. 1 and Exhibit No. 2 of the staff report are key components of the staff recommendation, as all of the recommended suggested modifications are shown merged into the text of the City's proposed updated Land Use Plan (Exhibit No. 1), and the City's proposed updates to the coastal zoning and development regulations sections of its Municipal Code (Exhibit No. 2). The full text versions of the City's proposed LCP Amendment, with suggested modifications, show how the suggested modifications fit into the context of the City's proposed LCP documents. Exhibit Nos. 3 (Proposed Amended General Plan - LUP) and 4 (Proposed Amended Zoning Code - IP) contain the proposed LCP amendment as submitted by the City

without the staff's suggested modifications. Exhibit No. 5 comprises a set of aerial photo-based graphics of various City proposed land use and zoning amendments for which substantial issues of Coastal Act and/or LCP conformance and implantation adequacy have been identified, including select suggested modifications affecting some of these proposed changes. Exhibits Nos. 6 and 7 consist of two comparison matrices, showing side-by-side the existing-certified, proposed-to-be-amended, and staff's suggested-to-be-modified versions of the text policies and standards of the LUP and IP intended for bringing the LCP update into conformance with the Coastal Act, respectively. Exhibit Nos. 6 and 7 were not complete at the time of publication of this report and will be provided in an addendum. Due to the size of Exhibit Nos. 1-5, these exhibits are provided digitally to reduce paper consumption, reproduction, and mailing costs. The Commission will receive Exhibit Nos. 1-5 with their the agenda packet. Some other recipients are being mailed hard copies of this staff report. The exhibits are also available for review on-line at the Commission's website by following the links under "Exhibits" on the on-line version of the staff report (<http://documents.coastal.ca.gov/reports/2010/10/Th12a-10-2010.pdf>). Commission staff will also provide several hard copies of the exhibits at the September 16, 2010 meeting. Exhibit Nos. 8-20, containing maps of the location and geographic extent of the City's coastal zone, existing land use and zoning maps, proposed amended land use plan and zoning maps, maps of proposed site-specific plan and zoning changes, and the various resolutions and ordinances locally adopting the LCP updates and transmitting the LCP amendment to the Commission, are attached.

2. Changes to the Staff Recommendation and Suggested Modifications since the September 16, 2010 Commission Meeting

This revised staff report contains changes and additions made to the findings and to the suggested modifications contained in Exhibit Nos. 1 and 2 since the original staff report was mailed on September 2, 2010 and includes: (1) findings for the certification with Suggested Modifications of the IP portion of the LCP amendment; (2) findings addressing the proposed changes to the permitted uses within Harbor-Related land use planning designation section of the LUP amendment; (3) findings relating to the proposed site-specific redesignation of lands designated Harbor Related land use classification in the Inner Harbor area; and (4) additional changes and additions to the suggested modifications resulting from Commission comments made at the September 16, 2010 meeting. The IP findings are contained in Part Six of this report, while the LUP amendment findings relating to the proposed changes to the Harbor Related designation text and the land use plan map are contained in Part Five, pages 79 through 80 and pages 89 through 90, respectively. These other hearing discussion initiated changes and additions to the Suggested Modifications entail:

- LUP Section 6.C *Water Resources*, and IP Chapter 17.36 *Stormwater Quality Management* (proposed to be renumbered as Chapter 17.88) and Chapter 17.84B, regarding: (1) exemptions from stormwater management planning and water quality impact mitigation requirements, (2) corrections to the stormwater runoff intensity equation, (3) construction pollution prevention plan and post-construction stormwater plan contents, (3) Low Impact Development (LID) protocols, 4) "criteria for "developments of water quality concern," and (5) and required licensure for the

- preparation of water quality and hydrology plans (see Exhibit No. 2, pages 3 through 16 and 123 through 133, respectively);
- LUP Section 1.B *Visitor and Local Commercial (VLC) Area* (proposed to be renamed *Visitor Serving Commercial (VSC) Area*) (see Exhibit No. 1 pages 41 through 44) and IP Chapter 17.83 Special Zoning Uses (see Exhibit No. 2 pages 76 through 79), regarding measures to ensure protection and provisions of lower-cost visitor-serving facilities, particularly overnight and short-term transient accommodations within new mixed use resort hotel / condominium projects;
 - Various other revisions, deletions, and/or new additional suggested modification language regarding: (a) precluding development of coastal-dependent development within both wetlands or other forms of ESHAs, unless provided for elsewhere within the Land Use Plan (see revised wording of Policy 1.A.3. in Exhibit No. 1, page 36; (b) modify the IP's definition of "motels" to not include long-term apartment residential uses (see Exhibit No. 2, page 35; (c) requiring the identification of measures to restore ESHA degraded or eliminated by past unpermitted development in biological assessments for subsequent development projects (see revised language in CZZR sub-section 17.84C.030.A.2.(g) in Exhibit No. 2, page 135); (d) requiring that wind turbines not be added as an allowable use in all zoning districts as proposed by the City until such time as measures for preventing bird- and bat-strike impacts are included in any future small wind turbine enabling ordinance (see new LUP Policy 6.A.6. in Exhibit No. 1, page 110); (e) requiring that the implications of subsequent site development on visual resources be addressed prior to the approval of subdivisions, lot line adjustments, and other land divisions prior to their approval (see new LUP Policy 5.E.12. in Exhibit No. 1, page 101 and new CZZR sub-section 17.84F.040.C in Exhibit No. 2, pages 150-151); and (f) requirements for transferring any public access easement the City has accepted but subsequently cannot improve, operate, and/or maintain to another appropriate receiving agency or organization with such capabilities (see revised CZZR sub-section 17.84A.080.F.2 in Exhibit No 2, page 115).

3. Areas of Known Controversy

Areas of Know Controversy Described in September 2, 2010 Staff Report

The majority of the concerns expressed by the City to date about particular suggested modifications have been resolved by making revisions, additions, and/or corrections to the suggested modifications detailed herein. However, there are several remaining areas of known controversy at this time regarding: (a) restricting the proposed diversification of uses in the Harbor Related plan and zoning designations; (b) limiting the areas proposed to be redesignated from Harbor Related plan and zone designations; and (c) requirements for avoiding, minimizing, and mitigating coastal flooding impacts from sea level rise and tsunamis, and inclusion of projected global sea level rise in geo-technical and other evaluations of proposed development. Commission staff will continue to work with City staff to resolve these issues to the extent possible prior to the October hearing on the LCP amendment. These issues are described in further detail below:

Limitations on Permissible Uses on Harbor Related Designated Lands. The currently certified LUP restricts uses in the Harbor Related (HR) land use designated areas to those, “Commercial and recreational activities that are dependent in some way upon a harbor location.” The currently certified Coastal Zone Harbor Related (CZ-HR) zoning district standards identify a very limited number of specific principal permitted uses such as “commercial fishing berths,” “fish processing plants,” and “boat building and repair.” The list of potential conditionally permitted uses, ranked in descending priority are identified as: (1) “energy facilities, provided that such facilities have proper protection devices to prevent crude oil, gas, petroleum or other hazardous substances from being spilled or from contaminating areas beyond the project site;” (2) “recreational facilities, including but not limited to, recreational vehicle parks and buildings necessary to that operation;” (3) “restaurants;” and (4) “museums, specifically those dealing with coastal activities.”

The proposed amended LCP would significantly expand the range of qualified permissible uses to include numerous other types of uses which would not be limited to those “dependent in some way on a harbor location,” but those which are ...”not dependent upon immediate access to the harbor but benefit from a harbor location.” Among the list of new, principally permitted uses that could be developed under the amended designation are “marine curio manufacture and sales,” “hotels and motels,” and “visitor related services including retail sales shops.” Consideration could also be given for conditionally permitting several new uses, including “residential uses as a secondary use at a density not to exceed 15 units per acre (including condominiums),” “recreational facilities,” and “recreational vehicle parks.”

Coastal Act Section 30255 directs that, “Coastal-dependent developments shall have priority over other developments on or near the shoreline... When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.” In addition, Sections 32221, 30222.5, 30223, 30224, 30234, and 30234.5 identify numerous priority uses for which oceanfront and/or shoreline adjacent sites and adjoining nearby areas shall be prioritized for development thereupon, including, public and private recreational uses and development, aquaculture, coastal recreational upland support uses, and recreational boating dry storage areas. Notably absent from this listing are tourist oriented products manufacturing and sales, short-term/overnight accommodations, and permanent residences.

The recommended suggested modifications would reassert the limitations on development in the Harbor Related land use and zoning designations to those primarily involving “coastal related” uses as defined by the Coastal Act, namely a use which requires a site on, or adjacent to, the sea in order to be able to function at all. Visitor-serving facilities, residential development, and general retail commercial uses would be struck from the lists of principally and conditionally permitted uses in the plan and zone category descriptions.

Concerns have been raised that these suggested modifications would unduly restrict the development of non-harbor related uses, in what the City views as a coastal-dependent

industrial to general commercial transitional area, in a manner that would prevent the City from effectively redeveloping its harbor area into a vibrant mix of uses, including those related to adjacent harbor dependent uses and other more visitor-serving and highway commercial oriented uses. The City notes that the region's decline in commercial fishing and forest products shipping activity over the last several decades has resulted in the area having a surplus of land designated for harbor related support uses. The City believes that its future depends upon diversification into a more tourism-oriented economic base, and that the vacant undeveloped parcels, former harbor-related business sites, and legal nonconforming properties, such as the City-operated recreational vehicle park, should be developed with other uses and/or allowed to be redesignated to visitor-serving and highway commercial designations to facilitate such diversification and transition. Staff concurs with the City's observations regarding the currently depressed demand for coastal related development sites, however, no information has been developed as to what the future demand for harbor related sites may be assuming changed conditions in commercial fishing and marine shipping, particularly if those sectors experience a resurgence in activity, associated with recovered fisheries, reinvigorated maritime shipping activity, or new entrepreneurial harbor-based investment, such as boat-building and aquaculture. Commission staff believes that Section 30255 together with Sections 32221, 30222.5, 30223, 30224, 30234, and 30234.5 clearly direct that, given the subject area's harbor-proximate location, development therein be limited to the types of uses which relate to and support adjoining harbor-dependent uses, and that the proposed additional mix of residential and general commercial uses be redirected to lands further upland from the immediate harbor environs until such time that specific economic development studies have been prepared to identify the amount of land needed to meet future project port activity levels and, if an excess land base is found to exist, the most desirable sites that should be retained for harbor related development.

Limitations on the Lands Proposed to be Redesignated from Harbor Related to Other Uses. Related to the foregoing issue, the City has also expressed concerns over Commission staff's recommendation to retain the Harbor Related designation over the majority of the lands adjacent to the Crescent City Harbor. As proposed, approximately 17 acres of land, either vacant or developed with a variety of visitor-serving and general commercial uses, would be redesignated to either visitor-serving commercial, highway commercial, or open space designations. As discussed above, no information has been developed as to what the future demand for harbor related sites may be or what sites are most desirable to retain for harbor related development to inform determinations as to how much land area and which particular sites may be appropriately converted to other uses without jeopardizing priority harbor related uses necessary to serve the commercial fishing and other harbor uses that would otherwise be sustainable into the future. Accordingly, with certain site-specific exceptions (i.e., dredge spoils upland disposal ponds, former ice packing plant), staff believes that retention of the Harbor Related designation over the majority of the inner-harbor area is both prudent and consistent with Coastal Act Sections 30255, 32221, 30222.5, 30223, 30224, 30234, and 30234.5, until such time that specific economic development studies have been prepared to identify the amount of land needed to meet future project port activity levels and, if an excess land

base if found to exist, the most desirable sites that should be retained for harbor related development.

However, based on locational and development activity factors, staff believes that it is appropriate to allow certain sites, such as the former Pacific Choice crab processing / ice packing plant (APN 118-380-22) parcel and lands in and adjoining the dredge spoils upland disposal site (APNs 118-020-29 and the rear portion of 118-020-42) to be redesignated to the respective highway services visitor-serving commercial and harbor dependent land use classifications and zoning proposed by the City. With regard to the proposed conversion of the ice packing plant parcel to highway commercial uses, with the noticeable decline in commercial fishing and other harbor activity over the last two decades, some reduction in the inventory of harbor-related lands is warranted provided any such reduction does not compromise the ability of the City to provide sites for harbor related support facilities in the future. Given that the site: (1) does not front directly along the waterfront or onto harbor dependent lands; (2) with the exception of a small antique shop operating out of its front office has been vacant for the last 10 years, and (3) packing ice facilities have been developed elsewhere in the harbor area in closer proximity to the commercial and recreational fishing interests they serve, the location appears be the location least necessary and desirable for harbor related use. In contrast, with its frontage on Highway 101 and it's adjacency to other visitor serving lands, the site appears to be particularly well-suited to accommodate priority visitor-serving uses such as would be allowed by the visitor-serving commercial and highway services land use and zoning classifications zones proposed by the City.

Similarly, the shoreline frontage location, proximity to the water, and use history of the Crescent City Harbor District's dredged materials disposal site and adjoining areas to the northwest on the adjacent parcel make them highly desirable for providing for higher priority harbor dependent uses including but not limited to continued upland spoils disposal. Accordingly, staff believes the City's proposal for redesignating this area from Harbor Related to Harbor Dependent land use plan and zoning designations would be consistent with the Chapter 3 policies of the Coastal Act and would conform with and adequately carry out the policies of the LUP as amended and further suggested to be modified.

Addressing Risks Associated with Tsunami Inundation and Sea Level Rise. In response to relatively recent heightened recognition of tsunami and global sea level rise inundation hazards along the Cascadia Subduction Zone coastline, the suggested modifications would include new policies in the *Health and Safety* section of the land use plan and new development permit application review standards within the coastal zoning regulations. These measures require that potential risks associated with these flooding related hazards be evaluated for new development involving the construction of structures for human occupancy within historic, modeled, or mapped tsunami hazard areas and that the project's particular site-specific risks from runup inundation be assessed. Such assessments, as well as those for geologic stability, hydrologic, geotechnical, and engineering applications, must consider the best available and most recent projected rates of sea level rise. Moreover, subdivisions entailing the development of new permanent

residential units must design the floor elevation of such residences to be one foot above the projected maximum credible height of tsunami runup at the site, factoring in rates of projected sea level rise over its economic life. In addition, such structures are required to be designed to be resilient to wave strike so that a catastrophic collapse is precluded. In addition, human occupied developments are subject to approval of a tsunami safety plan, and no new residential subdivisions may be approved in areas where evacuation to high ground cannot be attained within a reasonable timeframe.

Concerns have been raised that both the hazards evaluation requirements, and building design and siting standards are too onerous given the relatively low probability of such a catastrophic event occurring during a project's design life, or that designing residential structures to withstand such damage is not economically feasible given the scope of the development, and that the requirements would render large areas of the City's shoreline effectively undevelopable. Commission staff believes that Coastal Act Section 30253(a) clearly states that risks to life and property from geologic, flooding, and fire hazards are to be minimized. To this end, the risk analysis, building resiliency design standards, and tsunami safety plan preparation requirements would provide information essential to devise mitigation to minimize loss of life and property from flooding as required by both Section 30253 of the Coastal Act and existing LUP policies.

In the past 60 years, from 1959 to 2009, the City of Crescent City has experienced three significant, damaging tsunamis — in 1960, 1964, and 2006. Eleven people were killed by the 1964 tsunami and there was significant property damage from all three events. When the next major earthquake on the Cascadia Subduction Zone occurs, a tsunami is likely to be generated and it is very likely that Crescent City would experience a tsunami event similar to or larger than these recent historic events. Moreover, with the calamitous tsunamis in Indonesia and Chile in recent years, the threat of flooding from tsunamis is a very real concern of both local and state-wide significance. The Commission has reviewed this issue in the context of the preceding *Coasta Norte Condominiums* LCP amendment (CRC-MAJ-1-09) and applied the very same policies, proposed herein as suggested modifications, to that particular site because of the safety risks of building in the tsunami run-up area. As of the date of this report's writing, the *Coasta Norte* project's developer has accepted the subject floor elevation and building resiliency design permit requirements and the project's structural engineer is currently in the process of designing the building to meet the standards.

Additional Areas of Potential Controversy. Since publication of the September 2, 2010 staff report, correspondence has been submitted from City staff identifying two additional policy areas where the staff's suggested modifications may generate controversy: (1) policies related to enhanced ESHA buffer requirements; and (2) requiring supplemental project review for the effects of development on visual resources. As detailed in the letter from the City submitted at the September 16, 2010 hearing (see Exhibit No. 21), the primary concerns relate to whether the imposition of ESHA buffers might result in claims of regulatory takings against the City wherein the imposition of the buffers would deprive the property owner of all economic use of the property. With respect to the issues regarding consideration of visual resources effects, the City's

concerns relate to the implications the additional assessment work would have on the functions of the City Council, its delegated planning commission, and the advisory site plan and architectural compatibility review committee, and whether meeting the standards identified in the subject suggested modifications would hamper and/or preclude development along waterfront sites.

At the time of the writing of this report, Commission staff has scheduled a study session with the City Council and staff on October 4, 2010 to review the various suggested modifications. Staff is optimistic that these discussions with the City will put to rest some of the concerns the City has raised with respect to the proposed LCP being seen as overly burdensome. A report of those efforts will be presented at the October 14, 2010 continued hearing on the amendment.

4. Background

The City of Crescent City has put forth a considerable effort over the past several years to prepare and submit the proposed amendment to the City's LCP, which constitutes the first comprehensive update since the LCP was originally certified in 1983. Although the Commission has certified several LCP amendments since the time of original certification, the City has used this LCP Amendment as a significant opportunity to bring the LCP up to date with current planning and development standards, particularly with regard to the protection of the City's coastal resources. Overall, the LCP Amendment as proposed by the City constitutes a far more comprehensive, detailed, and improved LCP than the City's currently certified Land Use Plan and zoning ordinance.

Commission staff notes that despite the significant improvements to the City's LCP as part of the proposed amendment, the changes included in the Suggested Modifications are numerous. However, it is important to note that many of the changes are largely due to a reorganization of the City's proposed LUP and IP that evolved from discussions between Commission staff and City staff during the review of the amendment submittal. As explained in greater detail below, the Land Use Plan (LUP) and Implementation Plan (IP), consisting of various zoning and development regulations appearing under various titles of the Municipal Code, as submitted by the City for certification were originally prepared to apply to both inland and coastal portions of the City. Commission staff and City staff agreed that developing a separate *Coastal* Land Use Plan, to apply specifically to the geographic portion of the City located within the coastal zone, would provide greater clarity of the documents, improve the usability and administration of the LCP, and ensure consistency with the Coastal Act. The City would continue to apply the existing General Plan to the geographic areas of the City that are outside the coastal zone. Given this decision to maintain separate general plans for portions of the City inside and outside of the coastal zone, many of the suggested modifications reflect necessary changes that stem from this reorganization.

Additionally, several of the changes included in the Suggested Modifications reflect "friendly modifications" requested by the City. Lastly, many changes included in the Suggested Modifications are a result of the LUP having been prepared several years prior to the preparation of the IP, thus necessitating the addition or deletion of various policies, programs, text, and other references to ensure consistency between the LUP and IP.

5. **Addendum**

Due to the extensive nature of the subject LCP amendment, staff was unable to complete certain exhibits staff had intended to include prior to the mailing of the staff report. These omitted items are the comparative matrices illustrating the existing certified, proposed amended, and suggested-to-be-modified versions of the LUP and IP policies and standards (Exhibit Nos. 6 and 7). Staff will present these exhibits as part of an addendum at the Commission's October 14, 2010 meeting.

SUMMARY OF AMENDMENT REQUEST

The proposed LCP amendment consists of a comprehensive update of the City's currently certified Land Use Plan (LUP) and Implementation Program (IP), originally certified in 1983. Both the General Plan Coastal Policies (LUP), formatted in entirely different organizational format than the currently certified LUP, and the amendments to various chapters of the Coastal Zone Zoning Regulations (IP) have been submitted to the Commission for certification. These documents constitute an update of the majority of the City's land use regulatory policies and programs.

The City adopted a new General Plan in May 2001 to replace the currently certified LUP. Although many of the currently-certified policies and standards would be either included in the updated, reformatted LUP, or with minor revisions not effecting their scope or bearing, the updated LUP contains numerous new policies addressing a variety of coastal resource issues not previously covered in the currently-certified LUP. A new Visitor Local Commercial land use category would be created to designate areas intended for development of a mix of visitor-serving and general commercial uses. In addition, the proposed LUP amendment would diversify the number of permissible uses in the Harbor Related land use classification, redesignating some areas currently designated as Harbor Related to other uses. Finally, the amendment includes a number of other site specific land use classification changes.

The City also adopted amendments to its currently certified coastal zoning ordinance in June 2003, entitled the "Coastal Zone Zoning Regulations," to carry out the policies of the amended LUP in a consistent manner, and to update numerous provisions within IP, primarily in the "Definitions" chapter to bring the City's zoning provisions into conformance with changes in federal housing and public institutions law regarding prohibitions on discrimination in housing and public accommodations, and various changes to the principal and conditional permissible uses to better match those of the amended LUP land use designations they implement. Changes to the zoning districts' prescriptive development standards are also proposed to bring them into a standardized format. The amendments to the IP also include a comprehensive update to the regulations within the sign ordinance. Furthermore, the LCP update proposes that four sections be added into the IP setting standards for: (1) public trees and landmark/memorial trees; (2) management of stormwater runoff; (3) bed and breakfast establishments; and (4) water quality best management practices. Finally, the amendment reclassifies the zoning over a number of

specific properties to correspond with proposed changes in the sites' LUP land use classifications.

1. LUP Amendments

As mentioned above, the proposed updated LUP document has a significantly changed format from the currently certified LUP and is organized in a two part format: Part I includes an introductory discussion of the General Plan process and a summary of the organization and contents of the General Plan. This introduction is followed by a Part II containing several "sections," which, in addition to a prefacing section, defining certain critical land use planning terminology, include: (1) *Land Use and Community Development*; (2) *Housing*;¹ (3) *Transportation and Circulation*; (4) *Public Facilities and Services*; (5) *Recreational and Cultural Resources*; (6) *Natural Resources / Conservation*; and (7) *Health and Safety*. The LUP also includes an appendix consisting of a glossary of terms used throughout the document. In addition, as a fold-out within the *Land Use and Community Development* section, the proposed LUP includes a land use plan map depicting the location of the various land use plan designations throughout the coastal zone portion of the City.

For the most part, many of the provisions of the currently certified LUP are being retained and brought forward under the updated LUP with only minor revisions. The majority of these revisions involve provisions which have become dated outdated overtime due to changing conditions or have been implemented and no longer need to appear as directives controlling future events or situations, and are being updated or deleted outright from the updated plan. Numerous other new policies are being proposed to reflect changes in land use law and environmental protection that have evolved since the original LUP was penned a quarter-century ago. These include measures relating specifically to air and water quality, habitat for identified threatened and endangered fish and wildlife species, especially salmonids, and policies addressing land use issues which reflect the general trend in the area's change from a resource extraction based economy to one more centered on regional services and public parkland-based tourism. For the most part, the major new provisions within the LUP reflect the objective to consolidate all of the City's general plan policies in one document to apply City-wide, including coverage of many subject areas that do not bear directly on coastal resources, but are directed on growth in general, such as, regulating building scale and mass through floor-area ratios, establishing minimum residential density standards and site design requirements in certain urban areas with adequate services to ensure that initial low-density development of these sites does not preclude eventual full build-out of the areas, and identifying transportation control measures for maximizing the efficiency of existing road infrastructure. However, there are a several new area-specific initiatives that reflect significant programmatic changes with respect to the City's coastal resources. These entail:

- Deletion of the currently-certified "Multi-Family" (residential) and "Medical Related" land use categories;

¹ The Housing Element is not included as a part of this LCP amendment.

- The creation of a new “Visitor Local Commercial” land use designation and related policies to be applied to areas along Highway 101 and Front Street, the City’s primary thoroughfares, adjacent to lower Elk Creek, and near the Battery Point Lighthouse;
- The creation of a new “Harbor Dependent” land use category to be applied to certain areas within the Crescent City Harbor District currently used for upland dredged materials disposal.
- Significant changes to areas along the shoreline of Crescent City Harbor currently certified with “Harbor Related” land use designation to either “Visitor Local Commercial,” “Public Facility,” or “Open Space” designations; and
- Proposed application of a “General Commercial” land use designation over the currently uncertified former McNamara-Peepe lumber mill site area.

2. IP Amendments

The City’s proposed amended IP document, the Coastal Zone Zoning Regulations (CZZR) is equally ambitious in comparative scope to the LUP amendments but does not involve a changed format from the currently certified zoning ordinance. The zoning amendments include new or expanded provisions entailing: (1) updated definitions of terms used throughout the regulations; (2) the introduction of development standards for bed and breakfast establishments; (3) establishing procedures for the planting, designation, and protection of street and landmark trees; (4) renaming and making changes to the enumerated principal and conditional permitted uses in “Low Density (formerly “Single Family”) Residential zoning districts to provide for development of bed and breakfast establishments and second dwelling units; (5) deleting the “Two-Family (duplexes) Residential” and “Residential-Professional zoning districts; (6) modifying and expanding the list of principal and conditional permitted uses in the “General Commercial” zoning district to more closely implement the permissible uses identified in “Visitor Local Commercial” and “Public Facility” land use designations; (7) modifying and expanding the list of principal and conditional permitted uses in the “Harbor Related” zoning district to implement the permissible uses identified in the “Visitor Local Commercial” land use designation, including the introduction of several uses not directly dependent upon harbor dependent uses, including recreational vehicle parks and upper-floor residential development; (8) the introduction of development standards for a new “Harbor Dependent” zoning district to implement the associated new “Harbor Dependent” land use category; (9) expansion and revisions to the principally and conditionally permitted uses in “Open Space” zoning districts to provide for the development of both public and private improvements; (10) modifying the principal and conditional permitted uses within the Highway Service zoning district to more closely match the permissible uses in the Visitor Local Commercial land use designation it is proposed to implement, and adding additional landscaping, screen, and lighting standards to improve the visual expression of the southern gateway into the City; (11) establishing conservation incentive density bonus provisions for development within Natural Resources zoning districts; and (12) introducing standards for the comprehensive management of stormwater runoff through drainage conveyance and treatment requirements.

3. Site-specific Land Use and/or Zoning Designation Amendments

The City is also proposing to change the land use and/or zoning designations over much of the land within the coastal zone, primarily associated with the renaming of several of the plan and zone categories (i.e., “Residential” to “Single Family Residential,” “Single Family Residential to “Coastal Zone Low Density Residential”.) However, in six specific locations, these proposed redesignations entail the introduction of new land use categories and zoning that significantly deviate from that currently certified for these areas in terms of permissible density and intensity of the use of land. These six areas are referenced herein as: (1) *Pebble Beach Drive Beach Residential (Grinnell)*; (2) *Oceanfront Commercial*; (3) *Battery Point Recreational*; (4) *Beach Front Park / Mouth of Elk Creek*; (5) *Inner Harbor*; and (6) *Former McNamara-Peepe Mill Site and Log Pond*, colloquially referred to as the “Little Mo-Peepe” Area of Deferred Certification.

SUMMARY OF STAFF RECOMMENDATION

1. Commission Action

Staff recommends that the Commission **DENY** both the Land Use Plan (LUP) and Implementation Plan (IP) portions of the amendment as submitted, and then **APPROVE** both portions of the amendment if modified to incorporate the Suggested Modifications listed below. The motions to accomplish this are found in Part One on pages 19-21.

The City’s LCP was originally certified in 1983. Although there have been numerous amendments, the LCP has never been comprehensively updated until now. Most of the staff recommended suggested modifications are intended to supplement and enhance the proposed policies and standards to reflect current policy and standard language that has been applied in more recently certified LCPs and LCP amendments throughout the coastal zone. These updated policies and standards reflect current practices of the Commission in implementing Chapter 3 policies of the Coastal Act in the Commission’s review of coastal development permit applications. For example, many of the staff recommended suggested modifications would modify the proposed LCP policies and standards in this amendment dealing with the protection of water quality, environmentally sensitive habitat areas, and geologic hazards to reflect the considerable refinement in the Commission’s program over the last 25 years in these areas.

2. Suggested Modifications for Policy Changes and Implementation Measures Necessary for Compliance with the Coastal Act

Numerous suggested modifications are being recommended to bring the proposed updated LCP into consistency with the policy mandated and requisite implementation standards and procedures set forth in the Coastal Act and its administrative regulations. These modifications range from major revisions, such as the inclusion of requisite Coastal Act policy coverage and the insertion of detailed public notice, hearing and appeal procedures, heretofore missing from the LUP and IP, respectively, to minor changes, such as rephrasing advisory wording (“should” “may”) into mandatory terms (“shall” “must”) consistent with the compulsory nature of a given policy. Examples of these significant suggested modifications include:

- Revisions to the land use designation descriptions and policies within LUP Section 1: *Land Use and Community Development* to establish recognized and permissible land uses within each category or planning area in conformance with specific protections for public access facilities, recreational, and coastal-dependent and coastal-related development, and other priority uses at shoreline proximate sites, ESHA protection, hazard prone areas, and sites with significant visual resources, as directed by Chapter 3 of the Coastal Act.
 - Insertion of policies and standards within LUP Section 3: *Transportation and Circulation* and Section 5: *Recreation and Cultural Resources*, to implement the construction of the portions of the California Coastal Trail through the City.
 - Expanding upon the stormwater policies within LUP Section 4: *Public Facilities and Services* to include water quality protective measures and actions developed by the Commission's Water Quality Unit in coordination with state and regional water quality control boards, as mandated by Coastal Act Section 30230 and 30231.
 - Insertion of policies and standards within LUP Section 5: *Recreational and Cultural Resources* to ensure consistency with the requirements of the Coastal Act for protecting and providing public access, prioritizing recreational opportunities at shoreline proximate locales, including privately-owned sites, and the protection of cultural and visual resources, per Sections 30210-30214, 30220-30224, 30244, and 30251, respectively.
 - Insertion of policies within LUP Section 6: *Natural Resources / Conservation* to address the protection of biological resources; delineation of, use restrictions in and near, and safeguarding of, environmentally sensitive habitat areas; and the protection of coastal water quality, as directed by Coastal Act 30230, 30231, 30233, 30236, and 20340.
 - Insertion of policies within LUP Section 7: *Health and Safety* to comprehensively address avoidance and minimization of risks to persons and property of all classes of natural and anthropogenic hazards per Coastal Act Section 30253.
 - Insertion of expanded procedures and criteria within the implementation measures comprising the coastal zoning title of the City Code to establish minimum public notice and hearing standards for the issuance and appeals of coastal development permits as required by Coastal Act Sections 30620, and detailed in Title 14, Sections 13560 through 13577, California Code of Regulations.
 - Revisions to the "Special Zoning Uses" to reflect current state law with regard to ministerial approval of second dwelling units, the granting of density bonus incentives, and development of small wind generator facilities.
3. Summary of Reasons for Numerous Suggested Modifications Other Than Policy Changes Necessary for Compliance with the Coastal Act

The changes included in the Suggested Modifications recommended by staff are numerous for several reasons. In addition to policy changes necessary for compliance with the Coastal Act described above, many of the changes included in the Suggested Modifications are recommended for reasons generally described below:

A. Distinguishing “Policies” Governing Coastal Development Permit Issuance from “Other Initiatives”

Many changes included in the Suggested Modifications involve moving proposed text and/or policy language from one sub-section to another, namely “policies” that are not intended to directly govern the issuance of coastal development permits through the setting of development limitations, requirements, or prohibitions, or to used as a basis for reviewing plan consistency of a land use plan or zoning amendment. In contrast, these provisions state City-adopted positions on various issues, give endorsements to other parties’ efforts, make pledges of support for certain outcomes or endeavors, or commit the City to continued or future actions and/or practices. To better highlight the specifications and qualifications which bear more directly on development from the remaining provisions, staff is recommending that a new sub-section be added to each policy suite of the LUP, titled “Other Initiatives,” and that all such permit non-governing provisions be relocated thereunder, and parenthetically annotated as having been “[Moved to *Other Initiatives*].”

B. Emphasizing Development as the Subject of Regulations

Stylistically, the majority of the proposed updated LUP policies are written with “the City” identified as the grammatical subject (e.g., “*The City* shall require site-specific investigations prior to the construction of all high intensity and/or public use structures.”) Such phrasing can result in confusion as to the breadth of the policy’s applicability. For example, questions have been raised as to whether the policy is limited solely to City-initiated development projects or, whether another hearing body other than the City, such as the Coastal Commission in considering an appeal of a locally issued coastal development permit, may apply the policy. Accordingly, staff recommends that these policies be rewritten into passive voice, with the development or regulatory article being the subject rather than the City (i.e., “*Site-specific investigations of seismic hazards shall be required prior to the construction of all high intensity and/or public use structures.*”)

C. Collating Thematic Policies

Several of the Suggested Modifications are proposed purely for organizational purposes, primarily to relocate LUP policies which tangentially relate to the subject heading to a section or sub-section where they would be more directly in context. These changes are identified with an endnote indicating where the section or sub-section into which the policy has been moved (e.g., [Relocated to *SECTION 1B ESHA – Policies*]).

D. “Friendly Modifications”

Changes included in the Suggested Modifications recommended by staff include some “friendly modifications” that are changes that have either: (1) been requested by the City following submittal of the LCP Amendment to provide further clarification, delete outdated provisions, and/or make typographic and other corrections to proposed language; or (2) represent entirely new language proposed by Commission staff with the concurrence of the City to augment development application review procedures to establish a factual basis by which findings can be adopted for permitting actions. In cases where the changes proposed by the City are more than just minor edits and corrections, they are identified at the end of the text as [CITY REQUESTED MODIFICATION] as an informational note for purposes of review. Significant new language modifications suggested by Commission staff and agreed to by City staff counterparts are parenthetically identified with a [COMMISSION-CITY NEGOTIATED MODIFICATION] endnote. These latter modifications primarily take the form of suggested new zoning code development review chapters 21.55A through 21.55G.

I. Reorganization / Recodification

The amendments to the General Plan (LUP) and Coastal Zone Zoning Regulations (IP) submitted by the City for certification were originally prepared to apply to both inland and coastal portions of the City. As submitted, the City had designated certain policies throughout the General Plan elements or sections with a “wave” symbol (☪) intended to distinguish those policies meant to apply solely in the coastal zone. In addition, as submitted, the General Plan contains policies applying in both the coastal zone and throughout the inland portions as well, designated with both “wave” and City seal “crescent” symbols (☪☪). With regard to the requested amendments to the IP, the City submitted only select portions of Title 17, its coastal zone-specific Coastal Zone Zoning Regulations, for certification for implementing the General Plan. No significant restructuring of the IP was proposed.

Following several discussions between Commission staff and City staff during the course of review of the LCP Amendment, it was decided that developing a separate coastal general plan element (herein referred to as the Coastal Land Use Plan) and consolidating the various zoning and development regulations appearing throughout the Municipal Code into a unified coastal land use and development code (Title 17 “Coastal Zone Zoning Regulations”) to apply specifically to the geographic portion of the City located within the coastal zone would provide greater clarity of the documents, improve the usability and administration of the LCP, and ensure consistency with the Coastal Act. The City would continue to apply the existing General Plan and the other portions of its Municipal Code to the geographic areas of the City that are outside the coastal zone. Given this decision to maintain separate General Plans and Land Use and Development Codes for portions of the City inside and outside of the coastal zone, Commission staff and City staff agreed to do away with the ☪ symbols and reorganize the coastal zone-specific portions of the updated General Plan into a separate document. This reorganization makes it clear that development in the coastal zone must be consistent with all applicable policies contained within the Coastal Land Use Plan (LUP) and not just those denoted with a ☪ symbol. Moreover, separate coastal and non-coastal plan and development regulation titles would allow the City to amend portions of their code pertaining to inland development outside of

the coastal zone without first seeking certification of the amendment by the Commission as would be necessitated under a City-wide regulatory format.

These features of the reorganization are specifically reflected in the changes included as Suggested Modification Nos. 1 and 2, which involve organization-related directive modifications and text changes to the Summary, and applicability sections of the LUP.

As discussed above, the LCP's implementation measures are contained in the Municipal Code, under Title 17 – "Zoning," in Chapters 17.60 through 17.86. Several other sets of regulations, specifically those dealing with street and sidewalk improvements, public services, and building and construction, are written as City-wide provisions, applying in both coastal and inland areas. These provisions were not included as part of the City's 1983 original LCP submittal for certification and as such have no bearing on the review and issuance of coastal development permits or constitute bases by which alleged nonconformance with these standards could be a basis for appealing a coastal development permit.

Suggested Modifications sub-group No. C above, notes that, in numerous cases, particular policies in the LUP have been relocated to other chapters where the policy or standard would be more in keeping with the coastal resource subject addressed therein. A similar situation is presented with the three proposed new chapters to the coastal zoning regulations, regarding public trees, stormwater management, and bed and breakfast establishments. In each of these cases, the new provisions would be chartered under other titles of the Municipal Code rather than the latter half of Title 17, the Coastal Zone Zoning Regulations. Accordingly, staff is similarly suggesting that these three chapters be replicated and recodified as appended new Chapters 17.87 through 17.89, rather than being charter as part of the *Streets, Sidewalks, and Public Places* Title 15, or the non-coastal portion of the *Zoning* title (Chapters 17.00 through 17.59). To accomplish this reorganization, the various measures regarding the protection and dedication of public street, designated memorial, and landmark trees; methods for managing stormwater runoff; and standards for the operation of bed and breakfast establishments, would be copied into Title 17 – "Zoning," into chapters recognized as comprising the coastal Zone Zoning Regulations. In addition, a staff suggests text change to Section 17.60.020 of the *Coastal Zone General Provisions* chapter has been included to reflect the relocation of these regulations into the CZZR, Suggested Modification No. 12.

A summary table indicating the above-described reason(s) for each suggested modification grouped by LUP policy or IP chapter appears at the start of Exhibit Nos. 1 and 2, respectively.

4. Conclusion of Staff Recommendation Summary

Staff believes that with the suggested modifications recommended by staff, the LUP amendment is consistent with the Chapter 3 policies of the Coastal Act and the IP amendment conforms with, and is adequate to carry out, the LUP as modified.

FORMAT OF SUGGESTED MODIFICATIONS

Staff has prepared Exhibit Nos. 1 and 2 showing in “book format” all of the Suggested Modifications merged into the text of the City’s proposed coastal General Plan (Exhibit No. 1), and the City’s zoning and development regulations titles (Exhibit No. 2). This full text version of the City’s proposed LCP Amendment with suggested modifications shows how the suggested modifications fit into the context of the City’s proposed documents.

KEY TO SUGGESTED MODIFICATIONS

1. Organization

The Suggested Modifications are numbered to correspond with the compilation of changes made to each particular section of the General Plan (LUP) and to each particular chapter of the Coastal Zone Zoning Regulations (IP). In addition, suggested modifications involving directives to the City are numbered and grouped by topic (e.g., “Organization,” “LUP Maps,” etc.).

2. Typography

The City’s proposed LUP language is shown in regular text while the suggested modifications are shown in **bold double-underline** (text to be added) and ~~**bold double-underline**~~ (text to be deleted). The proposed City textual changes to the currently-certified IP are shown in single-underline (text to be added) and ~~single-underline~~, with staff’s recommended suggested modifications shown in **bold double-underline** and ~~**bold double-underline**~~, respectively.

3. Numeration

The addition of new policies and the deletion or relocation of proposed policies will affect the numbering of policies and standards throughout the LUP and IP. The numbering has been changed as necessary as part of the suggested modifications. Where suggested modifications involve adding entirely new policies to the LUP, relocating LUP policies to other sections or sub-sections, or appending new chapters or sub-sections to the IP, staff has either renumbered all subsequent policies, or in the case of wholly new IP chapters used intervening numeration in keeping with preceding and subsequent chapters. Moreover, Suggested Modification No. 31 (Organization/Recodification) directs the City to correct all sequential numbering, nomenclature, and cross-referencing, and consolidate all IP provisions into two discrete coastal zoning and land division titles when it prepares the final LCP documents for submission to the Commission for effective certification pursuant to Sections 13544 and 13544.5 of the Commission’s administrative regulations (Title 14, California Code of Regulations, Section 13001 et seq.)

ADDITIONAL INFORMATION

1. Availability of LCP Amendment Materials

To save duplication resources, the text of the City's entire currently certified LCP is not included in its entirety as an exhibit to the staff report. However, comparative matrices illustrating the existing certified, proposed amended, and suggested-to-be-modified versions of the LUP and IP policies and standards are included in Exhibit Nos. 6 and 7. Copies of the City's entire currently certified LCP will also be available at the Commission hearings on this LCP Amendment. The staff report available on-line at the Commission's website contains color versions of the proposed land use plan and zoning maps included as Exhibit Nos. 13 and 15 respectively.

2. Point of Contact

For further information please contact James R. Baskin at the North Coast District Office (707) 445-7833. Correspondence should be sent to the North Coast District Office at 710 E Street, Suite 200, Eureka, CA, 95501. All LCP Amendment documents are also available for review at the North Coast District office located at the same address.

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PART ONE: MOTIONS, RESOLUTIONS AND SUGGESTED MODIFICATIONS

I. **COMMISSION RESOLUTIONS ON CITY OF CRESCENT CITY LAND USE PLAN AMENDMENT CRC-MAJ-1-03**

Following a public hearing, staff recommends the Commission adopt the following resolution and findings.

A. **Denial of LUP Amendment No. CRC-MAJ-1-03 As Submitted**

Motion #1

I move that the Commission **CERTIFY** City of Crescent City Land Use Plan Amendment CRC-MAJ-1-03 as submitted.

Staff Recommendation for Denial

Staff recommends a **NO** vote. Failure of this motion will result in denial of the land use plan amendment as submitted and adoption of the following resolutions and findings. The motion to certify as submitted passes only upon affirmative vote of a majority of the appointed Commissioners.

Resolution for Denial of Certification of the Land Use Plan Amendment, As Submitted

The Commission hereby **DENIES** certification of City of Crescent City Land Use Plan Amendment CRC-MAJ-1-03 as submitted and adopts the findings stated below on the grounds that the amendment will not meet the requirements of and is not in conformity with the policies of Chapter 3 of the California Coastal Act. Certification of the Land Use Plan amendment would not comply with the California Environmental Quality Act as there are feasible mitigation measures and alternatives that would substantially lessen the significant adverse impacts on the environment that will result from certification of the land use plan amendment as submitted.

B. **Certification of LUP Amendment No. CRC-MAJ-1-03 with Suggested Modifications**

Motion #2

I move that the Commission **CERTIFY** City of Crescent City Land Use Plan Amendment CRC-MAJ-1-03 if modified as suggested in this staff report.

Staff Recommendation for Certification

Staff recommends a **YES** vote. Passage of this motion will result in the certification of the land use plan with suggested modification and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of a majority of the appointed Commissioners.

Resolution for Certification of the Land Use Plan Amendment with Suggested Modifications

The Commission hereby certifies the Land Use Plan Amendment CRC-MAJ-1-03 for the City of Crescent City if modified as suggested and adopts the findings set forth below on the grounds that the Land Use Plan amendment with suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Land Use Plan Amendment may have on the environment that would result from certification of the Land Use Plan Amendment if modified.

II. **COMMISSION RESOLUTIONS ON CITY OF CRESCENT CITY IMPLEMENTATION PLAN AMENDMENT CRC-MAJ-1-03**

Following a public hearing, staff recommends the Commission adopt the following resolution and findings.

C. **Denial of Implementation Plan Amendment No. CRC-MAJ-1-03, As Submitted**

Motion #3

I move that the Commission reject Implementation Program Amendment No. CRC-MAJ-1-03 for the City of Crescent City as submitted.

Staff Recommendation of Rejection

Staff recommends a **YES** vote. Passage of this motion will result in rejection of the implementation plan amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Resolution for Denial of the Implementation Plan Amendment, As Submitted

The Commission hereby denies certification of the Implementation Program Amendment No. CRC-MAJ-1-03 as submitted for the City of Crescent City and adopts the findings set forth below on grounds that the implementation plan amendment as submitted does

not conform with, and is inadequate to carry out, the provisions of the certified land use plan as amended. Certification of the implementation plan amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the implementation program amendment as submitted.

D. Approval of Implementation Plan Amendment No. CRC-MAJ-1-03 with Suggested Modifications

Motion #4

I move that the Commission certify Implementation Plan Amendment No. CRC-MAJ-1-03 for the City of Crescent City if it is modified as suggested in this staff report.

Staff Recommendation for Certification of the Implementation Plan Amendment with Suggested Modifications

Staff recommends a **YES** vote. Passage of this motion will result in certification of the implementation program amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Resolution for Certification of the Implementation Plan Amendment with Suggested Modifications

The Commission hereby certifies the Implementation Plan Amendment for the City of Crescent City if modified as suggested and adopts the findings set forth below on grounds that the Implementation Plan Amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified land use plan as amended. Certification of the implementation plan amendment if modified as suggested complies with the California Environmental Quality Act, because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan Amendment on the environment; or (2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

PART TWO: LAND USE PLAN SUGGESTED MODIFICATIONS

Staff recommends the following suggested modifications to the proposed LUP amendment be adopted. Suggested Modification Nos. 1-9 each modify a separate prefacing discussion, element, and the definitions appendix of the General Plan. The suggested modifications are included in Exhibit No. 1 showing the suggested modifications as they apply directly to the entire text of the City's proposed Coastal General Plan. Because of the length of each suggested modification, Suggested Modification Nos. 1-9 are not reproduced herein. The language in Exhibit No. 1 shown in **bold double underline** represents language that the Commission suggests be added and the language shown in ~~**bold double underline**~~ represents language that the Commission suggests be deleted from the language as originally submitted. Suggested modifications that do not involve direct text changes, but are directives to the City (i.e., mapping and document formatting Suggested Modification Nos. 10 and 11) are shown in *bold italics*, or as notations on the maps within Exhibit No. 3.

1. **Suggested Modification No. 1: (General Plan Summary)**
All changes to *Part I: General Plan Summary* shown in the Part I Introduction Chapter of Exhibit No. 1.
2. **Suggested Modification No. 2: (Goals, Policies, and Programs Definitions)**
All changes to the *PART II: Goals, Policies, and Programs* prefacing definitions shown in the Part II Preface of Exhibit No. 1.
3. **Suggested Modification No. 3: (Land Use and Community Development Element)**
All changes to the *Land Use and Community Development* Element shown in Part II, Section 1 of Exhibit No. 1.
4. **Suggested Modification No. 4: (Transportation and Circulation Element)**
All changes to the *Transportation and Circulation* Element shown in Part II, Section 3 of Exhibit No. 1.
5. **Suggested Modification No. 5: (Public Facilities and Services Element)**
All changes to the *Public Facilities and Services* Element shown in Part II, Section 4 of Exhibit No. 1.
6. **Suggested Modification No. 6: (Recreation and Cultural Resources Element)**
All changes to the *Recreation and Cultural Resources* Element shown in Part II, Section 5 of Exhibit No.
7. **Suggested Modification No. 7: (Natural Resources/Conservation Element)**
All changes to the *Natural Resources/Conservation* Element shown in Part II, Section 6 of Exhibit No. 1.
8. **Suggested Modification No. 8: (Health and Safety Element)**
All changes to the *Safety and Noise* Element shown in Part II, Section 7 of Exhibit No. 1.

9. **Suggested Modification No. 9 (Definitions Appendix)**

All changes to the *Policy Document Definitions* shown in Appendix A of Exhibit No. 1.

LAND USE DIAGRAM

10. **Suggested Modification No. 10 (LUP Map)**

All changes to the LUP Map as follows:

- a. **Pebble Beach Drive Beach Residential Area (Grinnell):** Retain currently-certified Open Space land use designation over the parcel.
- b. **Oceanfront Commercial Area:** Retain currently-certified Public Facility land use designation on the southwest quarter of the block bounded by Front, Battery, and B Streets and Beach Front Park currently occupied by the City's Wastewater Treatment Plan Water Quality Laboratory.
- c. **Battery Point Recreational Area:** (1) Retain currently-certified Open Space land use designation on portion of the site south of Howe Drive between the wastewater treatment plant and Crescent City Harbor proposed for redesignation to Harbor related; and (2) Insert cross-hatching over the intertidal portions of the area within the Commission's coastal development permitting jurisdiction proposed for Open Space designation and attach notation of associated limitations on City's permitting authority over the area.
- d. **Beach Front Park / Mouth of Elk Creek Area:** Insert cross-hatching over the intertidal portions of the area within the Commission's coastal development permitting jurisdiction proposed for Open Space designation and attach notation of associated limitations on City's permitting authority over the area.
- e. **Inner Harbor Area:** With the exception of the Crescent City Harbor Districts dredge spoils disposal site and adjoining areas (APNs 118-020-29 and rear portion of 118-020-42) and the former Eureka Fisheries ice packing plant (APN 118-380-22), retain currently-certified Harbor Related land use designation over all portions proposed for redesignation to Visitor Local Commercial and Open Space designations.
- f. **Former McNamara-Peepe Mill Site Area:** Change proposed General Commercial land use plan designation for this currently uncertified site containing wetlands, riparian vegetation ESHA and ESHA buffer area to the Natural Resources designation.

REORGANIZATION

11. **Suggested Modification No. 11 (Organization)**

All changes to the organization of the LUP as follows:

- a. *Delete “wave” (☪) symbols from all Elements of the Coastal Land Use Plan.*
- b. *Number all policies and table entries in appropriate sequential order and correct all policy cross-references prior to submission to the Commission for certification pursuant to Sections 13544 and 13544.5 of the California Code of Regulations.*
- c. *List all policies that constitute the LCP in subsection 1 of the Coastal Land Use Plan Policy Document section of Part I – General Plan Summary chapter of the LUP following the numbering corrections required by (b) above.*
- d. *Revise descriptive narrative text as necessary to conform narrative text to any associated policy(ies) that have been added or revised through suggested modifications.*
- e. *Change all references to “General Plan” to “Coastal Land Use Plan” throughout the LUP and the Zoning title.*
- f. *Publish the updated Coastal Land Use Plan incorporating all of the above suggested modifications under separate cover from that of the updated non-coastal Crescent City General Plan.*

PART THREE: IMPLEMENTATION PLAN SUGGESTED MODIFICATIONS

Staff recommends the following suggested modifications to the proposed IP amendment be adopted. Suggested Modification Nos. 12-29 each modify a separate chapter of the Coastal Zone Zoning Regulations (“CZZR”) (Title 17, City of Crescent City Municipal Code), and other provisions applicable to development within the coastal chaptered under other titles of the Municipal Code (i.e., surface mining, private rural road standards, building and grading, subdivision, signage, and harbor development). The suggested modifications are included in Exhibit No. 2 showing the suggested modifications as they apply directly to the City’s proposed amendments to the CZZR. Because of the length of each suggested modification, Suggested Modification Nos. 12-29 are not reproduced here. The language in Exhibit No. 2 shown in **bold double underline** represents language that the Commission suggests be added and the language shown in ~~**bold double underline**~~ represents language that the Commission suggests be deleted from the language as originally submitted. Suggested modifications that do not involve direct text changes, but are directives to the City (i.e., zoning map changes, organizational changes, and statute recodifications) are shown in *bold italics*.

COASTAL ZONING REGULATIONS

12. **Suggested Modification No. 12: (Title 17 – Zoning, Chapter 17.60: General Provisions)**
All changes to Title 17 – Zoning, Chapter 17.60 shown in Chapter 17.60 of Exhibit No. 2.
13. **Suggested Modification No. 13: (Title 17 – Zoning, Chapter 17.61: Definitions)**
All changes to Title 17 – Zoning, Chapter 17.61 shown in Chapter 17.61 of Exhibit No. 2.
14. **Suggested Modification No. 14: (Title 17 – Zoning, Chapter 17.64: CZ-R-1 Coastal Zone Low Density Residential District)**
All changes to Title 17 – Zoning, Chapter 17.64 shown in Chapter 17.64 of Exhibit No. 2.
15. **Suggested Modification No. 15: (Title 17 – Zoning, Chapter 17.65: CZ-R-1-B Coastal Zone Low Density Residential Beach District)**
All changes to Title 17 – Zoning, Chapter 17.65 shown in Chapter 17.65 of Exhibit No. 2.
16. **Suggested Modification No. 16: (Title 17 – Zoning, Chapter 17.68: CZ-C2 Coastal Zone General Commercial District)**
All changes to Title 17 – Zoning, Chapter 17.68 shown in Chapter 17.68 of Exhibit No. 2.
17. **Suggested Modification No. 17: (Title 17 – Zoning, Chapter 17.69: Coastal Zone Highway Services District)**

All changes to Title 17 – Zoning, Chapter 17.69 shown in Chapter 17.69 of Exhibit No. 2.

18. **Suggested Modification No. 18: (Title 17 – Zoning, Chapter 17.70: Coastal Zone Harbor Related District)**

All changes to Title 17 – Zoning, Chapter 17.70 shown in Chapter 17.70 of Exhibit No. 2.

19. **Suggested Modification No. 19: (Title 17 – Zoning, Chapter 17.70A: Coastal Zone Harbor Dependent District)**

All changes to Title 17 – Zoning, Chapter 17.70A shown in Chapter 17.70A of Exhibit No. 2.

20. **Suggested Modification No. 20: (Title 17 – Zoning, Chapter 17.73: Coastal Zone Waterfront Commercial District)**

All changes to Title 17 – Zoning, Chapter 17.73 shown in Chapter 17.73 of Exhibit No. 2.

21. **Suggested Modification No. 21: (Title 17 – Zoning, Chapter 17.79: Site Plan and Architectural Review)**

All changes to Title 17 – Zoning, Chapter 17.79 shown in Chapter 17.79 of Exhibit No. 2.

22. **Suggested Modification No. 22: (Title 17 – Zoning, Chapter 17.83: Special Zoning Uses)**

All changes to Title 17 – Zoning, Chapter 17.83 shown in Chapter 17.83 of Exhibit No. 2.

23. **Suggested Modification No. 23: (Title 17 – Zoning, Chapter 17.84: Coastal Zone Coastal Development Permits and Appeals)**

All changes to Title 17 – Zoning, Chapter 17.84 shown in Chapter 17.84 of Exhibit No. 2.

24. **Suggested Modification No. 24: (New Title 17 – Zoning, Chapter 17.84A through 21.55G: – Coastal Resource Protection Application Review, Findings, and Development Standards)**

Append seven new sub-chapters shown in Chapters 17.84A through 17.84G of Exhibit No. 2.

25. **Suggested Modification No. 25: (Title 17 – Zoning, Chapter 17.85: Variances)**

All changes to Title 17 – Zoning, Chapter 17.85 shown in Chapter 17.85 of Exhibit No. 2.

26. **Suggested Modification No. 26: (Title 17 – Zoning, Chapter 17.86: Coastal Zone Waterfront Development)**

All changes to Title 17 – Zoning, Chapter 17.86 shown in Chapter 17.86 of Exhibit No. 2.

27. **Suggested Modification No. 27: (Title 12 – Streets, Sidewalks, and Public Places, Chapter 12.34: Public Trees)**

All changes to Title 12 – Streets, Sidewalks, and Public Places, Chapter 12.34 shown renumbered as new Chapter 17.87 of Exhibit No. 2.

28. **Suggested Modification No. 28: (Title 12 – Streets, Sidewalks, and Public Places, Chapter 12.36: Stormwater Management) and Associated Stormwater Management Resolution**

All changes to Title 12 – Streets, Sidewalks, and Public Places, Chapter 12.36, and the related uncodified stormwater management resolution, shown as a consolidated ordinance renumbered as new Chapter 17.88 of Exhibit No. 2.

29. **Suggested Modification No. 29: (Title 17 – Zoning, Chapter 17.59 Bed and Breakfast Establishments)**

All changes to Title 17 – Zoning, Chapter 17.59 renumbered as new Chapter 17.89 of Exhibit No. 2.

ZONING MAPS

30. **Suggested Modification No. 30 (Zoning Map)**

All changes to the Zoning Map (Title 17 – Zoning, Chapter 17.63 – Coastal Zone District Classifications, Section 17.63.020 - Boundaries) as follows:

- a. ***Battery Point Recreational Area: (1) Retain currently-certified Open Space zoning designation on portion of the site south of Howe Drive between the wastewater treatment plant and Crescent City Harbor proposed for redesignation to Harbor related; and (2) Insert cross-hatching over the intertidal portions of the area within the Commission’s coastal development permitting jurisdiction proposed for Open Space designation and attach notation of associated limitations on City’s permitting authority over the area.***
- b. ***Beach Front Park / Mouth of Elk Creek Area: Insert cross-hatching over the intertidal portions of the area within the Commission’s coastal development permitting jurisdiction proposed for Open Space designation and attach notation of associated limitations on City’s permitting authority over the area.***
- c. ***Inner Harbor Area: With the exception of the Crescent City Harbor Districts dredge spoils disposal site (APNs 118-020-29 and rear portion of 118-020-42) and the former Eureka Fisheries ice packing plant (APN 118-380-22), retain currently-certified Harbor Related zoning designation over all portions proposed for redesignation to Coastal Zone Highway Services and Open Space designations.***
- d. ***Former McNamara-Peepe Mill Site Area: Change proposed Coastal Zone General Commercial zoning designation for this currently uncertified site containing wetlands***

and riparian vegetation ESHAs and ESHA buffer area to Coastal Zone Natural Resources zoning designation.

REORGANIZATION

31. Suggested Modification No. 31 (Organization/Recodification)

All changes to the organization of the IP as follows:

- a. *Revise descriptive narrative text as necessary to conform narrative text to any associated policy(ies) that have been added, revised, or rechaptered through suggested modifications.*
- b. *Number all chapters and sections, including table entries, in appropriate sequential order and correct all policy and standards cross-references prior to submission to the Commission for certification pursuant to Sections 13544 and 13544.5 of the California Code of Regulations.*
- c. *Change all references to “General Plan” to “Coastal Land Use Plan” throughout the Coastal Zoning and Coastal Subdivision titles.*
- d. *Publish the updated Coastal Zone Zoning Regulations implementation measures as Title 17 –Zoning, Chapters 17.60 through 17.89, incorporating all of the above suggested modifications.*

PART FOUR: REASONS FOR MODIFICATIONS

I. SUMMARY OF SUGGESTED MODIFICATIONS RATIONALE

Table 1, below, summarizes the various categorical reasons for the above-listed suggested modifications as discussed in the Summary of Staff Recommendation. Additional detailed discussion of the reasons for the modifications to the LUP and IP is located in the findings sections of Part Three and Part Four, respectively.

Table IV-1: Reasons for Suggested Modifications

Suggested Modification	Rationale for Suggested Modifications										
	Coastal Act Consistency	“Friendly” Modification	Policy / Non-policy Distinction	Clarifying Regulatory Intent	Identifying Principal Permitted Use	Retroactive Certification	Resolve Land Use/Zoning Discrepancy	Inferred / Non-disclosed IP Measures	Grouping Related Policies	Reorganization/ Recodification	
LUP Modifications											
1.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
IP Modifications											
12.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
13.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
23.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
25.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
26.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
27.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
28.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
29.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
30.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
31.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

II. PROCEDURAL PROCESS (LEGAL STANDARD FOR REVIEW)

The standard of review for land use plan amendments is found in Section 30512 of the Coastal Act. This section requires the Commission to certify an LUP amendment if it finds that it meets the requirements of, and is in conformity with, the policies of Chapter 3 of the Coastal Act. Specifically, Section 30512 states: “(c) *The Commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200). Except as provided in paragraph (1) of subdivision (a), a decision to certify shall require a majority vote of the appointed membership of the Commission.*”

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission must act by majority vote of the Commissioners present when making a decision on the implementing portion of a local coastal program.

III. BACKGROUND

Setting

The City of Crescent City is located in Del Norte County, approximately 20 south from the state border with Oregon. Del Norte County covers approximately 1,008 square miles, with an overall population of 29,419.² As the City seat, Crescent City is the sole incorporated coastal city, with a population of more than 7,300 people and represents the primary urbanized commercial and residential areas within the County’s coastal zone. The portions of Crescent City within the coastal zone comprise a relatively narrow, one- to three-block area spanning from the City’s northwestern municipal boundary near the Preston Island Coastal Access Point south and eastward along the City’s ocean and harbor shorelines to the southwestern City limits coterminous with King Street, within the state sovereign lands ceded to the Crescent City Harbor District (see Exhibit Nos. 7-10). All of the City’s coastal zone portions are situated within an established Urban Services Boundary in which domestic and process water supplies and and/or wastewater disposal are provided to the urbanized residential and commercial uses therein by the City’s distribution, collection, and treatment systems. Highway services oriented commercial land uses are located primarily along the Highway 101 corridor that is the City’s southern gateway. Lands at the intersection of Front and A Streets are similarly designated for “waterfront commercial” development, primarily intended for serving the needs of coastal visitors to the area. Residential neighborhoods are located along or in proximity to the City’s open oceanfront, along Pebble Beach Drive, Taylor Street, Wendell Street, and A Street, between Condor and Second Streets. The majority of the coastal zone portions of the City, within the area spanning for the Battery Point Lighthouse along the inner shore of Crescent City Harbor to the mouth of Elk Creek, are designated for a combination of public facility and open space uses, chiefly as public parkland. In addition, two areas of the city’s harbor frontage, at the base of the

² California Department of Finance, 2008.

B Street Pier and between the inner harbor and Sunnyside Circle/Highway 101 are designated for Harbor Related uses to support the adjoining Harbor Dependent uses with the developed portion of the harbor just outside the City's municipal limits.

Del Norte County is also home to Redwood National Park and co-managed Del Norte Redwoods and Prairie Creek State Parks, where some of the world's tallest coastal redwood trees are found. In addition, the City's rugged, relatively pristine ocean coast provides miles of uncrowded shoreline for exploring. Several other federal and state park, beach, and wildlife refuge units, and other publicly-owned and maintained parks and recreational facilities are also located within the City's vicinity, including, from north to south, Point Saint George Access, Pebble Beach Access Points, Castle Rock National Wildlife Refuge, Battery Point Lighthouse, Elk Creek Wildlife Area, and Crescent City Marsh Wildlife Area. In addition, several tribal entities have begun a series of tourism and outdoor recreational initiatives, including the development of the a recreational vehicle park and hotel at the Smith River Rancheria, and the Requa Resort, a full-service campground and boat launch near the mouth of Klamath River on the Yurok Reservation. Together, with other natural attractions, such as the California Redwoods Bird and Nature Festival (formerly the Aleutian Goose Festival) and so-called "Wild Rivers Coast" destinations, nature-based tourism is steadily becoming a significant industry in the area, attracting visitors from around the globe.

As has been the experience with many other rural areas where the economic foundation was concentrated on natural resource extraction activities, Crescent City has been undergoing a transition from these enterprises to more general commercial, and technical and professional services sector modes. As a result, many of the timber products processing concerns that once dotted the landscape are now shuttered. One significant exception is the Hambro Group. Inc. industrial complex along Elk Valley Road east of the City, where a combination of engineered wood decking products and composted soil amendment products processing is being conducted. Similarly, many of the once active in-stream gravel mining operations lay dormant due to decreased regional demand for aggregate products.

The Crescent City Harbor, located just south of the City, is the locus of a once large commercial and recreational fishing port, most of which is outside the city limits in unincorporated City areas. The harbor area encompasses all of the formally designated coastal-dependent and coastal related industrial, commercial, and recreational land within the coastal zone. Primary resident uses include shipbuilding and repair facilities, commercial and recreational fishing support services, commercial vessel moorage, and short- and long-term private boat slip rentals.

Format of Currently-Certified LCP

The currently certified LCP consists of the original LUP and IP effectively certified by the Commission as the total LCP on March 10, 1983, maps, and various LCP amendments submitted by the City and certified by the Commission over the years since 1983.

Crescent City General Plan – Coastal Element: The currently certified LUP provides general goals and policies governing development throughout those portions of the city within the coastal zone. The plan document follows a structure set out in the State's *Local Coastal*

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Program Manual, and is based on “policy groups” drawn from the California Coastal Act (e.g., “Public Access,” Marine and Water Resources,” Visual Resources”). The plan contains seven policy group chapters and 18 appendices providing salient inventory tables, maps, or technical report entries associated with the foregoing policy text. As described in detail in the findings below in Part Three, Crescent City’s proposed LCP update involves an entirely new Land Use Plan format.

Coastal Zone Zoning Regulations: The currently certified Crescent City LCP Implementation Program (IP), is primarily chartered as Municipal Code Title 17 –*Zoning*, consisting of Chapters 17.60 “General Provisions” through 17.86 – “Coastal Zone Waterfront Development.” These regulations provide definitions for the numerous land use and development terminology, prescribes use and development standards applied coastal zone-wide, in specified sub-areas, and in the various zoning districts, and identifies the processes by which proposed development is reviewed and permitted, In addition, procedures are set for appeals, variances, and permit and development regulation exceptions, and amendments to zoning and land use plan designations.

In addition, the Municipal Code includes several City-wide development regulations applicable in both coastal and inland areas, consisting of the following: (1) Title 12 – *Streets, Sidewalks, and Public Spaces*; (2) Title 13 – *Public Services*; (3) Title 15 – *Building and Construction*; and (4) Title 16 – *Subdivisions*. However, these portions of the City’s land use regulations are not currently, nor are proposed to be certified as part of the City’s LCP, and therefore, do not govern the issuance of coastal development permits or provide the basis on which City may be appealed to the Commission. The City proposes to add several new sets of development standards to the IP for: (1) public street and memorial landmark trees; (2) stormwater management; (3) bed and breakfast establishments; and (4) Harbor Dependent zoning districts, proposed to be chartered as Chapters 12.32, 12.36, and 17.70A, respectively.

LCP Certification History

The Land Use Plan (LUP) was certified with suggested modifications by the Regional Commission on January 14, 1981, and by the State Commission on March 3, 1981. A resubmittal was certified with suggested modifications on June 3, 1982. The Implementation Program (IP) was certified with suggested modifications on June 3, 1982. The City accepted the Commission's suggested modifications for approval in February 1983. On March 10, 1983, the Commission effectively certified the total LCP and the City assumed permit-issuing authority for the balance of the City, excluding: (1) the McNamara-Gillispie Annexation area, which became a separate geographic segment due to concerns regarding the three-block wetland area within the annexation; and (2) two small portions of coastal zone property along the City’s eastern boundary collectively known as the “Little Mo-Peepe” Areas of Deferred Certification (see below). Following the Wildlife Conservation Board's purchase of the 11-acre, three block wetlands portion of the McNamara-Gillispie Annexation area, the LCP was effectively certified for that area on November 14, 1984, with the City assuming permit-issuing authority over the annexation on that date.

“Little Mo-Peepe” Areas of Deferred Certification

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As mentioned above, the “Little Mo-Peepe” ADCs were created on March 3, 1981, due to an inadvertent error in the Coastal Zone Boundary line map submitted by the City along the east side the Crescent City limits. These areas consist of: (1) a five-acre mobilehome park situated off of Highway 101 just within the City’s northeasterly municipal boundary; and (2) an approximately three-acre portion of the former McNamara-Peepe forest products mill site and a portion of its former logging pond. The City has proposed to designate the three-acre former mill site and pond area with General Commercial land use and zoning designations to resolve this ADC. No new land use and zoning designations are provided for the five-acre mobilehome park and this area will remain an ADC.

Schedule of LCP Amendments

Numerous other amendments have been approved as well over the last 27 years. The Commission has certified a total of 12 LCP amendments since certification of the original LCP in 1983. Table IV-1, below, summarizes the status of the various LCP amendments submitted by the City to the Commission:

Table IV-1: CITY OF CRESCENT CITY – SUMMARY OF LOCAL COASTAL PROGRAM AMENDMENTS 1983 TO PRESENT

LCPA File No.	Local Gov't Adoption Res. / Ord. No.	Local Gov't Resolution of Transmittal No.	Subject of Amendment	Action(s) Taken	
				LUP/CZZR Map Change	LUP/CZZR Text Change
1-84 (Minor)	Ord. 600	Res. 1984-50	Spelling/syntax corrections to CZZR Chaps 17.60, 17.61, 17.62, 17.63, 17.69, 17.70, 17.71, 17.72, 17.76, 17.77, 17.80, 17.81, 17.83, 17.84	N/A	Approved as submitted
1-86 (Major)	Ord. 1986-2	Ord. 1986-2	Variance Ordinance	N/A	Approved with SM, accepted by Res. 1986-37; enacted by Ord. 611
1-86 (Minor)	Ord. 602	---	CZZR §17.67.020 (Real estate and insurance offices principally permitted in CZ-RP)	N/A	Approved as submitted
1-89 (Minor)	Ord. 632	Res. 1988-14	CZZR Chap 17.63, 17.68, 17.74, 17.76, 17.77, 17.79, 17.80, 17.81, and 17.82 syntax clarifications	N/A	Approved as submitted
1-89 (Major)	Ord. 633	Res. 1989-01	HR/CZ-HR -> C/CZ-HS (Messel/Shah)	Approved as submitted	N/A
1-90 (Major)	Ord. 648	Res. 1990-13	HR/CZ-HR -> C/CZ-HS (Hartwick/Peterson)	Approved as submitted	N/A
1-90 (Minor)	Ord. 641	Res. 1989-14	CZZR Chap 17.76 (Off-street Parking Standards update)	N/A	Approved as submitted
2-90 (Major)	Ord. 649	Res. 1990-15	CZZR §17.71.020.A (Non-profit marine mammal rehabilitation centers principally permitted in CZ-O)	N/A	Approved as submitted
1-94 (Major)	Ord. 667	Res. 1994-02	CZZR §17.65.020 (Bed & Breakfast establishments conditionally permitted in CZ-R1B)	N/A	Approved as submitted
1-97 (Major)	Ord. 672	Ord. 672	CZZR Chap 17.39 (Revised Sign Regulations)	N/A	Considered / continued by CCC 10/9/97 (Not effectively certified)
1-00 (Major) (Redwood Oceanfront Resort)	Res. 2000-40; Ord. 695	Res. 2000-41	(A) MR -> C; related text amendments to LUP public access, recreation, shoreline structures, economic development, and public works policy language (B) CZZR Chap. 17.73; CZ-RP -> CZ-CW	Approved as submitted	Approved w / SM, accepted by
CRC-MAJ-1-09 (Coasta Norte Condominiums)	Res. 2009-02; Ord. 737	Res. 2009-12	(A) MR -> R (B) LUP-LU (Uses in Residential) (C) CZZR §17.67.030.B.5 (CZ-RP lot-area-per-unit) (D) CZ-R2 -> CZ-RP	Approved w / SM, accepted by Res. 2009-38; enacted by Ord. No. 749	Approved w / SM, accepted by Res. 2009-38; enacted by Ord. No. 749

Development-Initiated and Programmatic Amendments

As Table IV-1 indicates, roughly half of the LCP amendments submitted to date by the City of Crescent City have been programmatic in nature, most being driven by changes in other bodies of federal or state law, such as state planning and zoning law (variances), outdoor signage regulations, or streets and highway standards, with the other half associated with a particular private development proposal or the land use and/or zoning of the development site.

IV. SUMMARY OF PUBLIC PARTICIPATION

The City initially decided to update its overall General Plan, including the coastal element, in 1996. An extensive public participation process took place to ensure that the revised Plan reflects the concerns and views of the community.

Key milestones of the public participation process undertaken by the City include the following:

- The retained consultancy of J. Laurence Mintier & Associates, retained by the City in 1997, holds, in coordination with the Community Development Department a series of townhall meetings in October 1997 to orient community members on the general plan revision process and to solicit initial input as to priority “Phase I” resource/conservation, land use, and transportation/circulation development issues deemed crucial to be addressed in the updated general plan.
- From the input provided at the initial meetings, the Draft General Plan Background Report and Policy Issues Report are prepared and presented in a series of follow-up public meetings in May 1998.
- Following the preparation of administrative drafts of a revised consolidated General Plan and Coastal Element policy document based on the comments provided on the background and policy issues reports, in September 1997 a townhall meeting was held for the purpose of further refining the direction of the Phase I policy initiatives and to shift to addressing “Phase II” issues, including public access, scenic resources, noise, and public facilities and services.
- A revised Administrative Draft General Plan with more comprehensive coastal policies was prepared in October 2001.
- Public workshops were held by the Planning Commission and the City Council during late 2000 and early 2001.
- Public hearings were held by the Planning Commission and the City Council in August through December 2002 to review the Draft General Plan and the Environmental Impact Report.

Following numerous special meetings and public hearings, the City of Crescent City adopted an updated General Plan and certified an Environmental Impact Report for the General Plan on May

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21, 2001. Over the next two years the City adopted various changes to the Coastal Zone Zoning Regulations.

On July 18, 2003, the City submitted LCP Amendment Application No. CRC-MAJ-1-03 that involved comprehensive changes to the City's Land Use Plan (LUP) pursuant to the City's adopted 2003 General Plan update. In response to this application, Commission staff sent a letter to the City dated January 28, 2004 requesting additional information. This requested additional information was developed and submitted over the next several years, with the LCP amendment application being deemed complete for filing on July 22, 2009. If the deadline had not been extended, the 90-day time limit for the Commission to act on the proposed LCPA would have been October 20, 2009. A one-year time extension was granted by the Commission on October 8, 2009. As such, the last date for Commission action on this item is October 20, 2010.

PART FIVE: AMENDMENTS TO THE LAND USE PLAN - FINDINGS

I. FINDINGS FOR DENIAL OF THE CITY OF CRESCENT CITY’S LAND USE PLAN AMENDMENT, AND APPROVAL WITH MODIFICATIONS

A. Amendment Description

The proposed updated LUP document has a significantly changed format from the currently certified LUP and is organized by General Plan “coastal element.” The document is structured in two parts, with the first part entailing an introductory discussion of the General Plan process and the organization and contents of the General Plan. This introduction chapter is followed by the second part of the document, commencing with a preface containing an explanation of the differences between “goals,” “policies,” and “programs,” and the symbology used to distinguish policies intended for application in the coastal zone, those intended solely for non-coastal portions of the City, and City-wide provisions not intended for the governance of coastal development permit authorizations. This preface is followed by a series of plan element “sections,” which include: (1) *Land Use and Community Development*; (2) *Housing*³; (3) *Transportation and Circulation*; (4) *Public Facilities and Services*; (5) *Recreational and Cultural Resources*; (6) *Natural Resources / Conservation*; and (7) *Health and Safety*. The LUP also includes a *Policy Document Glossary* appendix.

B. Consistency with Coastal Act

[Organizational Note: The following findings sections are organized to correspond with the organization of the City’s proposed updated General Plan (LUP).]

SM-1. Part I: General Plan Summary

a. Synopsis of Currently-Certified Provisions



Unlike the proposed updated LUP, the currently certified LUP contains no overall summary. Prefacing remarks are limited to a mention of the passage of Proposition 20 in 1972 as its impetus, and acknowledging that financial assistance had been provided through the NOAA Office of Coastal Zone Management to aid in its preparation. Each chapter of the LUP contains prefacing sections, introducing the reader to the thematic subject area(s), followed by a detailed discussion of the information, resources inventories or studies, and/or methodology utilized in developing the policies, statements of “general policies” reflective of the thrust of the City Plan, a list of applicable Coastal Act policies, and finally, an enumerated list of specific “LCP Policies.” Each chapter closes with illustrative maps or diagrams detailing the locations of the various coastal resources areas addressed in the preceding chapter.

³ The general plan housing element is not proposed to be a part of this updated LCP amendment.

b. Summary of Proposed Amendments


The updated LUP would include a significantly detailed Part I summary introduction, providing a synopsis of the format and contents of the LUP set forth in Part II of the document. The summary states the reasons for why the LUP is being updated, relays a history of the City, its unique features, and demographics, and the local amendment process followed in developing the update.

c. Summary of Suggested Modification No. 1: (General Plan Summary)

- Clarifies the relationship and statutory differences between the General Plan and the LUP.
- Describes the portions of the General Plan that constitute the Land Use Plan.
- Introduces and defines the applicability icons (, ) used throughout the Part II policy sections.=
- Specifically enumerates which policies are intended for CDP governance and which provisions are intended for use in the review and approval of non-coastal aspects of development.
- Clarifies procedural requirements and processes of the Coastal Land Use Plan.
- Identifies the components of the suggested-to-be consolidated and recodified Implementation Program which carry out the LUP's policies.
- Strikes discussions that pertain solely to non-coastal portions of the City.

d. Discussion of Bases for Suggested Modifications

The summary chapter of the LUP explains the process, mission and vision, and organization and content of the General Plan.

The General Plan (LUP) submitted by the City for certification was originally prepared to apply to both inland and coastal portions of the City. As submitted, the City had designated certain policies throughout several of the General Plan Elements with a “wave” symbol () intended to distinguish those policies meant to apply to the coastal zone. The City also submitted numerous amendments to its Coastal Zone Zoning Regulations to the Commission for certification with the implication that, with these modifications, the CZZR would be adequate to implement the updated General Plan. Following several discussions between Commission staff and City staff during the course of review of the LCP Amendment, it was decided that developing a separate “Coastal Land Use Plan” and Coastal Zoning and “Coastal Land Division” titles to apply specifically to the geographic portion of the City located within the coastal zone would provide greater clarity of the documents, improve the usability and administration of the LCP, and ensure consistency with the Coastal Act. The City would continue to apply the unmodified General Plan and the bulk of other titles of its Municipal Code to the geographic areas of the City that are outside the

coastal zone. Commission staff and City staff also agreed to do away with the ☞ symbol and reorganize the General Plan to remove the policies originally intended for coastal zone application. This reorganization makes it clear that development in the coastal zone must be consistent with all applicable policies of the discrete Coastal Land Use Plan (LUP) and also avoids confusion over, or oversight of, applicable policies denoted with a ☞ symbol.

These features of the reorganization and corrections and additions necessary to clarify procedural requirements and processes of the LCP are included as Suggested Modification No. 1, which make necessary text changes to the introductory chapter of the LUP.

Other suggested modifications to the Part I Summary entail a discussion of which portions of the Municipal Code, as recommended to be consolidated and recodified under Suggested Modification No. 31, implement the policies of the LUP.

The Commission finds that as modified, the Summary chapter, comprising the Part I “Summary” of the LUP *Policy Document*, meets the requirements of, and is in conformity with, the Coastal Act.

SM-2. Part II: Goals, Policies, and Programs

a. Synopsis of Currently-Certified Provisions


Similar to the foregoing plan summary, the currently-certified LUP does not contain a section specifically defining “goals,” “policies,” “implementation programs,” and other plan components, nor, due to its coastal zone exclusivity, utilizes symbology to distinguish between policies applying in the coastal zone, policies for outside of the coastal zone, and those applying Citywide.

b. Summary of Proposed Amendments

The prefacing discussion to Part II of the City’s proposed LUP, as modified: (1) makes hierarchical and functional distinctions between “goals,” “policies,” and “programs;” (2) relocates several policies to a new “Other Initiatives” sub-category; and (3) identifies the portions of the Municipal Code which implement the LUP policies.

c. Summary of Suggested Modification No. 2: (General Plan Goals, Policies, and Programs)

- Redefines the scope and intent of planning document nomenclature.
- Clarify the definitions of “Goal,” “Policy,” “Programs,” “Standards,” and “Objectives,” and introduce new “Other Initiatives” sub-section, to emphasize that “Policy” is clearly intended for governing the review and approval of coastal development permit applications.

- Eliminates applicability icons (, ).=

d. Discussion of Bases for Suggested Modifications

The Part II preface restates the sectional structures of the overall LUP and the definitions to the applicability icons, and defines several new planning terms. Toward the goal of realizing a stand-alone set of land use plan policies and implementation program standards, independent of other inland provisions, certain revisions must be made to the definitions in the Part II preface.

Suggested Modification No. 2 includes directives to the City regarding the reorganization of the LUP. When incorporating the suggested modifications into the Coastal General Plan, inconsistencies may arise between the text of the narrative and the revised policies. Descriptive narrative no longer consistent with the policies will need to be revised by the City to conform the narrative to any associated policy that has been revised through suggested modifications as part of the submission of the final document for certification pursuant to sections 13544 and 13544.5 of the California Code of Regulations. Narrative is intended only as background and shall not be considered policy. Language clearly labeled “Policy” within each Element shall control. Furthermore, the addition of new policies or the deletion of policies as submitted affects the numbering of subsequent policies.

The Commission finds that as modified, the prefacing chapter, comprising the Part II “Goals, Policies, and Programs” of the LUP *Policy Document*, meets the requirements of, and is in conformity with, the Coastal Act.

SM-3 through SM-8: Part II: Sections 1, 3, 4, 5, 6, and 7 – Land Use and Community Development, Transportation and Circulation, Public Facilities and Services, and Recreational and Cultural Resources, Natural Resources / Conservation, and Health and Safety

[Note: Due to the interrelatedness of the coastal resources policies set forth in Chapter 3 of the Coastal Act (e.g., the biological habitat, community services, and public infrastructure interdisciplinary aspects of “water quality,” functional linkages between coastal-dependent and “coastal-related “priority uses” and “public access,” “recreational opportunities,” and “visitor-serving facilities”), the following set of Suggested Modifications are discussed in the findings below together, organized around central policy themes rather than in sequential order by number of the suggested modification.]

A. Coastal Access, Recreational Opportunities and Visitor-Serving Facilities

1. Relevant Coastal Act Chapter 3 Provisions

Section 30210 Access; recreational opportunities; posting

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 Development not to interfere with access

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 New development projects

(a) *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:*

- (1) *It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,*
- (2) *Adequate access exists nearby, or,*
- (3) *Agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

(b) *For purposes of this section, "new development" does not include:*

- (1) *Replacement of any structure pursuant to the provisions of subdivision (g) of Section 30610.*
- (2) *The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.*
- (3) *Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.*
- (4) *The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not a seaward of the location of the former structure.*
- (5) *Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required unless the commission determines that the activity will have an adverse impact on lateral public access along the beach.*

As used in this subdivision "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

(c) *Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.*

Section 30212.5 Public facilities; distribution

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30213 Lower cost visitor and recreational facilities; encouragement and provision; overnight room rentals

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

Section 30214 Implementation of public access policies; legislative intent

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

- (1) Topographic and geologic site characteristics.*
- (2) The capacity of the site to sustain use and at what level of intensity.*
- (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.*

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

Section 30220 Protection of certain water-oriented activities

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30221 Oceanfront land; protection for recreational use and development

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30222 Private lands; priority of development purposes

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30223 Upland areas

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Section 30224 Recreational boating use; encouragement; facilities

Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

Section 30250 Location; existing developed area ...

- (c) *Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.*

Section 30252 Maintenance and enhancement of public access

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

2. **Synopsis of Currently-Certified Public Access, Recreation and Visitor-Serving LUP Provisions**

The currently-certified LUP sets forth policies and standards for public coastal access, recreational opportunities, and protection and development of coastal visitor-serving facilities primarily within its *Public Access* and *Recreation* chapters. Other provisions appear through the other portions of the LUP, particularly in the “Visual Resources” sub-section of the *Recreation and Cultural Resources* section and the *Land Use and Community Development* section, particularly as they relate thematically to the scenic nature of the accessway or recreational or visitor-serving facility, or as location specific recommendations for these amenities (see “Currently-Certified Policies” of Table One, Column 1 of Exhibit No. 6). The emphasis of these provisions is to establish guidance for the City’s development regulatory program with respect to identifying measures for the protection of, reservation for, and development of, shoreline proximate coastal access, recreational facilities, and visitor-serving facilities, including but not limited to overnight accommodations, consistent with Sections 30210 through 30222, 30224, 30250(c), and 30252 of the Coastal Act.

3. Summary of Proposed Amendments

Many of the currently-certified public access, recreational, and visitor-serving facilities policies are proposed to be brought forward in the updated LUP with only minor changes in their wording. Several outdated or fulfilled policies are proposed for deletion. Many of the new policies take the form of encouragements to and pledges of support for and coordination with the various state and federal parkland management agencies in developing and providing facilities for coastal visitors and recreationists.

4. Summary of, and Rationale for, Suggested Modifications to Proposed Updated Public Access, Recreational Opportunities, and Visitor-Serving Facilities Policies

Except in a very limited set of locales, the City’s proposed public access, recreation, and visitor-serving policies do not require specific measures to maximize public access and recreational opportunities. Without adequate policy mechanisms regulating potential impacts of development on existing accessways, such as: (1) measures to provide for appropriate levels of access and use in areas with environmental resources or hazards, or (2) protecting sites suitable for public access, recreational, and visitor-serving facilities, the LUP is inconsistent with Coastal Act provisions 30210-30213 and 30220 through 30224.

To eliminate or reduce potential impacts from development on public access and recreation, the Coastal Act identifies several strategies for ensuring that the overall availability and diversity of opportunities to visit and enjoy the coast are provided in the planning for and consideration of new development projects. These strategies include identification, protection, and reservation of existing or particularly suitable future accessways and recreational and visitor-serving facility development sites, and encouragement through preferential recognition of certain classes and types of development, such as for water-oriented recreation and lower-cost facilities, over more generic forms of development or more monetarily exclusive facilities.

As suggested to be modified, the *Recreational and Cultural Resources* element of the updated LUP would address issues related to public access, recreational opportunities, and visitor-serving

facilities. Policy areas of particular concern are those involving the provision of maximum public access to the coast, the mechanisms for providing such access, protecting access to areas of historic public use, and ensuring that private sites suitable to visitor-serving facilities are prioritized for such and are not otherwise developed with other uses, especially in areas and in situations where the availability of lower-cost facilities are limited. Suggested Modification Nos. 3 and 6 include changes to the visitor-serving facilities, public access, and recreational policies of the LUP as shown in the *Land Use and Community Development* and *Recreational and Cultural Resources* sections of Exhibit No. 1.

Changes in Suggested Modification Nos. 3 and 6 regarding public access, recreational opportunities, and visitor-serving facilities development include:

- Adding omitted Coastal Act policy language regarding preferences for lower-cost visitor-serving accommodations and public-accessible facilities, and reservation and prioritization of shoreline sites appropriate for recreational development.
- Clarifying and strengthening policy language to require the provision of public access where development would have significant adverse impacts on public access.
- Adding procedural details regarding the preferred implementation of public access mitigation.
- Rephrasing certain site-specific policies to clarify that limitations on the use of accessway development are a more appropriate form of mitigation for protecting environmentally sensitive sites and reducing hazardous risks than outright prohibitions on public access use.
- Adding policy clarifying that public accessways and trails to the shoreline and public parklands shall be a permitted use in all land use and zoning designations.
- Adding a provision to trigger reassessment of the continued appropriateness of the development of new mixed condominium/hotel resort projects when the availability of existing lower-cost visitor-serving accommodations becomes more limited.
- Requiring that the majority of units within new timeshare resort hotel facilities be available for transient overnight accommodations.
- Setting specific consecutive time limitations on the occupancy by resort hotel timeshare units by their owners and family members, requiring the units to be made available for overnight and short-term accommodations for minimum periods of time annually.

The City's public access policies and inventory in the LUP have been updated to reflect current public access and recreation opportunities. In addition, several of the Coastal Act policies regarding the protection and provision of, and site prioritization for, public access and recreational opportunities and facilities have been appended into the *Recreational and Cultural Resources* section of the updated LUP. Furthermore, new policies and standards have been included to address three relatively recent coastal access and recreational issues: (1) the Legislature's formal recognition of the development of the California Coastal Trail as a statewide planning initiative; (2) the cumulative loss of lower-cost visitor-serving facilities over time; and (3) increasing requests for development of limited-use overnight visitor-serving accommodations.

California Coastal Trail: The City's currently certified LCP incorporates the overall Coastal Act policies that mandate the provision and protection of public access facilities and opportunities. However, since their drafting in 2003, the Legislature has adopted legislation calling for the ultimate development of a continuous California Coastal Trail (CCT) along the whole of the state's coastline. Once completed, the CCT will provide not only access laterally along the coast but will link both existing and future vertical access points leading from landward areas.

Therefore, to implement the Legislature's mandate, the LCP must be modified to incorporate provisions for development of the CCT segments through Crescent City. These suggested "other initiatives," as inserted into LUP *Coastal Zone Public Access* sub-section 5.D., provide for future development of the CCT and set design and siting parameters addressing maximized coastal ingress and trail interconnectivity while protecting sensitive resources, locating the trail along or as close to the immediate open shoreline where possible, provisions for interim alternative routes and closures, acquisition and management goals, and signage objectives and standards to be incorporated into future LCP access components.

Lower Cost Overnight Accommodations: Historically, the Commission has approved new hotel developments in immediate proximity to the coastline. However, new development in recent years has often consisted of exclusive, higher priced resort developments. In each of those actions, the Commission has secured public amenities, such as new public accessways, public parking or open space dedications to address the Coastal Act priorities for public access and visitor support facilities and offset impacts to these amenities. In addition, the Commission has required, as a condition of permit approval or in certifying local governments' coastal program amendments, that mitigation be required for the loss of land that was available for lower cost and visitor serving facilities (e.g., City of Redondo Beach Local Coastal Program (LCP) Amendment No. RDB-MAJ-2-08; City of Newport Beach LCP Amendment Nos. NPB-MAJ-1-07 and NPB-MAJ-1-06A; City of Huntington Beach LCP Amendment No. HNB-MAJ-2-06; San Diego Unified Port District Port District Coastal Development Permit (CDP) Appeal No. A-6-PSD-08-004/101; City of Rancho Palos Verdes CDP Appeal No. A-5-RPV-02-324). The expectation of the Commission, based upon numerous precedents, is that developers of sites suitable for overnight accommodations will provide facilities which serve the public with a range of incomes. If development cannot provide for a range of affordability onsite, the Commission has required off-site mitigation such as payment of an in-lieu mitigation fee to fund construction of lower cost overnight accommodations (e.g. youth hostels, campgrounds, etc.)

In light of current trends in the market place and along the coast, the Commission is increasingly concerned with the challenge of providing lower-cost overnight accommodations consistent with the Coastal Act. Recent research at a workshop held by the Commission in 2006 concerning hotel-condominiums, showed that only 7.9% of the overnight accommodations in nine popular coastal counties were considered lower-cost. Although statewide demand for lower-cost accommodations in the coastal zone is difficult to quantify, there is no question that camping and hostel opportunities are in high demand, and that there is an on-going need to provide more lower-cost opportunities along California's coast. For example, the Santa Monica hostel occupancy rate was 96% in 2005, with the hostel being full more than half of the year. The

California Department of Parks and Recreation estimates that demand for camping has increased 13% between 2000 and 2005. Nine of the ten most popular campgrounds are along the coast.⁴

With the removal of low-cost overnight facilities, lodging opportunities for more budget-conscious visitors to the City's coastal areas will be increasingly more limited. As the trend continues to build first class/deluxe hotels and demolish low-cost hotels/motels, persons of low and moderate incomes will make up fewer of the guests staying in Crescent City. By forcing this economic group to lodge elsewhere, there will be a direct impact on public access to the beach and coastal recreational areas within the area. With the loss of low-cost lodging facilities, a large segment of the state's population will be excluded from overnight stays within this coastal area. Therefore, by protecting and providing low-cost lodging for the price sensitive visitor, a larger segment of the population will have a greater opportunity to enjoy access to the beach area through overnight stays along or near the coast. Furthermore, access to coastal recreational facilities, such as the beaches, harbor, piers, and other coastal points of interest, are also enhanced when there are overnight lodging facilities that serve a broader segment of the population.

In general, many low to moderately priced hotel and motel accommodations tend to be older structures that are becoming less and less economically viable. As more recycling occurs, the stock of low cost overnight accommodations tends to be reduced, since it is generally not economically feasible to replace these structures with accommodations that will maintain the same low rates. As a result, the Commission is typically presented with proposals for higher-cost accommodations than for low-cost ones. The loss of affordable overnight accommodations within the coastal zone has become an emerging issue for the Commission. If this development trend continues, the stock of affordable overnight accommodations will eventually be depleted.

In an effort to stem this tide, and to protect lower cost visitor-serving facilities, the Commission has imposed in-lieu mitigation fees when development proposes only high cost accommodations. By doing so, a method is provided to assure that some degree of lower cost overnight accommodations will be protected. The amendment request as submitted, does not provide for an in-lieu fee to be required to offset the loss of low-cost overnight accommodations, neither does it specify what situations the mitigation would be required, or denote a value to an in-lieu fee that would be appropriate to cover the cost of the construction of replacement low-cost overnight facilities. Therefore, the Commission finds that the proposed amendment to the LUP, as submitted, would not conform with Section 30213 of Chapter 3 of the Coastal Act unless specific provisions are included within the LCP to ensure that the inventory of lower-cost visitor accommodations are protected from their conversion to higher-cost facilities over time.

However, as contrasted with these more urban, beach resort destination cities, there are several extenuating circumstances applicable to Crescent City which suggest that the imposition of a compensatory in-lieu fee program for ensuring an on-going inventory of lower-cost visitor accommodations would not, at this time, be warranted:

- Given its rich natural setting, there is a large inventory of public and private low-cost campground, recreational vehicle park, and cabin based accommodations within or in close proximity to the coastal zone portions of the City.

⁴ Coastal Commission Condominium-Hotel Workshop, August 6, 2006 (<http://documents.coastal.ca.gov/reports/2006/8/W3-8-2006.pdf>).

- In terms of overall average percentage change over the period spanning 1992 through 2006, Crescent City (2.6%) ranks last place in tourism growth among the 58 California counties (4.3% state average).⁵
- At 49%, the occupancy rate for overnight accommodations in Crescent City is very low compared with those in other coastal counties and cities.
- On any given night, there are approximately 800 hotel, motel, and/or other short-stay overnight accommodation rooms available throughout the City of which, on average, roughly 400 rooms would typically be available for let. The average nightly rate for the majority of these short-stay accommodations (\$70.75 for the Eureka-Crescent City area) is well below the state nightly average of \$122.90.⁶

Accordingly, suggested modifications have been included in the *Coastal Zone Recreation* subsection 5.D reiterating relevant Coastal Act access and recreation policies, and identifying a mechanism for protecting existing lower-cost visitor-serving facilities to be implemented once Crescent City overnight accommodations reach an established hotel occupancy rate of 70%. Once the City's occupancy rate meets that threshold, further conversion of such facilities would be prohibited unless either the converted lower-cost facility is replaced with another facility offering the same or a greater number of lower cost visitor serving units, or an in lieu fee in an amount necessary to off-set the cost to replace the lower cost visitor serving units in Crescent City is imposed. To aid in assessing the City's average occupancy rate, the Commission includes within the language of the suggested modification reference to the California Travel and Tourism Commission's website: <http://www.visitcalifornia.com>. This website, under the heading "California Lodging Reports," provides a summary of the average annual occupancy rates for all California counties, as compiled by Smith Travel Research, whose data is widely used by numerous public and private convention/visitor/tourism organizations.

Limited-Use Overnight Visitor Accommodations: The LCP amendment request includes provisions for the development of limited-use overnight visitor accommodations, specifically, the development of new timeshare resort hotels in areas with a Visitor Serving Commercial (VSC) land use designation. These types of facilities provide a lower level of public accessibility than traditional hotels and motels, because a certain percentage of rooms can be privately owned for periods of time, thereby removing their availability to use as an overnight resource. Moreover, Section 30213 of the Coastal Act requires that lower cost visitor facilities be protected, encouraged, and, where feasible, provided. Limited-use overnight visitor accommodations, as a whole, cannot typically be considered lower cost. Generally, limited use overnight visitor accommodation facilities require that potential users purchase the right to long term, recurring use, which often requires significant initial investment, and periodic fees. Such monetary requirements are often beyond the means of a large segment of the general population and certainly exclude that portion of the population that is of the least means. Traditional hotels, motels and similar overnight accommodations, do not require a long term financial commitment in exchange for use of a unit.

⁵ California Travel Impacts by County, 1992-2006. Dean Runyan Associates, March 2008

⁶ California Tourism – March 2008 Compared with March 2007, Smith Travel Research ©2008

The current submittal does not limit the percentage of hotel rooms devoted to limited use overnight visitor accommodations within a new hotel resort development. Without such a limitation, the availability of low cost visitor serving accommodations would be constrained in a manner inconsistent with the policies of Section 30213 of the Coastal Act. In order to be consistent with the applicable Chapter 3 policies of the Coastal Act the LUP amendment should reflect these restrictions placed on limited use overnight visitor accommodations.

Therefore, the Commission attaches a suggested modification requiring that no more than 50% of all the rooms within a new hotel resort development may be devoted to limited use overnight visitor accommodations. This percentage is significantly higher than previous Commission decisions (e.g., Cities of Redondo Beach, Oceanside and Huntington Beach Local Coastal Program (LCP) Amendment Nos. 2-08, 1-07 and 2-06, respectively) that have limited the amount of limited use overnight visitor accommodations within a proposed development to between ten and twenty-five percent. However, the same local factors discussed in the preceding findings concerning the present ample supply of lower-cost visitor accommodations suggest that a 50% limited use overnight visitor accommodations allowance for Crescent City would not, at this time, need to be further constrained. Therefore, the Commission finds that the proposed amendment to the LUP as modified to allow 50 percent limited-use overnight visitor accommodations is consistent with the applicable Chapter 3 public access and recreation policies of the Coastal Act with certain modifications. These modifications, as inserted in *Private Recreational Facilities and Opportunities* policies sub-section 5.F., require that, in addition to reserving a minimum of 50% of the units for short-stay overnight accommodations by the general public, limitations be placed on the total and consecutive number of days the privately owned timeshare units may be occupied by each owner or member of their family, to ensure greater availability to the general public.

In conclusion, the Commission finds for the reasons discussed above that the proposed LUP amendment is inconsistent with the provisions of the Coastal Act for public coastal access, recreational opportunities, and the protection and development of coastal visitor-serving facilities and must be denied. However, if modified as suggested in Suggested Modification Nos. 3 and 6 to in part: (1) add specific provisions of the Coastal Act for protecting, reserving, and prioritizing coastal access, recreation, and visitor-serving facilities as LUP policies; (2) add new policies requiring monitoring of the availability of lower-cost overnight accommodations so that the diversity of coastal visitation opportunities is not cumulatively impacted; (3) add policies protecting specific access points through limitations on their use rather than full prohibitions; and (4) delete certain general commercial development types from the list of permissible uses within the visitor-serving commercial land use designation, the LUP would be consistent with the public access, recreation, and visitor-serving facilities provisions of the Coastal Act.

Therefore, the Commission imposes the changes included in Suggested Modification Nos. 3 and 6 relating to public access, recreation, and visitor-serving facilities. As modified, the Commission finds the proposed LUP public access provisions are consistent with the Coastal Act.

B. Water Quality

1. Relevant Coastal Act Chapter 3 Provisions

Section 30230 Marine resources; maintenance

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 Biological productivity; water quality

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

2. Synopsis of Currently-Certified Water Quality LUP Provisions

The *Marine and Water Resources* chapter of the currently-certified LUP sets forth policies and standards for the protection coastal water quality chiefly within the *Water Resources* sub-chapter (see “Currently-Certified Policies” of Table One, Column 1 of Exhibit No. 6). The emphasis of this chapter is to establish guidance for the City’s development regulatory program with respect to identifying measures for the protection of water resources and aquatic-oriented biological habitat consistent with Sections 30230 and 30231, of the Coastal Act.

3. Summary of Proposed Amendments

The *Natural Resources / Conservation* element of the City’s proposed updated LUP addresses issues related to an assortment of marine, aquatic, and terrestrial biological resources, including the quality of coastal water. Policy areas of particular importance are those involving measures to protect coastal water quality, provisions for maximizing the productivity of aquatic-based resources, and policies relating to development of domestic water supplies.

4. Summary of, and Rationale for, Suggested Modifications to Proposed Updated Water Quality Policies

As modified, the water resources module of the *Natural Resources / Conservation* section of the LUP would address several specific issues related to water quality. Policy areas of particular concern are those involving the protection of the biological productivity and the quality of coastal waters through establishing comprehensive development standards and permitting review

procedures. Suggested Modification No. 3 modifies the “Water Resources” subsection to revise proposed policies and include several new provisions addressing enhanced efforts to prevent and protect coastal water quality through the permit application and review processes. These new provisions include:

- Refining the structure and wording of the Water Resources polices to comport with PRC §§30230, and 30231, detailing various water quality best management practices to be utilized in the review and authorization of development projects.
- Adding policy coverage for minimizing the introduction of pollutants to coastal waters.
- Adding the specific provisions of Coastal Act Sections 30230 and 30231.
- Adding policies addressing the minimization of increases in stormwater runoff peak runoff rate by requiring:
 - All development: Minimizing increases in runoff to the extent feasible, and requisite demonstration of efforts to reduce projected peak runoff by 20% of the base 1985 10-year storm.
 - Developments of Special Water Quality Concern: Limiting post-development peak discharge rates so as not to exceed the pre-development rate, if increased discharge would result in increased potential for downstream erosion or other adverse habitat impacts.
- Adding construction-phase policies to require:
 - Construction-phase stormwater runoff plans for all development that requires a grading permit.
 - Eliminating and/or controlling discharges of sediment and other stormwater pollution from construction activities.
 - Minimizing construction site runoff and erosion,
 - Minimizing land disturbance and natural vegetation disturbance
- Adding post-construction policies to require:
 - A post-construction stormwater runoff plan for all development.
 - Emphasis on post-construction Site Design and Source Control BMPs.
- Adding BMP Guidance tables for selecting efficient BMPs for specific pollutants generated by given development types.
- Adding policies establishing categories of Developments of Special Water Quality Concern, based on development size, land use, impervious site coverage, or proximity to coastal waters. Categories of particular note include:
 - Developments that create or replace 10,000 ft² or more of impervious surface area
 - Developments that result in site coverage of 50% or more of the development site with impervious surfaces
 - Developments within 100 feet of the ocean or a coastal waterbody, that add or replace 2,500 ft² or more of impervious surface area
- Adding policies containing additional requirements for Developments of Special Water Quality Concern, including requirements for:
 - Hydrological studies to be prepared by a Certified Engineer.
 - Pre-selection of effective Treatment Control BMPs.
 - Inclusion of treatment control BMPs sized to meet the 85% storm design standard.

- Maintaining pre-development peak runoff rate where necessary to protect against downstream erosion or other adverse habitat impacts.

As cited above, Coastal Act Sections 30230 and 30231 require the protection of the biological productivity and quality of coastal waters by, in part, minimizing adverse effects of wastewater discharges and entrainment, controlling runoff, and maintaining natural vegetation. As proposed, the City's LUP includes numerous new policies in Sections 1 and 4 relating to stormwater runoff. Several of these policies identify pollution prevention strategies, such as minimizing landform alterations and impervious surfaces, preventing runoff from entering ground-disturbed sites, and retaining and directing flows into vegetated swales to be filtered. However, many other policies remain primarily focused on hydrologically managing the discharges rather than setting pollution prevention, elimination and treatment requirements. For example Policy 6.D.18 states that, "The City shall *discourage* direct runoff of pollutants and siltation into wetland areas from development. Development shall be designed in such a manner that pollutants and siltation will not significantly adversely affect the value or function of wetlands." Similarly, Policy 4.E.1 states the City's intent to continue to encourage the use of natural stormwater drainage systems albeit "...in a manner that preserves and enhances natural features." These proposed policies are not strong enough, nor is the LUP adequately comprehensive in its scope of coverage of water quality protection measures, to ensure that the biological productivity and quality of coastal waters will be protected from adverse effects associated with development in the coastal zone as required by Coastal Act Sections 30230 and 30231. As submitted, the policies of the LUP are not sufficiently detailed to protect water quality in Crescent City's coastal zone and must be denied.

Development has the potential to impact water quality and increase storm drainage requirements in a number of ways. New development often results in the creation of impermeable surfaces, which increase runoff by limiting the amount of water able to seep into the ground. Some water uses associated with development, such as landscape irrigation, also increase runoff by adding to the amount of artificial water sources potentially leaving the site. Development can also alter natural drainage courses and drainage patterns potentially resulting in increased erosion and siltation. New development also increases the amount of pollutants potentially entering waterways. Typical sources of pollutants potentially entrained in runoff as a result of new development from point and non-point sources include: grease and oils from roads and pavement; pesticides and fertilizers from horticultural runoff; sediments from erosion; and various other pollutants in runoff from industrial, commercial, and residential areas. Increased development also increases demands on the limited supply of water, potentially leading to an increased concentration of pollution in water supplies. These impacts reduce the biological productivity and quality of coastal waters, streams, wetlands, estuaries, and lakes, reduce optimum populations of marine organisms and have adverse impacts on human health, inconsistent with Coastal Act Sections 30230 and 30231. Therefore, it is critical that the LUP establish a comprehensive framework of development standards, applicable to all phases of development, as well as detailed permit review and approval requirements.

The Commission shares responsibility for regulating nonpoint water pollution in the Coastal Zone of California with State Water Resources Control Board (SWRCB) and the coastal Regional Water Quality Control Boards (RWQCBs). The Commission and the SWRCB have

been co-leads in developing and implementing the January 2000 Plan for California's Nonpoint source Pollution Control Program (Plan), which outlines a strategy to ensure that management measures and practices that reduce or prevent polluted runoff are implemented over a fifteen-year period. Some of these management measures are best implemented at the local City planning and permitting level, since they can be most cost effective during the design stage of development.

Commission staff worked with City staff during the development of the water quality policies included as part of the suggested modifications, which significantly expand and strengthen the City's water quality protection provisions. Specifically, the water quality portion of Suggested Modification Nos. 5 and 6 suggest the addition of new policies that address stormwater runoff flows and pollution, including requirements to minimize both construction-phase and post-construction impacts to water quality and coastal waters. The policies require eliminating the discharge of sediment and other stormwater pollution resulting from construction activities and minimizing construction site runoff and erosion, land disturbance, and natural vegetation removal.

Suggested Modification No. 6 also includes the addition of several policies that emphasize the incorporation of post-construction Site Design and Source Control Best Management Practices (BMPs), which may reduce the need for structural Treatment Control BMPs to protect water quality and coastal waters. The Site Design policies include requirements for minimizing impervious surfaces, infiltrating stormwater runoff, and preserving natural drainage systems, as feasible, and for the continued maintenance of all post-construction BMPs. The added policies further require Treatment Control BMPs where the City Engineer determines they are necessary, and enable the City to require additional BMPs if the installed BMPs are not effective.

The policies added as part of Suggested Modification No. 6 also establish a second tier of development identified as "Developments of Special Water Quality Concern," which includes nine specific categories of development that have greater potential for significant adverse impacts to coastal water quality due to the development size, type of land use, impervious site coverage, and/or proximity to coastal waters. Additional development standards are added for identified Developments of Special Water Quality Concern, including a hydrological study, use of effective Treatment Control BMPs sized to meet the 85% storm design standard, and that the post-development peak runoff rate does not exceed the pre-development rate where necessary, to protect against downstream erosion and other adverse habitat impacts.

As submitted, the policies of the LUP are not sufficiently detailed to protect water quality in Crescent City's coastal zone and must be denied. However, if modified by the changes and additions included as part of Suggested Modification Nos. 3, 5, and 6, the Commission finds that the proposed LUP, as modified, is consistent with Coastal Act Sections 30230 and 30231.

C. Biological Resources and Environmentally Sensitive Habitat Areas (ESHA)

1. Relevant Coastal Act Chapter 3 Provisions

Section 30107.5 Environmentally sensitive area

“Environmentally sensitive area” means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Section 30230 Marine resources; maintenance

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 Biological productivity; water quality

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30233 Diking, filling or dredging; continued movement of sediment and nutrients

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

- (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
- (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
- (3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*
- (4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
- (5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
- (6) Restoration purposes.*
- (7) Nature study, aquaculture, or similar resource dependent activities.*

(b) *Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.*

(c) *In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study... if otherwise in accordance with this division...*

(d) *Erosion control and flood control facilities constructed on water courses can impede the movement of sediment and nutrients which would otherwise be carried by storm runoff into coastal waters. To facilitate the continued delivery of these sediments to the littoral zone, whenever feasible, the material removed from these facilities may be placed at appropriate points on the shoreline in accordance with other applicable provisions of this division, where feasible mitigation measures have been provided to minimize adverse environmental effects. Aspects that shall be considered before issuing a coastal development permit for such purposes are the method of placement, time of year of placement, and sensitivity of the placement area.*

Section 30236 Water supply and flood control

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

Section 30240 Environmentally sensitive habitat areas; adjacent developments

(a) *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

(b) *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

2. Synopsis of Currently-Certified Biological Resources and ESHA LUP Provisions

The *Environmentally Sensitive Habitat Areas / Marine and Water Resources* chapter of the currently-certified LUP sets forth policies and standards for a variety of aquatic-oriented biological resources within its "*Marine Resources*" and "*Biological Resources* (i.e., environmentally sensitive habitat areas) sub-chapters, together with the "*Diking, Dredging, Filling, and Shoreline Structures*" chapter, the latter primarily regarding conditional, permissible development in wetlands and open coastal waters (see "Currently-Certified Policies" of Table One, Column 1 of Exhibit No. 7). The emphasis of these chapter sections are to establish

guidance for the City's development regulatory program with respect to identifying measures for the protection of biological sensitive resources and habitats consistent with Sections 30230, 30231, 30233, 30236, and 30240 of the Coastal Act.

3. Summary of Proposed Amendments

The *Natural Resources / Conservation* element of the City's proposed updated LUP addresses issues related to an assortment of marine, aquatic, and terrestrial biological resources, including those meeting the Coastal Act definition of "environmentally sensitive habitat areas (ESHA). The section identifies measures to protect these environmentally sensitive areas and the quality of coastal water and land resources, including the conservation of soils, agricultural lands, timberlands, and mineral resources. Policy areas of particular importance are those involving the proper identification of areas containing sensitive habitat, the protection of ESHA by establishing adequate standards for development located within and adjacent to ESHA, measures to protect coastal water quality, provisions for maximizing the conservation and productivity of coastal agricultural lands, and policies relating to mineral extraction related development.

4. Summary of, and Rationale for, Suggested Modifications to Proposed Updated Biological Resources and ESHA Policies

The suggested modifications to the LUP's *Natural Resources / Conservation* section propose numerous provisions bearing on a variety of significant coastal resources issues, including the protection of wetlands and estuaries, streams, and other non-wetland and non-riverine environmentally sensitive habitat areas (ESHA), and the quality of coastal waters as biological habitat. The proposed updated LUP would organize these policies by habitat type or development category. The suggested modifications involve reordering and consolidating these policies around whether they address the policy addresses development in or near wetland, estuary, or stream ESHAs, or one of the other environmentally sensitive habitat areas with differing use constraints and operational conditions. The suggested modification include the insertion of several new policies that address heretofore omitted coverage of Coastal Act Chapter 3 subjects, especially with respect to the protection of the dynamic nature of ESHA identification over time, and water quality best management practices. Primary suggested modifications to LUP elements address biological resources and environmentally sensitive habitat areas entail:

- Adding policy language addressing heretofore omitted key policies crucial to consistency with Coastal Act Sections 30240, 30233, and 30236 biological resources, environmentally sensitive areas, and water quality directives.
- Including a policy directive requiring that the adoption of any future small wind generator system enabling ordinances incorporate established guidelines for the site assessment, mitigation inclusion, monitoring, and reporting for avoiding and reducing bird and bat strike impacts are included in any such ordinances.
- Defining ESHA consistent with Coastal Act Section 30107.5 and describing the types of habitat that constitute ESHA.
- Restructuring the order of presentation of policies to that based on key Coastal Act Chapter 3 policies.
- Consolidating biological resource protection sub-sections into ESHA/non ESHA format.

- Clarifying that the determination of what constitutes ESHA is not limited by the categorical descriptions within the text of the LUP.
- Adding policies that enumerate permitted uses within ESHA and ESHA buffers consistent with the allowable use limitations of Coastal Act Sections 30240, 30233, and 30236.
- Expanding the criteria to be utilized when evaluating the adequacy of ESHA buffers.
- Deleting general biological resource protection policies that are superseded by more specific ESHA protection policies that apply in the City's coastal zone.

Distinguishing Specific Policies for ESHAs from General Biological Resources Policies: The Coastal Act requires environmentally sensitive habitat areas (ESHA) to be protected against significant disruption of habitat values and restricts development within ESHA to resource dependent uses. Development in areas adjacent to ESHA must be sited and designed to prevent impacts that would significantly degrade those areas and must be compatible with the continuance of those habitat and recreation areas. As proposed, the City's ESHA policies provide an important framework for the protection of ESHAs. However, the proposed policies are not organized in a format which clearly distinguishes which of the various types of biological resources are subject to the general ESHA protections of Coastal Act Section 30240 and which may be subject to other Coastal Act policies regarding specific types of ESHA or developments therein. Rather, these provisions are presented in the context of different habitat substrates, such as "marine resources," "onshore fisheries resources," and "wildlife habitat resources." Moreover, there is not sufficient detail and guidance provided in the various biological resource sub-sections with which to regulate permitting decisions regarding development within and adjacent to ESHA, inconsistent with the requirements of Section 30240.

As modified, the *Natural Resources / Conservation* element addresses issues related to environmentally sensitive habitat areas (ESHA). Policy areas of particular concern are those involving the identification of ESHA and ensuring that ESHA is protected against any significant disruption of habitat values by, in part, establishing limitations on allowable uses within and adjacent to ESHA. Suggested Modification No. 7 includes changes to the environmentally sensitive habitat policies of the LUP as shown in the *Natural Resources / Conservation* element of Exhibit No. 1.

Reducing Bird and Bat Strike Impacts from Small Wind Energy Systems: The City of Crescent City proposed LUP update contains provisions for development of energy production facilities in a number of locations and contexts, including so-called "alternative" energy systems such as wind-driven electric generator turbines. To be effective, wind turbine systems need to be located in clear, open areas with steady wind exposure, such as above cliff faces and along coastal terraces. These areas are often frequented by avian and flying mammal wildlife, including species that would be subject to the protections of Coastal Act Section 30240, including federal- and state-listed endangered, threatened, and special concern species, such as the Aleutian Canada goose (*Branta Canadensis leucopareia*), California gull (*Larus californicus*) short-eared owl (*Asio flammeus*), osprey (*Padion haliaetus*), Townsend's western big-eared bat (*Plecotus townsendii townsendii*), and numerous other migratory or transient passerine species. If wind generating devices are not appropriately designed and sited, such facilities can have significant adverse effects on such wildlife from collisions with the facilities' stanchion, turbine blades, or

support guy-lines. To ensure that the protections required by Coastal Act Section 30240 are extended to such species, Suggested Modification No. 7 includes the appending of new *Alternative Energy Systems Bird and Bat Strike Avoidance Policy No. 6.A.6.*, which requires that any future enabling ordinances for permitting small wind energy generating systems include the site assessment, mitigation measures selection, monitoring, and reporting provisions set forth in “California Guidelines for Reducing Impacts to Birds and Bats from Wind Energy Development - Commission Final Report,” as developed cooperatively by the California Energy Commission and the California Department of Fish and Game.

Types of ESHA: The proposed LUP update contains numerous protective and development policies for several types of “marine resources” and “biological resources,” including offshore rocks and islands, rocky intertidal areas, wetlands, and riparian areas. However, the LUP amendment identifies only coastal wetlands and riparian vegetation as the only types of environmentally sensitive habitat areas (ESHA), for which the protections of Coastal Act 30240 would apply, notwithstanding that there are, or, there area likely to be either now or at some future time, other types of ESHA within the City which constitute ESHA, as defined by Section 30107.5 of the Coastal Act. To ensure that the LUP provides sufficient guidance for the identification and protection of ESHA, Suggested Modification No. 7 includes the addition of policies that: (1) incorporate the Coastal Act definition of ESHA cited above; (2) includes offshore rocks and islands, intertidal areas, tidepools, estuaries, and rare, threatened, or endangered plants or plant communities in the list of examples of types of ESHA, and (4) emphasizes that the types of ESHA identified within the LUP text and maps are not all inclusive, either spatially or temporally, in that ESHAs may be found in unmapped locations, or new types of ESHA may become recognized as such and formally designated in the future.

Assessment of ESHA Extent and Sensitivity to Impacts: As proposed by the City, the updated LUP would retain much of the City’s ESHA review procedures and policies from the existing certified LCP. As proposed, no further elaboration, either within the LUP or within the coastal development regulations of the IP would be provided to guide when and how technical evaluations, such as biological assessments or wetland delineations, would be required to provide a factual basis for concluding that a given development project, either as proposed or with the attachment of conditions could be found consistent with the Coastal Act mandated ESHA protections. Suggested Modification No. 7 includes the addition of several policies to clarify that the determination of what constitutes ESHA is not limited by what is mapped or described within the LUP, but extends to any area not designated in land use constraint mapping or textually described that meets the definition of ESHA, and that such area shall be subject to the ESHA protection policies of the LCP. The added policies also identify other areas that are to be considered ESHA including, for example, areas that: (a) contribute to the viability of plant or animal species designated as rare, threatened, or endangered under State or Federal law; (b) contribute to the viability of species designated as Fully Protected or Species of Special Concern under State law or regulations; and (c) contribute to the viability of plant species for which there is compelling evidence of rarity, for example, those designated 1b (Rare or endangered in California and elsewhere) or 2 (rare, threatened or endangered in California but more common elsewhere) by the California Native Plant Society.

These policies incorporate the provisions of Coastal Act 30240(a) regarding development within ESHA. Suggested Modification No. 7 also adds wording to several of the policies to incorporate

the requirements of Coastal Act Section 30240(b), which provides criteria for development adjacent to environmentally sensitive habitat areas including requirements that ESHA be protected against any significant disruption of habitat values.

Limitations on Uses and Development In or Near ESHAs: With regard to limitations on development within ESHA, Coastal Act Section 30240(a) requires uses within ESHA to be limited to uses dependent on the resources of the habitat area. The proposed LUP policies do not clarify what can be considered uses which are “dependent on” the resources of the habitat area and therefore permissible within the ESHA. Therefore, Suggested Modification No. 7 includes the addition of policies that specifically enumerates permitted uses within ESHA, including wetland ESHA, rivers and streams, and other types of ESHA. These allowable uses are consistent with the use limitations of Section 30233 and 30236 of the Coastal Act.

ESHA Buffers: Coastal Act Section 30240(b) requires that development adjacent to ESHA shall be sited and designed to prevent impacts which would significantly degrade those areas and be compatible with the continuance of the habitat. To protect ESHA from adjacent developments, the practice has been to require stable buffer areas between the ESHA and the development. Generally, the Commission has considered 100 feet to be the standard buffer width to protect ESHA.

The City’s currently certified LUP ESHA buffer policy exclusively specifies that a 50-foot buffer is required to be established around the upland periphery of “all identified wetlands.” No specific buffer width is identified to be provided around riparian vegetation or other ESHA. The amended LUP proposes three policies which address buffer widths:

- 6.A.3. The City shall require a minimum 100-foot buffer zone around designated coastal wetlands. Buffer zones for wetlands shall be measured landward from the edge of the wetlands...
- 6.B.4. The City shall require that proposals to create new parcels have a minimum of a 100-foot setback from the edge of designated coastal wetlands and a 50-foot setback from the centerline of riparian watercourse areas such as creeks and streams. All site improvements (e.g., buildings, sewage disposal where applicable, and appurtenant structures) shall be outside the required protection area.
- 6.D.16. The City shall ensure that development in areas adjacent to environmentally-sensitive wetland habitat areas be sited and designed to prevent impacts which could significantly degrade such areas, and shall be compatible with the continuance of such habitat areas. The primary tool to reduce impacts around wetlands between the development and the edge of the wetland shall be a buffer of 50 feet in width. A buffer of less than 50 feet may be utilized where it can be determined that there is no adverse impact on the wetland. A determination to utilize a buffer area of less than 50 feet shall be made in cooperation with the California Department of Fish and Game and the City’s determination shall be based upon

specific findings as to the adequacy of the proposed buffer to protect the identified resource. Firewood removal by owner for on site use and commercial timber harvest pursuant to CDF timber harvest requirements are to be considered as allowable uses within 50-foot buffer areas.

As cited above, the proposed amended LUP sets three different standards for the areas around wetlands: (1) a 100-foot “buffer zone” under *Natural Resources / Conservation – Marine Resources* Policy 6.A.3; (2) 100-foot-wide and 50-foot-wide “setbacks” between wetlands and riparian corridors (measured from the stream centerline), respectively, on newly created parcels under *Natural Resources / Conservation – Water Resources* Policy 6.B.4; and (3) a 50-foot-wide “buffer” around wetlands which may be reduced to less than 50 feet under *Natural Resources / Conservation – Biological Resources* Policy 6.D.14. No definitions are provided that distinguish a “buffer” from either a “buffer zone” or a “setback.” Thus, as proposed, the updated LUP would establish a series of contradictory standards as to what buffer or setback width would apply to a given situation.

Furthermore, the proposed amended LUP does not provide specific criteria to evaluate the adequacy of a buffer width, either in terms of the need to expand the buffer to greater than 50 (or 100) feet or to lessen the width to less than the specified width. While the proposed LUP amendment would provide for reducing buffers only when it could be “determined that a reduced width buffer would not result in adverse impacts to wetlands, based in part, on consultation with the California Department of Fish and Game, there are no specifics as to what factors are to be weighed in ascertaining the adequacy of any given proposed reduced width buffer.

Suggested Modification No. 7 makes several sets of changes to the City’s proposed ESHA buffer policies, most notably establishing the requirement that a default 100-foot-wide buffer be initially applied around the periphery of all environmentally sensitive areas potentially affected by development, whether wetlands or otherwise. Suggested Modification No. 7 also contains provisions for reducing or expanding the width of the prescribed default 100-foot buffer width based on biological habitat and geophysical assessments taking into account: (1) the biological significance of adjacent lands; (2) the sensitivity of affected species to disturbance; (3) the susceptibility of the development site parcel(s) to erosion; (4) whether natural topographic features can be used to locate the development relative to the environmentally sensitive area(s); (5) whether there are existing cultural features to co-terminally locate buffer zones; (6) the lot configuration and location of existing development; and (7) the type and scale of development proposed.

As proposed, the submittal of biological reports is addressed very generally under Policy 6.D.11 (tentatively renumbered Policy 6.B.5.) in the LUP. The preparation and submittal of biological reports with applications for development located within or adjacent to ESHA is essential for informing development decisions to ensure the protection of ESHA consistent with the requirements of Coastal Act 30240. Therefore, as discussed further under Suggested Modification No. 24, a series of new coastal development permit application and review chapters are suggested to be added to the IP, one of which, Chapter 17.84C, contains a detailed list of required contents for biological reports.

Consolidating Thematic Policies: Lastly, Suggested Modification No. 7 includes the relocation, reiteration, or reclassification of numerous policies originally proposed in the *Natural Resources / Conservation* section either to other sections of the LUP more in keeping with their central theme, such as moving an erosion control policy to the water quality sub-section from under the “soils resources,” or policies with no direct bearing on the issuance to coastal development permits to the “Other Initiatives” heading. In addition, several policies have been revised to include more specific ESHA protection language more generally applicable to the City’s coastal zone consistent with the Coastal Act, and in keeping with the goal of developing a stand-alone coastal land use plan document.

Therefore, for all the reasons discussed above, the Commission finds that the proposed LUP amendment is inconsistent with Coastal Act Sections 30230, 30231, 30233, 30236, and 30240 in regards to proposed ESHA protection policies, and must be denied. However, if modified as suggested the LUP would be consistent with this suite of general and specific ESHA policies.

D. Natural and Man-made Hazards

1. Relevant Coastal Act Chapter 3 Provisions

Section 30253 Minimization of adverse impacts

New development shall do all of the following:

- (a) *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (b) *Assure 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 construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*
- (c) *Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development.*
- (d) *Minimize energy consumption and vehicle miles traveled.*
- (e) *Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.*

Section 30232 Oil and hazardous substance spills

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

Section 30250 Location; existing developed area ...

(b) Where feasible, new hazardous industrial development shall be located away from existing developed areas.

2. Synopsis of Currently-Certified Hazards LUP Provisions

The *Diking, Dredging, Filling, and Shoreline Structures* and *Industrial Development and Energy Facilities* chapters of the currently-certified LUP set forth policies and standards for the avoidance of, and minimization of exposure to risks from, a variety of natural hazards (see “Currently-Certified Policies” of Table One, Column 1 of Exhibit No. 6). Although the emphases of these chapters are primarily to identify instances where development may occur in wetlands and along shorelines, and to address industrial land use within the City, these LUP sections also establish guidance for the City’s development regulatory program with respect to identifying measures for the protection of persons and property from risks associated with exposure to geologically instability, flooding, or fire hazards, hazardous materials releases and contamination, and dangerous industrial activities, consistent with Sections 30253, 30232, and 30250(b) of the Coastal Act.

3. Summary of Proposed Amendments

The *Health and Safety* element of the City’s proposed updated LUP addresses hazards including seismic, geologic, flooding, tsunami, and wildfire hazards. Policy areas of particular concern are those involving evaluating and locating development in areas of geologic hazard, establishing adequate bluff development setback requirements, establishing limitations on the construction of shoreline protection structures, and minimizing development in floodplain and tsunami run-up areas.

4. Summary of, and Rationale for, Suggested Modifications to Proposed Updated Hazards Policies

Suggested Modification No. 8 includes all changes to the proposed *Health and Safety* section as shown in the *Health and Safety* portion of Exhibit No. 1. Suggested modifications to the *Health and Safety* element of the updated LUP primarily entail:

- Adding the specific provisions of Coastal Act Section 30253.
- Clarifying proposed policy language consistent with Coastal Act Sections 30235 and 30253.
- Adding policies requiring that all blufftop and shoreline proximate development be sited and designed to: (1) avoid the need for a shoreline protective structure during the life of the development; (2) address relative exposure and include mitigation measures to reduce risks of property damage and loss of life from tsunami inundation, particularly as relate to permanent residential development; and (3) stipulating that the effects of projected rises in global sea level be considered in the preparation of geotechnical and engineering analyses and the related identification of site and design recommendations, and mitigation measures.
- Clarifying limitations on development allowable on bluff faces and within bluff retreat setbacks.
- Clarifying requirements for geologic studies for development located in or near areas subject to geologic hazards.
- Adding standards for siting and the design of certain classes of development in areas subject to tsunami impacts.

The proposed LUP addresses the review of development relative to geologic hazards in very general terms and does not provide adequate standards or a sufficient level of detail to ensure consistency with the requirements of Coastal Act Sections 30235 and 30253. For example, proposed Policies 6.A.15., 7.C.1., and 7.C.7. set requirements for the preparation of geologic studies for certain classes of critical/high intensity development along bluff tops, in areas prone to coastal erosion hazards, and on previously filled areas, respectively. As required by Section 30253, new development must assure 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 construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The preparation of geologic reports is an essential requirement to inform the appropriate siting and design of development in or adjacent to geologic hazard areas to ensure consistency with these development standards.

Therefore, the changes included in Suggested Modification No. 8, in part, incorporate the development standards of Coastal Act Sections 30235 and 30253 and require in modified/new Policies 7.B.1. through 7.B.6. that applications for development located in or near areas subject to geologic hazard include a geologic/geotechnical study.

Furthermore, the LUP as proposed would utilize dated “zone of demonstration” protocols commonly used in the 1970s and 1980s, for determining when geologic stability analyses would be required in reviewing the siting of blufftop development, particular with respect to specific methodologies for how setbacks are to be established. Suggested Modification No. 4 includes the addition of new Policy 7.B.3. requiring that all development located on a blufftop be setback from the bluff edge a sufficient distance to ensure that it will be stable for a projected 100-year economic life (consistent with the 100-year economic life suggested for the City’s IP – see Suggested Modification No. 24). Suggested Modification No. 8 also includes the addition of Policy 7.B.4., requiring that the siting and design of blufftop development take into account anticipated future changes in sea level.

Suggested Modification No. 8 further expands the breadth of policy coverage to address limitations on development that would intensify the risks of exposure of persons and property in blufftop and shoreline settings. New Policy 7.B.6 stipulates that land divisions, including subdivisions, lot splits, lot line adjustments, and conditional certificates of compliance which create new shoreline or blufftop lots, may not be permitted unless the land division can be shown to create lots which can be developed safe from geologic hazards and would not require a current or future bluff or shoreline protection structure. Moreover, no new lots may be created that could require shoreline protection or bluff stabilization structures at any time, consistent with the standards of Sections 30235 and 30253.

Suggested Modification No. 8 includes additional policy and program language to establish more comprehensive limitations and standards on certain classes of development, primarily residential structures, subject to tsunami hazards and to require provisions for approval of tsunami response and evacuation plans, demonstration of the feasibility of timely evacuation to safe high ground, and specific building siting and design standards for permanent residences created through land

divisions, to ensure that development would minimize risks to life and property in areas of high tsunami hazard consistent with Coastal Act Section 30253.

Tsunami Inundation

In the past 60 years, from 1959 to 2009, the City of Crescent City has experienced three significant, damaging tsunamis — in 1960, 1964, and 2006. Eleven people were killed by the 1964 tsunami and there was significant property damage from all three events. When the next major earthquake on the Cascadia Subduction Zone occurs, a tsunami is likely to be generated and it is very likely that the area would experience a tsunami event similar to or larger than these recent historic events. Crescent City was one of the first communities in California to become a NOAA certified, TsunamiReady Community.

The Crescent City coastal planning area includes a number of oceanfront lots, either improved with or slated for residential development along its western shoreline. These as well as other river and lagoon shoreline areas, could be exposed to tsunami waves either from a locally generated tsunami or a far-field, nonlocally generated event. Despite the many public information, warning system, and emergency response coordination initiatives undertaken by the City toward securing “tsunami ready” status, the current LUP, initially certified in 1983 and last amended in 2009, only site-specific policies concerning this sub-category of geologic hazard have been adopted. Nor does the proposed updated LCP contain more than a passing reference to including the risks in geologic hazards assessments. These omissions are undoubtedly due in part to the fact that scientific reassessments of the maximum intensity of seismic events along the northern California coast and the potential height of tsunami waves did not begin to be released until the mid-1990s and were not widely distributed in public information campaigns until the last several years.

Most notable among this information are the evaluations of seismic and tsunami hazards that were prepared in the aftermath of the April 25-26, 1992 series of earthquakes that occurred in the Petrolia area of Humboldt City near Cape Mendocino. Of particular relevance is the National Oceanic and Atmospheric Administration’s (NOAA) 1994 release of its “Tsunami Inundation Model Study for Eureka and Crescent City, California” (NOAA Technical Memorandum ERL PMEL-103; Bernard, E.N., C. Mader, G. Curtis, and K. Satake (1994)) (see Exhibit No. 14). Although intended primarily for emergency evacuation purposes, the NOAA study’s wave runup data represent the most currently available information regarding tsunami inundation in the Crescent City area and provide a scientifically defensible zone of potential tsunami inundation for project planning purposes. In addition, the study currently serves as the basis for tsunami hazard area mapping and public educational materials subsequently developed and distributed by others for the Humboldt Bay and Crescent City areas.⁷

⁷ The Commission notes that other scenario-based model tsunami inundation research has been conducted for the Crescent City area since the 1994 NOAA study, notably *Tsunami Inundation at Crescent City, California Generated by Earthquakes Along the Cascadia Subduction Zone*, Uslu, B., J. C. Borrero, L. A. Dengler, and C. E. Synolakis (2007), *Geophysical Research Letters*, Volume 34, L20601 (see Exhibit No. 15). The paper presented the results modeled from modeling six different near-source earthquakes on the San Juan de Fuca and Gorda CSZ plates, with and without combined offsets on the Little Salmon thrust fault. Using the City tide gauge as a comparative benchmark, located within the harbor inundation levels of 6 to 7 meters (±20-23

Using historical wave propagation and coastal flooding data collected from a variety of tsunami events across the Northern Pacific Ocean basin, this study presents the areas of inundation that could result from various possible tsunami events. A near-source 8.4 moment-magnitude (Mw-8.4) seismic event on the Cascadia Subduction Zone region was determined to be a credible source for generating a 10 meter (33 feet), 33.3-minute period incident wave in 50-meter water depth. Based on modeling of the tsunami's onshore propagation, all land below four meters elevation would be flooded, with inundation levels in the harbor reaching six meters in some locations. The area of inundation could extend inland 1.3 kilometers, or approximately one mile from the harbor and ocean shorelines.

As cited above, Coastal Act Section 30253 requires that risks to life and property in areas of high geologic and flood hazards be minimized. In addition, new development must assure stability and structural integrity from geologic instability or destruction of the site and its surroundings and not contribute significantly to erosion, or in any way contribute to the need for protective devices that would substantially alter landforms. In their present wording LUP Chapter 2 – *Safety and Noise* do not detail flooding from tsunami inundation in its coverage of applicable risk types to be minimized. As noted above, Crescent City waterfront lies partially within mapped tsunami wave run up inundation areas. By accommodating future residential and commercial development that is currently allowed at certain sites under the currently certified LCP, the proposed amendment would facilitate development exposing greater numbers of people to flood hazard risks.

Protection of Permanent Residences

Over the last half-decade in the aftermath of catastrophic natural disasters around the world (e.g., Hurricane Katrina, Indonesian Tsunami, Cyclone Nargis, the recent tsunami in Samoa), large-scale displacements of persons and homelessness resulting from flooding, especially in low-lying coastal areas, have come to be recognized by governing bodies and international aid agencies alike as a form of socio-economic disruption on a scale with that of pandemics, famines, and warfare. Such disturbances can significantly destabilize the security and well-being of whole populations and regions. Of particular consequence is the loss of one's personal home and residence. Generally representing the primary and most significant financial investment for most persons, and often a substantial portion of their intended retirement income from the return realized from its accrued equity, the loss of a personal residence, as contrasted with other, less substantially valued real property, such as a second home or timeshare vacation unit, can have profound negative impacts on its owners' livelihood as well as the whole community in terms of added social service costs. In addition, such homelessness can have profound psychological

feet) above mean sea level were projected at locations along the City's western oceanfront. The results of this study as well as other model-based and observational inundation and run-up data from both near- and distant-source seismic events have been compiled collaboratively by the California Emergency Management Agency (CalEMA), the California Geological Survey (CGS) and the University of Southern California's Tsunami Research Center, onto a new set of tsunami hazard maps. These new maps were released in mid-2010. See CGC inundation maps website page: (http://www.consrv.ca.gov/cgs/geologic_hazards/Tsunami/Inundation_Maps/Pages/Index.aspx)

impacts on the resident-owners, in terms of an increased sense of physical vulnerability and social isolation which can hamper efforts to recover from their domestic crisis.

The proposed amendments to the LUP include no modifications to the LCP to address the recently acknowledged implications to public health and safety from the potentially extreme seismic and flooding hazards associated with the City's geologic setting, particularly with regard to exacerbating potential loss of primary domiciles.

To ensure that flood hazards associated with tsunami inundation are considered in the review of future development along shoreline areas under the LUP as amended in a manner consistent with Section 30253, the Commission includes within Suggested Modification No. 8 modified Policy 7.B.10. (renumbered as 7.C.2.) and new Policies 7.C.1., 7.C.3., and 7.C.4., which require: (1) the utilization of tsunami inundation mapping, as may be developed from time to time; (2) setting the floor elevation of all new permanent residences created through land divisions to design their floor heights to be one foot above predicted runup depths; (3) designing such permanent residential structural to have resilient designs to withstand wave-strike by tsunamis; and (4) the approval of tsunami safety and evacuation plans in the approval of new development within historic or mapped inundation areas.

Thus, as submitted, the LUP amendment would fail to protect life and property from the risk of flooding from tsunami wave run up in a manner inconsistent with the Coastal Act policies concerning geologic and flooding hazards and must be denied. The Commission finds, however, that if modified by Suggested Modification No. 8 to: (a) clarify that risks to both geologic and flooding hazards are to be minimized; (b) establish design standards affording protection to permanent residential units from tsunami inundation; and (c) require new development involving human-occupied structures in tsunami hazard areas to prepare and distribute or otherwise post constructive notice of risks of tsunamis and information relating to evacuation to safe ground, the LUP amendment would be consistent with Section 30253 of the Coastal Act in that risks to life and property in areas of high geologic and flooding hazard would be minimized and new development would not create or contribute to geologic-related instability or destruction in the coastal zone portions of the City.

Sea Level Rise

Sea level rise is an important consideration for the planning and design of projects in coastal settings. Such changes in sea level will exacerbate the frequency and intensity of wave energy received at shoreline sites, including both storm surge and tsunamis, resulting in accelerated coastal erosion and flooding in such locales. There are many useful records of historic sea level change, but little certainty about how these trends will change with possible large increases in atmospheric greenhouse gas emissions and air temperatures. Notwithstanding the controversy and uncertainties about future global or local sea levels, guidance on how to address sea level rise in planning and permitting process is evolving as new information on climate change and related oceanic responses become available.

The Commission, like many other permitting agencies, has undertaken past assessments of sea level rise effects using the principal of "uniformitarianism" as guidance — that natural processes such as erosion, deposition, and sea level changes occur at relatively uniform rates over time

rather than in episodic or sudden catastrophic events. As a result, future ocean surface elevations have been extrapolated from current levels using historical rates of sea level rise measured over the last century. For much of the California coast, this equates to a rate of about eight inches per 100 years. Rates of up to one foot per century have typically been used to account for regional variation and to provide for some degree of uncertainty in the form of a safety factor. This rate of rise is then further adjusted upward or downward as needed depending upon other factors, such as localized subsidence or tectonic uplift. In the review of past development projects on Del Norte City coastline areas in the Crescent City area, the roughly 2.6 millimeters-per-year (mm/yr) rate of localized tectonic lift has been found to be exceeding that of projected sea level rise by approximately - 0.21 feet/century (-0.65 +/- 0.36 mm/yr), for the tide record spanning 1933 to 2006, resulting in a relative drop in local sea level.

Most climate models now project that the historic trends for sea level rise, or even a 50% increase over historic trends, will be at the very low end of possible future sea level rise by 2100. Satellite observations of global sea level have shown sea level changes since 1993 to be almost twice as large as the changes observed by tide gauge records over the past century. Recent observations from the polar regions show rapid loss of some large ice sheets and increases in the discharge of glacial melt. The 2007 Fourth Assessment Report by the Intergovernmental Panel on Climate Change (IPCC)⁸ notes that sea level could rise by 7 to 23 inches from 1990 to 2100, provided there is no accelerated loss of ice from Greenland and West Antarctica. Sea level rise could be even higher if there is a rapid loss of ice in these two key regions.

The IPCC's findings were based on a 2007 report prepared by Dr. Stefan Rahmstorf of the Potsdam Institute for Climate Impact Research (hereinafter "Rahmstorf Report"). This report has become the central reference point for much of recent sea level rise planning. The Rahmstorf Report projects that by 2100, sea level could be between 20 to 55 inches higher than 1990 levels. The Rahmstorf Report developed a quasi-empirical relationship between historic temperature and sea level change. Using the temperature changes projected for the various IPCC scenarios, and assuming that the historic relationship between temperature and sea level would continue into the future, he projected that by 2100 sea level could be between 20 inches and 55 inches (0.5 to 1.4 meters) higher than the 1990 levels (for a rate of 0.18 to 0.5 inches/year). These projections for future sea level rise anticipate that the increase in sea level from 1990 to 2050 will be from about 8 inches to 17 inches (for a rate of 0.13 to 0.28 inches/year); from 1990 to 2075, the increase in sea level would be from about 13 inches to 31 inches (for a rate of 0.15 to 0.36 inches/year) and that the most rapid change in sea level will occur toward the end of the 21st century. Most recent sea level rise projections show the same trend as the projections by Rahmstorf — that as the time period increases the rate of rise increases and that the second half of the 21st century can be expected to have a more rapid rise in sea level than the first half.

⁸ The IPCC is a scientific intergovernmental body established by the World Meteorological Organization (WMO) and the United Nations Environmental Programme to provide the decisionmakers and others interested in climate change with an objective source of information about climate change; <http://www.ipcc.ch/ipccreports/assessments-reports.htm> 5 Independent Science Board, 2007. Sea Level Rise and Delta Planning, Letter Report from Jeffrey Mount to Michael Healey, September 6, 2007, CALFED Bay-Delta Program: http://deltavision.ca.gov/BlueRibbonTaskForce/Sept2007/Handouts/Item_9.pdf

Several recent studies have projected future sea level to rise as much as 4.6 feet from 1990 to 2100. For example, in California, the Independent Science Board (ISB) for the Delta Vision Plan has used the Rahmstorf Report projections in recommending that for projects in the San Francisco Delta, a rise of 0.8 to 1.3 feet by 2050 and 1.7 to 4.6 feet by 2100 be used for planning purposes. This report also recommends that major projects use the higher values to be conservative, and that some projects might even consider sea level projections beyond the year 2100 time period. The ISB also recommends “developing a system that can not only withstand a design sea level rise, but also minimizes damages and loss of life for low-probability events or unforeseen circumstances that exceed design standards. Finally the board recommends the specific incorporation of the potential for higher-than-expected sea level rise rates into long term infrastructure planning and design.”

The Rahmstorf Report was also used in the California Climate Action Team's Climate Change Scenarios for estimating the likely changes range for sea level rise by 2100. Another recent draft report, prepared by Philip Williams and Associates and the Pacific Institute for the Ocean Protection Council, the California Energy Commission's Public Interest Energy Research (PIER) Climate Change Research Program, and other agencies also identifies impacts from rising sea level, especially as relate to areas vulnerable to future coastal erosion and flooding. This report used the Rahmstorf Report as the basis to examine the flooding consequences of both a 40-inch and a 55-inch centurial rise in sea level, and the erosion consequences of a 55-inch rise in sea level.

On November 14, 2008, Governor Schwarzenegger issued Executive Order S-13-08, directing various state agencies to undertake various studies and assessments toward developing strategies and promulgating development review guidelines for addressing the effects of sea level rise and other climate change impacts along the California coastline.⁹ Consistent with the executive order, the governing board of the Coastal Conservancy adopted interim sea level rise rates: (a) 16 inches (40 cm) by 2050; and (b) 55 inches (140 cm) by 2100 for use in reviewing the vulnerability of projects it funds. These rates are based on the PEIR climate scenarios. If adopted, these criteria would be utilized until the study being conducted by the National Academy of Sciences regarding sea level rise, requested by a consortium of state resource and coastal management agencies pursuant to the executive order, is completed.

Concurrently, in the Netherlands, where flooding and rising sea level have been national concerns for many years, the Dutch Cabinet-appointed Deltacommissie has recommended that all flood protection projects consider a regional sea level rise (including local subsidence) of 2.1 to 4.2 ft by 2100 and of 6.6 to 13 ft. by 2200. Again, the Rahmstorf Report was used by the Delta Committee as a basis in developing their findings and recommendations. Given the general convergence of agreement over the observed and measured geodetic changes world wide in ocean elevations over the last several decades, most of the scientific community has ceased debating the question of whether sea level will rise several feet higher than it is today, but is instead only questioning the time period over which this rise will occur. However, as the conditions causing sea level rise continue to change rapidly, prognostications of sea level rise are similarly in flux. As a result of this dynamism, anticipated amounts and rates of sea level rise

⁹ Office of the Governor of the State of California, 2008. Executive Order S-13-08; <http://gov.ca.gov/index.php?/print-version/executive-order/11036/>

used in project reviews today may be either lower or higher than those that will be utilized ten years from now. This degree of uncertainty will continue until sufficient feedback data inputs are obtained to allow for a clear trend to be discerned from what is now only a complex and highly variable set of model outputs. Accordingly, in the interest of moving forward from the debate over specific rates and amounts of rise to a point where the effects of sea level rise greater than those previously assumed in the past may be considered, one approach is to undertake a sensitivity analysis on the development project and site to ascertain the point when significant changes to project stability would result based on a series of sea level rise rates. The analysis would be structured to use a variety of sea level rise projections, ranging from the relatively gradual rates of rise indicated by the IPCC and Rahmstorf models, to scenarios involving far more rapid rates of sea level rise based upon accelerated glacial and polar sea and shelf inputs.

For example, for the most typical development projects along the coast (i.e., residential or commercial), consideration of a two to three foot rise in level rise over 100 years could be assumed to represent the minimum rate of change for design purposes. However, in the interest of investigating adaptive, flexible design options, sensitivity testing should also include assessing the consequences of sea level rise at three to five times greater rates, namely five to six feet per century, and even 10 to 20 feet per 100 years. The purpose of this exercise is to determine, if there is some “tipping point” at which a given design would rapidly become less stable, and to evaluate what would be the consequences of crossing such a threshold. This type of analysis would make the property owner aware of the limitations, if any, of the initial project design early in the planning process. Depending upon the design life of the development, the economic and technical feasibility of incorporating more protective features, and levels of risk acceptance, the project proponent could propose, or the permitting agency may require, that greater flexibility be provided in the design and siting of the development, or other mitigation be identified, to accommodate the higher rates of sea level rise.

The sensitivity analysis approach would allow accelerated rates of sea level rise to be considered in the analysis of projects. Such evaluations provide some flexibility with regard to the uncertainty concerning sea level rise, providing an approach to analyze project in the face of uncertainty that would not involve the imposition of mandatory design standards based upon future sea level elevations that may not actually be realized. Given the nonobligatory and adaptive nature of this approach to hazards avoidance and minimization, as necessitated by such scientific uncertainty, it will remain important to include new information on sea level trends and climate change as iterative data is developed and vetted by the scientific community. Accordingly, any adopted design or siting standards that may be applied to development projects should be re-examined periodically to ensure the standard is consistent with current estimates in the literature before being reapplied to a subsequent project.

Regardless of its particular rate, over time elevated sea level will have a significant influence on the frequency and intensity of coastal flooding and erosion. Accordingly, rising sea level needs to be considered to assure that full consistency with Section 30253 can be attained in the review and approval of new development in shoreline areas.

The LUP as proposed to be amended contains no provisions for the consideration of sea level rise in the review of new development at shoreline proximate localities where instability and

exposure to flooding risks could be intensified at higher ocean surface elevations. Without such provisions, the LUP as proposed for amendment would be inconsistent with the policies of Chapter 3 of the Coastal Act, specifically Section 30253 and must be denied. The Commission thus includes within Suggested Modification No. 8, new policy 7.A.3. to ensure that, to the greatest degree feasible given current scientific uncertainties relating to the variable projected rates of sea level rise, new projects in the City's coastal zone area will minimize risks to life and property in areas of high geologic and flooding hazard and not create or contribute to geologic-related instability or destruction by requiring that the effects of sea level rise be quantitatively considered in geologic and other engineering technical evaluations of new development.

If modified as suggested above, the proposed amendment could be found consistent with Coastal Act policies concerning the avoidance and minimization of geologic and flooding hazards.

The Commission finds that as modified, the proposed LUP is consistent with Coastal Act Section 30253.

E. In-water, Shoreline, and Wetlands Development

1. Relevant Coastal Act Chapter 3 Provisions

Section 30233 Diking, filling or dredging; continued movement of sediment and nutrients

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

- (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
- (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
- (3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*
- (4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
- (5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
- (6) Restoration purposes.*
- (7) Nature study, aquaculture, or similar resource dependent activities.*

(b) *Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.*

(c) *In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study... if otherwise in accordance with this division...*

(d) *Erosion control and flood control facilities constructed on water courses can impede the movement of sediment and nutrients which would otherwise be carried by storm runoff into coastal waters. To facilitate the continued delivery of these sediments to the littoral zone, whenever feasible, the material removed from these facilities may be placed at appropriate points on the shoreline in accordance with other applicable provisions of this division, where feasible mitigation measures have been provided to minimize adverse environmental effects. Aspects that shall be considered before issuing a coastal development permit for such purposes are the method of placement, time of year of placement, and sensitivity of the placement area.*

Section 30235 Construction altering natural shoreline

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

Section 30236 Water supply and flood control

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

2. **Synopsis of Currently-Certified In-water, Shoreline, and Wetland Development LUP Provisions**

The *Diking, Dredging, Filling, and Shoreline Structures* chapter of the currently-certified LUP contains policies and standards for authorizing certain provisional developments in coastal waters, along shorelines, and within wetlands (see “Currently-Certified Policies” of Table One, Column 1 of Exhibit No. 6). The emphasis of this chapter is to establish guidance for the City’s development of a regulatory program with respect to providing for certain classes of crucially necessary and/or highly desirable development within environmentally sensitive or coastal localities while identifying measures for the protection of coastal resources therein consistent with Sections 30233, 30235, and 30236 of the Coastal Act. These provisions enumerate specific development types or situations where such uses or structures may be permitted within wetlands and specify design and siting requirements, including but not limited to, demonstration of no less environmentally damaging feasible alternative for wetlands development and the inclusion of all feasible or best mitigation measures.

3. Summary of Proposed Amendments

The portions of the proposed updated LUP addressing conditional development in aquatic-dominant environments primarily: (1) convert currently certified LUP prefacing discussions into firm policies; (2) add specific provisions identifying certain highly productive ESHAs where supplemental review of development is to be undertaken; and (3) enumerate specific mitigation priorities.

4. Summary of, and Rationale for, Suggested Modifications to Proposed Updated In-water, Shoreline, and Wetland Development Policies

Notwithstanding the clarifications and supplemental coverage being added as part of the LUP update, the proposed list of specific uses for which development in wetlands, estuaries, open coastal waters, and in rivers, lakes, and streams may be authorized omitted certain details necessary for consistency with Section 30233 of the Coastal Act. In addition, several proposed policies contain wording which is inconsistent with Coastal Act Sections 30233, 30235, or 30236 and must be revised or struck. As shown in Exhibit 10, these suggested modifications:

- List out the seven classes of uses involving the filling, dredging, or diking of coastal waters, wetlands, estuaries, and lakes which may be authorized pursuant to Section 30233 and the three classes of uses for which channelization, damming, or other substantial alterations of rivers and streams may be undertaken pursuant to Section 30236.
- Clarify the expressly permissible developments or uses allowed within different types of environmentally sensitive habitat areas.
- Limit the instances when shoreline protective devices may be authorized to those instances where such devices are necessary to protect existing structures and coastal dependent uses.
- Require the design and siting of new development in shoreline proximate localities in a manner that precludes the need for shoreline protective devices.

Thus, the Commission finds that, as submitted, the provisions within the updated LUP regarding permissible development or uses within coastal waters, wetlands, and estuaries, along shorelines, and within rivers, lakes, streams do not fully conform with the Coastal Act policies 30233, 30235, and 30236, and, unless appropriately revised as indicated in the portions of Suggested Modification Nos. 3, 7, and 8 addressing development in certain ESHAs and in areas exposed to coastal erosion and other hazards, must be denied. If modified as suggested, the Commission finds the subject updated provisions would be consistent with the Coastal Act policies regarding conditional in-water, shoreline, and wetland development.

F. Location of New Development

1. Relevant Coastal Act Chapter 3 Provisions

Section 30250 Location; existing developed area

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

(b) Where feasible, new hazardous industrial development shall be located away from existing developed areas.

(c) Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

Section 30252 Maintenance and enhancement of public access

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local

park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

2. Synopsis of Currently-Certified New Development LUP Provisions

The currently-certified LUP contains several policies and standards regulating new development with respect to: (a) siting development within areas with existing community services and public utility capacities; and (b) maximizing resource use efficiency by reducing vehicular transit dependency through establishing a compact development pattern, are located throughout the LUP's *Public Works*, and *Land Use* chapters. These provisions appear in such a dispersed pattern throughout the LUP because they are organized thematically around infrastructure development policies directed toward "growth and development," and "economic development" (see "Currently-Certified Policies" of Table One, Column 1 of Exhibit No. 6). The emphasis of the policies and standards is to establish guidance for the City's development regulatory program with respect to: (a) authorizing development only when adequate public service have been demonstrated so that service over-commitments do not occur; (b) setting limits on the timing of annexations; and (c) fostering a compact community form that emphasized automotive dependency, consistent with Sections 30250 and 30252 of the Coastal Act.

3. Summary of Proposed Amendments

The *Land Use and Community Development* and *Public Services and Facilities* sections of the proposed updated LUP address aspects of the conditional approval of new development and the related extension of public services, primarily in the context of the managing the location of the "urban services boundary," which represents the delimited geographic extent to which centralized public services, such as domestic water supply and wastewater treatment facilities, are provided to development sites. In addition, several of the provisions within the currently certified LUP are reiterated, addressing such subjects as reducing vehicle miles traveled through supporting compact, mixed-use development, and establishing priorities for the extension of services to serve highly desired development, such as harbor uses and visitor-serving facilities. It is noted that one of the proposed policies stipulates that development may only be approved only after the adequacy of services, including water, wastewater, and road infrastructural capacities, have been demonstrated.

4. Summary of, and Rationale for, Suggested Modifications to Proposed Updated New Development Policies

The suggested modifications to the updated and new *Growth and Development* policies (also suggested to be renamed to *Planned Growth and New Development*) are primarily required to ensure that certain key provisions of the Coastal Act are addressed in the LUP, especially the requirements of Section 30250 and 30252. These suggested modifications entail:

- Reiterating the requirements of Coastal Act Section 30250 as newly appended Policy 7.A.1.
- Restating the requirements of Coastal Act Section 30252 as newly appended Policy 7.A.9.

As presently proposed, the growth and development provisions within *Land Use and Community Development* and *Public Services and Facilities* sections of the updated LUP must be denied as the provisions would not be consistent with the applicable policies of Chapter 3 of the Coastal Act, insofar as the overarching provisions of Sections 30250 and 30252 would not be included. However, as modified by Suggested Modification Nos. 3 and 4 to insert new Policies 1.A.1. and 1.A.2., and to modify the proposed wording of Policy 1.D.4. (renumbered as Policy 1.B.8.) and other Section 1 and 3 provisions to include coverage of these Coastal Act directives, the proposed updated LUP would be consistent with the Location of New Development policies of the Coastal Act.

G. Coastal-Dependent and Other Priority Uses¹⁰

1. Relevant Coastal Act Chapter 3 Provisions

Section 30222.5 Oceanfront lands; aquaculture facilities; priority

Ocean front land that is suitable for coastal dependent aquaculture shall be protected for that use, and proposals for aquaculture facilities located on those sites shall be given priority, except over other coastal dependent developments or uses.

Section 30234 Commercial fishing and recreational boating facilities

Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.

Section 30234.5 Economic, commercial, and recreational importance of fishing

The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.

Section 30255 Priority of coastal-dependent developments

Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this

¹⁰ The findings of this sub-section relate to functionally coastal-dependent and coastal-related priority uses such as port and harbor and/or other shoreline situated industrial, commercial fishing, aquaculture, and energy production, processing, and receiving facilities. Refer to findings sub-section A, above, for a discussion of Coastal Act consistency for priority visitor-serving facilities proposed in the LUP update amendment.

division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

Section 30260 Location or expansion

Coastal-dependent industrial facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth where consistent with this division. However, where new or expanded coastal-dependent industrial facilities cannot feasibly be accommodated consistent with other policies of this division, they may nonetheless be permitted in accordance with this section and Sections 30261 and 30262 if (1) alternative locations are infeasible or more environmentally damaging; (2) to do otherwise would adversely affect the public welfare; and (3) adverse environmental effects are mitigated to the maximum extent feasible.

2. **Synopsis of Currently-Certified Coastal-Dependent/Priority LUP Provisions**

The *Industrial Development and Energy Facilities* and *Land Use and Community Development* chapters of the currently-certified LUP set forth policies and standards addressing certain classes of priority development recognized in the Coastal Act, including coastal-dependent and coastal-related commercial-industrial, aquaculture, commercial fishing, and harbor-related uses. In addition, reservation of sites for certain forms of heavy industrial and energy production, processing, and storage uses are identified (see “Currently-Certified Policies” of Table One, Column 1 of Exhibit No. 6). The chapter establishes policies with respect to the protection, reservation, and development of sites for uses which require location on, or adjacent to, the sea to be able to function at all, are related and dependent upon a coastal-dependent development or use, or are otherwise identified as highly-valued priority uses for siting at shoreline proximate localities, consistent with Section 30222.5, 30234, 30234.5, 30255, and 30260. It is noted that the currently-certified LUP and the proposed updated LCP contain only one policy relating to reservation, protection, or development of sites for oils and gas tanker facilities, refineries, bulk terminal storage, or energy production facilities addressed by Coastal Act Sections 30261 through 30264, as Crescent City has not historically been, or is not anticipated to become more than an incidental site for such uses.

3. **Summary of Proposed Amendments**

The *Land Use and Community Development* and *Public Services and Facilities* sections of the proposed updated LUP address the reservation, protection, and authorization of sites for development of a variety of coastal-dependent and coastal-related priority uses, primarily in the context of the provisions for land and water areas within the unincorporated portions of Crescent City Harbor. Chief among these proposals are significant changes to the Harbor Related land use plan category, wherein the diversity of permissible uses within such designated area would be significantly expanded to include numerous development types which would not necessarily be dependent upon a harbor dependent use as is currently restricted under the certified HR description. The proposed harbor-independent uses entail restaurants and cafes, marine curio

manufacture and sales, hotels and motels, visitor related services including retail sales shops, museums, residential uses as a secondary use at a density not to exceed 15 units per acre (including condominiums), recreational facilities, and recreational vehicle parks. In addition, several policies within the currently certified LUP are brought forward in revised form setting hierarchies between these various highly valued uses, and among other more generic uses, for the reservation and extension of limited-capacity public services, such that development of the more essential priority uses are not precluded (see “Proposed Amended Policies” of Table One, Column 2 of Exhibit No. 6).

4. Summary of, and Rationale for, Suggested Modifications to Proposed Updated Coastal-Dependent/Priority Policies

Notwithstanding the revised and new policies within the updated LUP that more fully articulate the priorities for coastal-dependent and coastal-related land uses and limits the allowable uses within the harbor land use designations, certain fundamental provisions of the Coastal Act relating to these priority uses are not addressed or understated in the LUP, especially with respect to the requirements of Sections 30255 and 30260. These suggested modifications entail:

- Reiteration of the requirements of Coastal Act Sections 30222.5, 30234, 30234.5, 30255, and 30260 as new Policies 1.K.1. through 1.K.6.
- Applying the requirements of Coastal Act Section 30260 within the revised wording of Policy 1.K.9. (renumbered as 1.D.8.), as relates to appropriate location of coastal dependent industrial and energy facilities.
- Including coastal dependent and coastal related modifiers to the list of recognized principal and conditional uses within the Harbor Dependent and Harbor Related land use designation descriptions, respectively.
- Striking several of the land uses proposed to be added to the Harbor Related land use category description which have no functional dependency upon harbor dependent uses.

With respect to the last set of suggested modifications, the currently certified LUP restricts uses in the Harbor Related (HR) land use designated areas to those, “Commercial and recreational activities that are dependent in some way upon a harbor location.” The currently certified Coastal Zone Harbor Related (CZ-HR) zoning district standards identify a very limited number of specific principal permitted uses such as “commercial fishing berths,” “fish processing plants,” and “boat building and repair,” with a list of potential conditionally permitted uses, ranked in descending priority as: (1) “energy facilities, provided that such facilities have proper protection devices to prevent crude oil, gas, petroleum or other hazardous substances from being spilled or from contaminating areas beyond the project site;” (2) “recreational facilities, including but not limited to, recreational vehicle parks and buildings necessary to that operation;” (3) “restaurants;” and (4) “museums, specifically those dealing with coastal activities.”

The proposed amended LCP would significantly expand the range of qualified permissible uses to include numerous other types of uses which would not be limited to those “dependent in some way on a harbor location,” but those which are ...”not dependent upon immediate access to the harbor but benefit from a harbor location.” Among the list of new, principally permitted uses

that could be developed under the amended designation are “marine curio manufacture and sales,” “hotels and motels,” and “visitor related services including retail sales shops.” Consideration could also be given for conditionally permitting several new uses, including “residential uses as a secondary use at a density not to exceed 15 units per acre (including condominiums),” “recreational facilities,” and “recreational vehicle parks.”

Coastal Act Section 30255 directs that, “Coastal-dependent developments shall have priority over other developments on or near the shoreline... When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.” In addition, Sections 32221, 30222.5, 30223, 30224, 30234, and 30234.5 identify numerous priority uses for which oceanfront and/or shoreline adjacent sites and adjoining nearby areas should be prioritized for development thereupon, including, public and private recreational uses and development, aquaculture, coastal recreational upland support uses, and recreational boating dry storage areas. Notably absent from this listing are tourist oriented products manufacturing and sales, short-term/overnight accommodations, and permanent residences.

Suggested Modification No. 3 would reassert the limitations on development in the Harbor Related land use and zoning designations to those primarily involving “coastal related” uses as defined by the Coastal Act, namely those uses which are “...dependent upon a (use which requires a site on, or adjacent to, the sea in order to be able to function at all).” Visitor-serving facilities, residential development, and general retail commercial uses would be struck from the lists of principally and conditionally permitted uses in the plan and zone category descriptions.

Although concerns have been raised that these suggested modifications would unduly restrict the development of non-harbor related uses on the affected lands in a manner that would prevent the City from effectively redeveloping its harbor area into a vibrant mix of uses, including those related to adjacent harbor dependent uses and other more visitor-serving and highway commercial oriented uses, no information has been developed as to what the future demand for harbor related sites may be assuming changed conditions in commercial fishing and marine shipping, particularly if those sectors experience a resurgence in activity, associated with recovered fisheries, reinvigorated maritime shipping activity, or new entrepreneurial harbor-based investment, such as boat-building and aquaculture. Therefore, as Coastal Act Section 30255 together with Sections 32221, 30222.5, 30223, 30224, 30234, and 30234.5 clearly direct that, given the subject area’s harbor-proximate location, development therein must be limited the types of uses which relate to and support adjoining harbor-dependent uses, and the proposed additional mix of residential and general commercial uses must be excluded until such time that specific economic development studies have been prepared to identify the amount of land needed to meet future project port activity levels and, if an excess land base is found to exist, the most desirable sites that should be retained for harbor related development.

Thus, as currently proposed, the policies within the updated LUP regarding priority coastal-dependent and coastal-related uses omit key provisions of the Coastal Act regarding these development types. As such, the LUP amendment is inconsistent with the Chapter 3 policies of the Coastal Act and must be denied. However, the Commission finds that with the changes to the wording of certain proposed policies within the *Land Use and Community Development* and

Public Services and Facilities sections of the updated LUP, as set forth in Suggested Modification Nos. 3 and 5, the amendments to the LUP regarding priority coastal-dependent and coastal-related uses can be found consistent with Sections 30222.5, 30234.5, and 30255.

H. Public Works Facilities and Services

1. Relevant Coastal Act Chapter 3 Provisions

Section 30114 Public works

“Public works” means the following:

(a) *All production, storage, transmission, and recovery facilities for water, sewerage, telephone, and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the Public Utilities Commission, except for energy facilities.*

(b) *All public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires, and other related facilities. For purposes of this division, neither the Ports of Hueneme, Long Beach, Los Angeles, nor San Diego Unified Port District nor any of the developments within these ports shall be considered public works.*

(c) *All publicly financed recreational facilities, all projects of the State Coastal Conservancy, and any development by a special district.*

(d) *All community college facilities.*

Section 30254 Public works facilities

New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division... Special districts shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with this division. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development.

Section 30254.5 Terms or conditions on sewage treatment plant development; prohibition

Notwithstanding any other provision of law, the commission may not impose any term or condition on the development of any sewage treatment plant which is applicable to any future development that the commission finds can be accommodated by that plant consistent with this division. Nothing in this section modifies the provisions and requirements of Sections 30254 and 30412.

Section 30412 State Water Resources Control Board & Regional Water Quality Control Boards

(a) *In addition to Section 13142.5 of the Water Code, this section shall apply to the commission and the State Water Resources Control Board and the California regional water quality control boards.*

(b) *The State Water Resources Control Board and the California regional water quality control boards are the state agencies with primary responsibility for the coordination and control of water quality. The State Water Resources Control Board has primary responsibility for the administration of water rights pursuant to applicable law. The commission shall assure that proposed development and local coastal programs shall not frustrate this section. The commission shall not, except as provided in subdivision (c), modify, adopt conditions, or take any action in conflict with any determination by the State Water Resources Control Board or any California regional water quality control board in matters relating to water quality or the administration of water rights.*

Except as provided in this section, nothing herein shall be interpreted in any way either as prohibiting or limiting the commission, local government, or port governing body from exercising the regulatory controls over development pursuant to this division in a manner necessary to carry out this division.

(c) *Any development within the coastal zone or outside the coastal zone which provides service to any area within the coastal zone that constitutes a treatment work shall be reviewed by the commission and any permit it issues, if any, shall be determinative only with respect to the following aspects of the development:*

(1) *The siting and visual appearance of treatment works within the coastal zone.*

(2) *The geographic limits of service areas within the coastal zone which are to be served by particular treatment works and the timing of the use of capacity of treatment works for those service areas to allow for phasing of development and use of facilities consistent with this division.*

(3) *Development projections which determine the sizing of treatment works for providing service within the coastal zone.*

The commission shall make these determinations in accordance with the policies of this division and shall make its final determination on a permit application for a treatment work prior to the final approval by the State Water Resources Control Board for the funding of such treatment works. Except as specifically provided in this subdivision, the decisions of the State Water Resources Control Board relative to the construction of treatment works shall be final and binding upon the commission.

(d) The commission shall provide or require reservations of sites for the construction of treatment works and points of discharge within the coastal zone adequate for the protection of coastal resources consistent with the provisions of this division.

(e) Nothing in this section shall require the State Water Resources Control Board to fund or certify for funding, any specific treatment works within the coastal zone or to prohibit the State Water Resources Control Board or any California regional water quality control board from requiring a higher degree of treatment at any existing treatment works.

2. Synopsis of Currently-Certified Public Works Facilities and Services LUP Provisions

The *Public Works* chapter of the currently-certified LUP sets forth policies and standards for timely and appropriate extension, provision, and planned capacities of community services and utilities, including domestic water supply and wastewater treatment infrastructure (see “Currently-Certified Policies” of Table One, Column 1 of Exhibit No. 6). The emphasis of these provisions is to establish guidance for the City’s development regulatory program to safeguard coastal resources from inappropriate patterns or intensities of growth facilitated or induced by unplanned for and/or uncoordinated expansion of public works facilities, consistent with Section 30254, 30254.5, and 30412.

3. Summary of Proposed Amendments

As previously discussed in part in the interrelated findings for the certification of, and suggested modifications to, the proposed *Location of New Development* policies in sub-section F, above, the *Public Services and Facilities* and *Transportation and Circulation* sections of the updated LUP set forth numerous policies addressing the reservation for, and the extension and provision of, public services, including water supply, wastewater treatment, and road infrastructure, to support new development in specified locations. These LUP sections also contain policies directed more at the public works facilities and infrastructure themselves, particularly as relates to limitations on such public works to capacities needed to serve anticipated planned-for growth such that growth inducement does not result from prematurely “over-building” the facilities.

4. Summary of, and Rationale for, Suggested Modifications to Proposed Updated Public Works Facilities and Services Policies

Although the updated LUP addresses the need to conserve and limit extensions of public services and development of related infrastructure in cases of limited capacity or to areas beyond established service boundaries, the policies are largely silent with respect to the requirements of the Coastal Act to actively limit the capacity of public works facilities to that needed only to serve foreseeable planned development and the specific preemptions regarding certain forms of regulation of publicly owned wastewater treatment works, as set forth in Sections 30254, 30254.5, and 30412. To address these omissions, the Commission attaches the following suggested modifications:

- Appending a new Policy 4.A.1., addressing limitations on the capacities of regulated public utility facilities to serve development or uses planned for and permitted consistent with the provisions of the Coastal Land Use Plan.
- Appending a new Policy 4.B.1., addressing limitations on the capacities of water supply and delivery public works facilities to serve development or uses planned for and permitted consistent with the provisions of the Coastal Land Use Plan.
- Appending a new Policy 4.C.1., addressing limitations on the capacities of wastewater collection, treatment, and disposal public works facilities to serve development or uses planned for and permitted consistent with the provisions of the Coastal Land Use Plan.
- Appending a new Policy 4.D.1., addressing limitations on the capacities of stormwater and drainage collection, treatment, and conveyance public works facilities to serve development or uses planned for and permitted consistent with the provisions of the Coastal Land Use Plan.

As currently proposed, the policies within the updated LUP regarding public works services and facilities omit key provisions of the Coastal Act regarding these infrastructural types. As such, the LUP amendment is inconsistent with the Chapter 3 policies of the Coastal Act and must be denied. However, the Commission finds that with the changes to the wording of certain proposed policies within the *Public Services and Facilities* sections of the updated LUP, as set forth in Suggested Modification Nos. 8 and 9, the amendments to the LUP regarding public works facilities and services can be found consistent with Sections 30254, 30254.5, and 30412.

I. Visual Resources

1. Relevant Coastal Act Chapter 3 Provisions

Section 30251 Scenic and visual qualities

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

2. Synopsis of Currently-Certified Visual Resources LUP Provisions

The *Recreational and Cultural Resources* chapter of the currently-certified LUP contains policies and standards for assuring that coastal visual resources are considered and protected in the authorization of new development (see “Currently-Certified Policies” of Table One, Column

1 of Exhibit No. 6). The emphasis of this chapter is to establish guidance for the City's development regulatory program with respect to reviewing development as to its potential to obstruct views to and along the ocean and scenic areas, minimize landform alteration, and ensure visual compatibility with the character of the surrounding area, consistent with Section 30251 of the Coastal Act.

3. Summary of Proposed Amendments

The *Coastal Visual Resources* sub-section of the proposed updated LUP's *Recreational and Cultural Resources* chapter addresses the protection of visual resources in the review of development. All four of the policies within the currently certified LUP are brought forward either verbatim or in revised form setting requirements for ensuring that visual resources are protected by siting and designing new development to avoid obstruction of views to and along the coast and scenic areas, significant alterations of landforms, or improvements disharmonious with the surrounding visual character (see "Proposed Amended Policies" of Table One, Column 2 of Exhibit No. 6). In addition, several new policies are proposed addressing restrictions on exterior lighting or outdoor advertising and signage aimed toward avoiding potential direct and cumulative impacts these improvements could have on visual resources in terms of light and glare, view obstruction, and area visual character.

4. Summary of, and Rationale for, Suggested Modifications to Proposed Updated Visual Resources Policies

As currently proposed, the policies within the *Recreational and Cultural Resources* section of the updated LUP, while setting detailed measures regarding the protection of visual resources, omit inclusion of some of the basic provisions within Coastal Act Section 30251, particularly as regards the mandate that visual resources be considered in the review and approval of new development. As such, since only an indirect inference can be drawn to such a requirement from the retained, revised and newly proposed policies, the LUP amendment is inconsistent with the Chapter 3 policies of the Coastal Act and must be denied. However, the Commission finds that with certain revisions to the wording of the revised and new policies as set forth in Suggested Modification No. 6, the amendments to the LUP regarding the protection of visual resources can be found consistent with Section 30251.

SM-9. Appendix 1: Policy Document Glossary

a. Synopsis of Currently-Certified Definitions

The currently-certified LUP contains no overall definitions chapter or appendix. However, certain definitions for selected terminology used in the LUP appear within the prefacing sections of each chapter.

b. Summary of Proposed Amendments

The proposed *Policy Document Glossary* appendix explains the meanings of the vocabulary of the LUP with the intent of facilitating its comprehension. Several of these terms are familiar in

common usage, but have statutorily based, specific meanings which, within the context of determining the breadth and applicability of the LUP's policies and standards, warrant precise parsing. Other terms are technical in nature, for which their explanation is helpful to lay readers.

c. Summary of Suggested Modification No. 10: (Definitions)

Suggested Modification No. 9 proposes that several new terms be included in the definitions appendix. The inclusion of these additional definitions is being recommended to:

- Assure that the usage of certain statutorily defined Coastal Act terms are consistently defined in the LUP (i.e., "environmentally sensitive habitat area," "wetland").
- Introduce heretofore undefined new terminology relating to new policy initiatives (i.e., "maximum extent practicable").

d. Discussion of Bases for Suggested Modifications

The *Policy Document Glossary* appendix to the LUP either omits, understates, or paraphrases certain key terms which, if applied as written in the interpretation and administration of the LUP's policies and standards, could result in actions being taken by the City inconsistent with the requirements of the Coastal Act regarding the protection of environmentally sensitive habitat areas, wetlands, water quality, and its programmatic requirements regarding the permitting of coastal development. Thus, to ensure that the policies of the LUP are applied consistent with Coastal Act Sections 30230, 30231, 30233, 30240, and the development controls provisions of Chapter 7, the Commission recommends the appending of several new terms within the Definitions appendix as set forth in Suggested Modification No. 9.

SM-10: LUP Maps

a. Synopsis of Currently-Certified LUP Maps

The City of Crescent City's land use plan diagram consists of a large format 1:6,000 "Land Use" map indicating the general location and extent of the various land use designations, together with a delineation of the coastal zone and City's municipal boundaries. The spatial arrangement of these land use designations and the service boundary were reviewed for consistency with the text policies of the LUP and the Coastal Act and initially certified in 1983. As shown on Table IV-1, the land use plan maps have only been amended four times, in 1988 (Messel/Shah), 1990 (Hartwick/Peterson), 2000 (*Redwood Oceanfront Resort*) and in 2009 (*Coasta Norte*).

b. Summary of Proposed Map Amendments

The City proposes to replace the current LUP mapping with a land use map of 1:12,000 scale (see Exhibit No. 14). In addition, the City indicates that for day-to-day administration of its planning and zoning programs, scalable Geographic Information Systems (GIS) based mapping will be utilized in the preparation of graphic exhibits for public notices, staff reports, and public presentations.

The City is also proposing to change the land use designations over much of the area within the coastal zone. Many of these designation amendments are related to the changes in the land use category names (e.g., “Residential” becoming “Single Family”), while others are more extensive in their scope. Issues associated with those properties being redesignated in name only are addressed in the suggested revisions to the recognized permissible uses and development standards to the LUP’s *Land Use and Community Development* section, Suggested Modification No. 3. The land use changes raising site-specific substantial issues of Coastal Act conformance can generally be described as located in six areas by dominant land use character: (1) Pebble Beach Drive Beach Residential; (2) Oceanfront Commercial; (3) Battery Point Recreational; (4) Beach Front Park / Mouth of Elk Creek Parklands; (5) Inner Harbor; and (6) “Little Mo-Peepe” ADCs Former McNamara-Peepe Mill Site and Log Pond General Commercial (see Exhibit No. 3).

Pebble Beach Drive Beach Residential

The Pebble Beach Drive Beach Residential land use redesignation involves one parcel, APN 118-020-06, a roughly 1/3-acre parcel situated along the western side of Pebble Beach Drive between West Seventh and Eight Streets in the vicinity of the Brother Jonathon Memorial (see Exhibit No. 3, page 2). This lot, comprised primarily of steep, vegetated bluff face situated between the intertidal reach and small, narrow, flat areas adjoining the street frontage, is proposed to be reclassified from Open Space to Residential 2-6 Dwelling Units per Acre (SF 2-6). Although not discussed within the City’s LCP amendment submittal, the land use reclassification is apparently being undertaken to resolve an inconsistency with the site’s zoning designation, Coastal Zone Single Family (CZ-SF).

Oceanfront Commercial

The Oceanfront Commercial land use redesignation involves numerous changes to the area along the City’s open ocean shoreline on A Street between West Third and the base of the B Street Pier (see Exhibit No. 3, page 3). These modifications entail:

- Changing the currently certified “Multiple Family” designation on the 1¼-acre *Coastal Norte Condominiums* (APN 118-020-34) site to “Visitor Local Commercial (CZVLC)”
- Changing the currently certified “Commercial” designation on the 1¾-acre *Redwood Oceanfront Resort* (Hampton Inns) site (APN 118-020-35) to “Visitor Local Commercial (CZVLC)”
- Changing the currently certified “Medical Related” designation over the seven-parcel, 1.85-acre area between A and B Streets from Front Street south to the northern half block of Battery Street (APNs 118-030-09 and -22 through -27) to “Visitor Local Commercial (CZVLC)”
- Changing the currently certified “Public Facility” designation over the five parcels between B, C, and Battery Streets west of Beach Front Park (APNs 118-030-12 through -16) to “Visitor Local Commercial (CZVLC)”

Battery Point Recreational

The Battery Point Park Recreational area land use redesignations (see Exhibit No. 3, page 4) entail:

- Changing the currently certified “Harbor Related” and “Open Space” designations over the southern half block of Battery Street between B and C Streets occupied by the Crescent City Regional Wastewater Treatment Plant (portion APN 118-030-11) to “Public facility (CZPF)”
- Changing the currently certified “Harbor Related” designation over the western side of B Street adjoining the Battery Point Lighthouse parking lot (portion APN 118-030-11) to “Open Space (CZOS)”
- Changing the currently certified “Open Space” designation over the area south of the northerly bend in Howe Drive to “Harbor Related (CZHR)”
- Changing the currently certified “Harbor Related” designation over intertidal waters between the outer harbor breakwater and the B Street Pier to “Open Space (CZOS)”

Beach Front Park / Mouth of Elk Creek Parklands

The Beach Front Park / Mouth of Elk Creek land use redesignations (see Exhibit No. 3, page 5) entail:

- Changing the currently certified “Open Space” designation over the site of the Crescent City Chamber of Commerce / Visitors Bureau building within Beach Front Park (portion APN 118-020-31) to Public Facility (CZPF)”
- Changing the currently undesignated intertidal waters within the Elk Creek estuary to “Open Space (CZOS)”

Inner Harbor

The Inner Harbor land use redesignations (see Exhibit No. 3, page 6) entail:

- Changing the current “Harbor Related” designation of the Shoreline RV Park and Campground to “Visitor Local Commercial (CZVLC)”
- Changing the current “Harbor Related” designation over the perimeter around the Shoreline RV Park and Campground to “Open Space (CZOS)”
- Changing the current “Harbor Related” designation over the 2.21-acre site of the former Pacific Choice Seafoods packing/ice plant (APN 118-380-22) to “Visitor Local Commercial (CZVLC)”

- Changing the current “Commercial” designation over the 2.21-acre site of the former Pacific Choice Seafoods packing/ice plant (APN 118-380-22) to “Visitor Local Commercial (CZVLC)”
- Changing the current “Commercial” designation over the 4.2-acre, seven parcel area along Highway 101 flanking the fish packing/ice plant Circle (APNs 118-380-14, -20, -23, -29, -30, -33, -34, & -36) to “Visitor Local Commercial (CZVLC)”

“Little Mo-Peepe” ADCs Former McNamara-Peepe Mill Site and Log Pond General Commercial

The “Little Mo-Peepe” ADCs Former McNamara-Peepe Mill Site and Log Pond General Commercial land use plan redesignations (see Exhibit No. 3, page 7) entails applying a “General Commercial (CZCG)” land use designation to the uncertified portions of this former forest products processing facility along the eastern boundary of the City. The designation would be applied over the whole of the approximately three-acre area, including both open water submerged/ emergent wetlands and adjoining riparian vegetation ESHAs as well as the transitional forest covered and razed paved and gravel surfaced portions of the milling facilities.

c. Discussion of Bases for Suggested Modifications:

The Commission finds that portions of all six of the redesignation sites are not consistent with the Coastal Act for a variety of reasons as discussed further below, and the redesignations must be modified to be found consistent with the Chapter 3 policies.

Pebble Beach Drive Beach Residential: As mentioned above, the Pebble Beach Drive Beach Residential redesignation entails changing the land use plan designation from Open Space to Residential Two to Six Dwelling Units per Acre (RS (2-6)), ostensibly to provide a consistent match to the parcel’s Residential Single Family Beach (CZ-R1B) zoning designation (proposed to be renamed to “Residential Low Density Beach District”). No additional information was provided as to the impetus for this change. The Commission finds that, given the site-specific conditions at the property, particularly its small size and steep, inarguably unstable bluff face topography situated immediately adjacent to the open ocean, in the absence of additional information substantiating how development could be undertaken without: (a) significant exposure of persons and property to geologic instability and flooding hazards; (b) potential impacts to environmentally sensitive habitat along the bluff face and intertidal reached below the site; (c) the need for wetland fill in the intertidal area for residential use which is not one of the allowable uses for wetland fill under Section 30233; and (d) visual impacts to views to and along the shoreline and to the character of the surrounding area for major landform alteration and the construction of structures between public accessible vantage points and a substantially scenic coastline vista, conformance with Coastal Act Sections 30253, 30240, and 30251, respectively cannot be established. Accordingly, the proposed change in land use plan designation is inconsistent with the policies of Chapter 3 of the Coastal Act and must be denied. Consequently, Suggested Modification No. 10 includes the recommendation that the parcel’s change from Open Space to CZ-R1B be denied and the Open Space land use designation be retained over the site.

Oceanfront Commercial: The Oceanfront Commercial Area is located along or in the vicinity of the City's western open ocean front between Hall's Bluff to the north and the Battery Point Lighthouse. The City is proposing a variety of land use category changes in this area, chief among these is the establishment of a new "Visitor Local Commercial (VLC)" land use designation (suggested to be substantially revised to "Visitor Serving Commercial (VSC)" under Suggested Modification No. 3) to replace the various Multiple Family," "Commercial," "Medical Related" designations in the currently certified LUP. Other redesignations involve designation of the block between "B" Street and unopened "C" Street, Front Street to Battery Street from "Public Facility" to "Visitor Local Commercial (CZVLC)." Since developing this proposal, the City has moved forward on conducting upgrades to its regional wastewater treatment plant, including the construction of water quality sampling laboratory on the site proposed for redesignation to VLC. While such facilities would be recognized under the proposed General Commercial (CZ-C2) zoning district designation, "public facilities" such as the water quality laboratory would be relegated to a conditional permitted use under the new VLC designations. Accordingly, to ensure that adequate area is available to continuing and possibly expanding the laboratory as might be needed as some future time, Suggested Modification No. 10 includes a provision that the southern half block area between Front, Battery, "B" and "C" Streets be retained in a "Public Facility (CZPF) land use designation.

Inner Harbor: Much of the area situated between Elk Creek and the Crescent City Harbor District lands south of Highway 101 currently designated for Harbor Related uses is proposed to be redesignated to a variety of Open Space, Visitor Local Commercial and Harbor Dependent classifications. This roughly 20-acre area represents the primary portion of the City planned for heavy commercial development, specifically that intended to support the adjoining coastal dependent uses within the adjoining harbor properties. The redesignation is being pursued by the City in the interest of diversifying the allowable uses on harbor-proximate lands, based on the proposition that there is an excess amount of land base within the City reserved for such supportive uses, well beyond that currently needed or likely to be needed in the future. Unfortunately, other than anecdotal observations of the general decrease in the levels of harbor commercial fishing, maritime shipping, and other uses over the several last decades, no data has been developed to substantiate that such a surplus of Harbor Related lands exists. Accordingly, given the primacy of coastal related uses in terms of protecting, reserving, and providing sites for such as set forth in several policies of the Coastal Act, the Commission finds that such redesignation of the Inner Harbor to designations which would facilitate development of other lower priority uses would be inconsistent with the Chapter 3 policies of the Coastal Act and, with two specific exceptions, must be denied. These exceptions entail: (1) the lands comprising and immediately adjacent to the Crescent City Harbor District's upland dredged spoils disposal ponds proposed for redesignation to Harbor Dependent, a classification intended for higher priority uses (APNs 118-020-29 and south portion 118-020-42); and (2) the 2.2-acre site of the former crab processing / ice plant (APN 118-380-22) proposed for Visitor Local Commercial (suggested to be modified to "Visitor Serving Commercial"). The Commission finds these two reclassifications to be consistent with applicable Coastal Act Chapter 3 policies insofar as: (a) the redesignation of the dredge spoils ponds area is for a designation intended for higher priority coastal dependent uses; and (b) with no harbor shore frontage, a location at significant distance from harbor dependent lands that Harbor Related lands are intended to support, the existence of fish packing and ice facilities within the harbor proper, and lying along a developed highway

services oriented area along Highway 101, the former crab processing / ice plant is a less-desirable site for continued reservation for harbor related uses.

“Little Mo-Peepe” ADCs Former McNamara-Peepe Mill Site and Log Pond General Commercial: The three-acre portion of the currently razed former mill site is situated along the western side of the City. The City has proposed that the uncertified area be reclassified to a “General Commercial (CZCG)” designation allowing for development of a variety of retail commercial and light industrial uses consistent with the designation for the adjoining non-coastal zone areas to the west.

Based upon a review of the U.S. Fish and Wildlife Service National Wetland Inventory’s mapping, aerial photography of the area, and site visits conducted by Commission staff, the portions of the former McNamara-Peepe Mill Site within and along the easterly approximately 100 feet of this roughly 200-foot-deep area clearly comprise wetlands and riparian vegetation ESHAs. The remaining 100-foot westerly area is covered with transitional tree cover, with only small portions of the former razed mill site constituting cleared gravel filled or paved areas. These areas functionally serve as non-development buffer areas for protecting the adjoining ESHAs to the east from the impacts of adjacent development. Therefore, the Commission finds that designation of the site as “General Commercial (CZGC)” would facilitate development of the site inconsistent with Coastal Act Section 30240 and the designation must be denied. Consequently, Suggested Modification No. 10 includes a recommendation that the three-acre portion comprising the former McNamara-Peepe Mill Site Log Pond ADC be designated with a Natural Resources land use designation to ensure that environmentally sensitive habitats and their necessary buffer area will not be developed with non-resource dependent or degrading uses that would adversely affect the ESHA resources of the site.

SUGGESTED MODIFICATION – 11: *Reorganization*

a. Synopsis of Currently-Certified LUP Structure

The currently certified LUP provides general goals and policies governing development throughout those portions of the city within the coastal zone. The plan document follows a structure set out in the State’s *Local Coastal Program Manual*, and is based on “policy groups” drawn from the California Coastal Act (e.g., “Public Access,” Marine and Water Resources,” Visual Resources”). The plan contains ten policy group chapters and chapter-end appendices providing salient inventory tables, maps, or technical report entries associated with the foregoing policy text. In addition, the currently-certified LUP sets forth policies unique to five planning sub-areas and two biological resource special study areas.

b. Summary of Proposed LUP Structure



The proposed LCP update involves an entirely new Land Use Plan format. The document is structured in two parts, with the first part entailing an introductory discussion of the General Plan process and the organization and contents of the General Plan. This introduction chapter is followed by the second part of the document, commencing with a preface containing an


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explanation of the differences between “goals,” “policies,” and “programs,” and the symbology used to distinguish policies intended for application in the coastal zone, those intended solely for non-coastal portions of the City, and City-wide provisions not intended for the governance of coastal development permit authorizations. This preface is followed by a series of plan element “sections,” which include: (1) *Land Use and Community Development*; (2) *Housing*;¹¹ (3) *Transportation and Circulation*; (4) *Public Facilities and Services*; (5) *Recreational and Cultural Resources*; (6) *Natural Resources / Conservation*; and (7) *Health and Safety*. The LUP also includes a Glossary appendix.



c. Summary of, and Rationale for, Suggested Modification No. 12 (LUP Organization):



Suggested Modification No. 12 recommends that the proposed updated LUP be significantly reorganized as follows:

- Delete all “wave” () and “City Seal” () symbols from all Elements of the Coastal Land Use Plan.
- Number all policies and table entries in appropriate sequential order and correct all policy cross-references prior to submission to the Commission for certification pursuant to Sections 13544 and 13544.5 of the California Code of Regulations.
- List all policies that constitute the LCP in subsection 1 of the Coastal Land Use Plan Policy Document section of Part I – General Plan Summary chapter of the LUP following the numbering corrections as required by the preceding revision.
- Revise all descriptive narrative text as necessary to conform narrative text to any associated policy(ies) that have been added or revised through suggested modifications.
- Change all references to “General Plan” to “Coastal Land Use Plan” throughout the LUP and the Coastal Zoning and Coastal Subdivision titles.
- Publish the updated Coastal Land Use Plan incorporating all of the above suggested modifications under separate cover from that of the updated non-coastal Crescent City General Plan.

The thrust of these suggested changes, as well as to those recommended for the IP as described in Suggested Modification No. 31, is to reformat the LUP into an internally consistent document that can be administered independently of the City’s other general plan and land use regulatory provisions. As noted in the discussion within Section I of the Staff Recommendation Summary, the amendments to the General Plan (LUP) were submitted by the City for certification in a combined document format that would apply to both inland and coastal portions of the City. Certain policies throughout the General Plan elements or sections with a “wave” symbol () intended to distinguish those policies meant to apply solely in the coastal zone. In addition, as

¹¹ The Housing Element is not proposed to be a part of this LCP update.

submitted, the General Plan contains policies applying in both the coastal zone and throughout the inland portions of the City as well, designated with “wave” and “crest” symbols ( ).

Following several discussions between Commission staff and City staff during the course of review of the LCP Amendment, tentative agreement was reached that developing a separate coastal general plan element (to be referred to as the “Coastal Land Use Plan”) to apply specifically to the geographic portion of the City located within the coastal zone would provide greater clarity of the documents, improve the usability and administration of the LCP, and ensure consistency with the Coastal Act. The City would continue to apply the existing General Plan and the other portions of its Municipal Code to the geographic areas of the City that are outside the coastal zone. Given this decision to maintain separate General Plans and Land Use and Development Codes for portions of the City inside and outside of the coastal zone, Commission staff and City staff agreed to do away with the  symbols, and reorganized the coastal zone-specific of the updated General Plan into a separate document. This reorganization makes it clear that development in the coastal zone must be consistent with all applicable policies contained within the Coastal Land Use Plan (LUP) and not just those denoted with a  symbol. Moreover, separate coastal and non-coastal plan and development regulation titles would allow the City to amend portions of their code pertaining to inland development outside of the coastal zone without first seeking certification of the amendment as would be necessitated under a City-wide regulatory format.

Furthermore, there are some policies in the General Plan relating to the regulation of other aspects of land use and development not directly associated with coastal resources that are not intended as part of the LCP for consistency with the Coastal Act. These include the noise and emergency preparedness provisions of the Safety and Noise section, policies regarding federal park lands and integrated, inter-agency planning within the Land Use and Community Development section, provisions relating to the operation of various City functions, such as the courts, schools, libraries, and public safety agencies in the Public Facilities and Services section, and procedures for transportation management in the *Transportation and Circulation* section. Such policies do not govern the review and approval of coastal development permits, but remain in the documents because they constitute standards that apply to other required City approvals and processes, and their inclusion provide context, and in some cases inform the user of requirements other than coastal development permits, that may apply to land use decisions within the City. Commission staff and City staff worked together to identify these policy areas that are not intended to be part of the certified LCP. These policies are not intended to be part of the certified LCP and will be relocated to the “Other Initiatives” sub-section of the chapter under Suggested Modification No. 11, alongside other provisions not intended for governing the issuance of coastal development permits.

The Commission finds that the benefits of more clear and accurate administration of the policies and standards of the LUP that could be attained through formatting and publishing the land use plan as a discrete document separate from the inland general plan provisions. Accordingly, the Commission recommends Suggested Modification No. 11 in the interest of bringing the document into overall consistency with the policies of the Coastal Act from the perspective of increasing its ease of use and efficiency of administration.

PART SIX: AMENDMENTS TO THE IMPLEMENTATION PLAN - FINDINGS

I. FINDINGS FOR DENIAL OF THE CITY OF CRESCENT CITY'S IMPLEMENTATION PLAN AMENDMENT, AND APPROVAL WITH MODIFICATIONS

C. Amendment Description

As compared to the major changes to the Land Use Plan, the proposed amendment to the Implementation Plan (IP) portion of the County's LCP are relatively minor. The proposed updated IP document would not entail a significantly changed format from the currently certified LUP and, with three exceptions, would remain within Title 17 of the City's Municipal Code. Salient changes would include:

- Adding a new Chapter 12.34 "Public Trees," to be chartered within Title 12 Streets, Sidewalks, and Public Places (as contrasted with the "Coastal Zone Zoning Regulations" portion of Title 17: Chapters 17.60 through 17.86).
- Adding a new Chapter 12.36 "Storm Water Quality Management" to be chartered within Title 12 Streets, Sidewalks, and Public Places (as contrasted with the "Coastal Zone Zoning Regulations" portion of Title 17).¹²
- Adding a new Chapter 12.59 "Bed and Breakfast Establishments" to be chartered within the general zoning and development regulations portion of Title 17 (as contrasted with the "Coastal Zone Zoning Regulations" portion of the title)
- Amending various definitions within Chapter 17.61 to bring the terminology into compliance with federal anti-discrimination statutes regarding housing, institutions, and public accommodations, and clarifying distinctions between transient occupation and limited/long term rental and other residential uses.
- Renaming and reformatting the permissible use sections of zoning district standards Chapters 17.64, 17.65, and 17.68 through 17.73 to include provisions for the land uses and development constraints identified in the amended land use plan (e.g., bed and breakfast establishments, VLC visitor accommodations and commercial uses, floor:area ratio-based coverage maximums, lighting restrictions, etc.) to be implemented by the applicable corresponding zoning district(s).

¹² The LCP amendment submittal also includes a "Storm Water Runoff Management Policy" in the form of a locally adopted resolution (see Exhibit No. 16). However, while the City's resolution of transmittal references the stormwater runoff policy resolution as a part of the LCP amendment submittal, no information was provided as to where in either the Land Use Plan or the Implementation Plan that these provisions would be incorporated as a binding component of the City's LCP.

- Deleting zoning district standards Chapters 17.65 (“Coastal Zone Two Family Residential”) and 17.67 (“Coastal Zone Residential Professional”) as these designations would no longer be necessary for implementing the land uses and development regulations of the Land Use Plan as amended to delete the “Multi-Family” and “Medical Related” land use categories, and establishing the proposed new “Visitor Local Commercial” category.
- Amending the conditional permitted use sections of Chapters 17.69 (“Coastal Zone Highway Services”) and 17.73 (“Coastal Zone Waterfront Commercial”) to provide for development of new timeshare resort hotels that provide one publicly accessible amenity.
- Adding a new Chapter 17.70A (“Coastal Zone Harbor Dependent”) zoning district standards for development within lands designated with a “Harbor Dependent” land use classification.
- Limiting the use provisions in Chapter 17.71 (“Coastal Zone Open Space”) for development of certain uses on private lands in open space zoning districts.
- Adding a new Chapter 17.74 (“Signs”) to provide contemporary standards for the regulation of various forms of on- and off-premises signage.
- Making various amendments to Chapter 17.76 (“Coastal Zone Off-Street Parking”) to adjust pro rata parking space requirements for certain uses, increase landscaping requirements, and clarify linkages to nonconforming use provisions.
- Amending sections of Chapter 17.80 (“Coastal Zone Nonconforming Uses”) to provide for the retention of nonconforming multi-family residential dwellings consistent with state housing law.
- Amending sections of Chapter 17.83 (“Transitional Zoning and Uses”) to delete all provisions for uses on properties on the boundary between different zoning districts and development not otherwise consistent with LCP policies and standards, renaming and revising the chapter to “Special Zoning Uses” to provide for the development of second dwelling units, the granting of residential density incentive bonuses, the installation of small wind generators, the placement of mobilehomes on residential lots, and permitting mobilehome parks in residential areas.
- Amending the scope of Chapter 18.86 (“Coastal Zone Waterfront Development”) to clarify that the supplemental design review, development standards, and public access provision requirements are intended to apply to development on publicly owned ocean, beach, and waterfront abutting lands.

D. Consistency with, and Adequacy to Carry Out LUP as Amended

[Organizational Note: The following findings sections are organized to correspond with the organization of the City’s proposed updated Implementation Plan (IP).]

SM-12. Title 17 – Zoning, Chapter 17.60: General Provisions

a. Synopsis of Currently-Certified Provisions

Chapter 17.60 is the first chapter of the City’s Coastal Zone Zoning Regulations (CZZR) portion of its zoning and development regulations Title 17. The section contains the “general provisions of the zoning regulations, including its titular citation, identification of its text and map components, provisions for interpreting the scope and intent of its requirements, stating the scope of its applicability, and how certain terms are defined.

b. Summary of Proposed Amendments

No changes proposed.

c. Summary of Suggested Modification No. 12: (Title 17 – Zoning, Chapter 17.60: General Provisions)

The suggested modifications to Chapter 17.60 entail expanding the stated upper range of the CZZR from Chapter 17.86 to Chapter 17.89 to allow for recodification of the proposed new “Public Trees,” “Bed and Breakfast Establishments,” and “Stormwater Quality Management” chapters into the stated bounds of the CZZR (see Suggested Modification Nos. SM-27 through SM-29 and SM-31).

d. Discussion of, and Rationale for, Suggested Modification No. 12 (Title 17 – Zoning, Chapter 17.60: General Provisions)

The suggested modifications to Chapter 17.60 are intended to maintain the organization of the IP in a coherent set of consecutive chapters under one Municipal Code title rather than a decentralized series of provisions under different titles for efficacious administration of the LCP’s policies and standards such that disparate provisions are not overlooked.

SM-13. Title 17 – Zoning, Chapter 17.61: Definitions

a. Synopsis of Currently-Certified Provisions

Chapter 17.61 contains numerous definitions to certain technical and legal terms used throughout the balance of the CZZR.

b. Summary of Proposed Amendments

The various amendments to the definitions of Chapter 17.61 are primarily proposed to bring the CZZR into compliance with changes in federal law regarding discrimination in housing and social services accommodations. Other terminology is being appended to make distinctions between transient, short-term, rental, and permanent residential use types.

c. Summary of Suggested Modification No. 13: (Title 17 – Zoning, Chapter 17.61: Definitions)

The Suggested Modifications to Chapter 17.61 are similarly intended to bring the LCP into consistency with the Coastal Act with respect to certain statutorily defined terms within the Act (e.g., “sea,” “wetlands,” bluff line or edge”) and to define the various delegated and authorized entities and authorities involved in administering the provisions of the LCP (e.g., “director,” “planning commission,” “executive director,” “Coastal Commission”).

d. Discussion of, and Rationale for, Suggested Modification No. 13 (Title 17 – Zoning, Chapter 17.61: Definitions)

The proposed suggested modifications are intended to insure that the IP is consistent with, and adequate to carry out the policies and standards of a Coastal Act-consistent Land Use Plan. For example, the definition of wetlands has been elaborated upon to more clearly

SM-14. Title 17 – Zoning, Chapter 17.64: CZ-R-1 Coastal Zone Low Density Residential District

a. Synopsis of Currently-Certified Provisions

CZZR Chapter 17.64 sets forth the intent of, the principal and conditional permitted used allowed in, and the prescriptive standards (e.g., maximum structural height, minimum lot dimensions, yard areas, and setbacks) for development within “Coastal Zone Single Family Residential” zoning districts.

b. Summary of Proposed Amendments

The proposed amendments to CZZR Chapter 17.64 “CZ-R1 Coastal Zone Single Family Residential District” entail:

- Renaming the chapter to “CZ-R1 Coastal Zone Low Density Residential District.”
- Adding a statement prohibiting any use or the construction, erection, alteration, addition to, enlargement of, or relocation of any building or structure within CZ-R1 zoning districts unless such development is in compliance with the development regulations of the district.
- Reformatting the structure of the permissible uses section into discrete “Principal Permitted Uses” and “Uses Permitted Subject to a Use Permit” sub-sections.
- Consolidating all prescriptive development standards into distinct “Property Development Standards,” “Building Placement,” and “General Provisions” sub-sections.

- Adding provisions for second dwelling units as a principal permitted use subject to meeting supplemental minimum lot size and community services development standards, and off-street parking requirements.
- Adding provisions for development of bed and breakfast establishments as a conditional use.
- c. Summary of Suggested Modification No. 14: (Title 17 – Zoning, Chapter 17.64: CZ-R-1 Coastal Zone Low Density Residential District)

Suggested Modifications to CZZR Chapter 17.64 entail the following:

- Adding “small neighborhood commercial uses, such as owner/resident grocery shops, that do not detract from the primary intended residential character of the district and are compatible with surrounding neighborhoods” to the list of conditionally permitted uses.
- Adding a “maximum lot area” standard to the prescriptive development regulations subsection.
- Revising references to other CZZR sections as needed to reflect the suggested recodification of those referenced provisions.
- d. Discussion of, and Rationale for, Suggested Modification No. 14 (Title 17 – Zoning, Chapter 17.64: CZ-R-1 Coastal Zone Low Density Residential District)

The Suggested Modifications to Chapter 17.64 are necessary to ensure conformance with and adequacy in carrying out the policies and standards of the amended Land Use Plan with respect to having mechanisms within the IP for implementing the provisions of the LUP for: (a) conditional development of small neighborhood commercial uses in “Residential (SF 2-6)” designated areas; and (b) the “Residential” classification’s two-dwellings-per-acre minimum residential density standard. In addition, the changes to the CZZR cross-references ensure that other applicable development regulations are accurately cited.

SM-15. Title 17 – Zoning, Chapter 17.65: CZ-R-1-B Coastal Zone Low Density Residential Beach District

- a. Synopsis of Currently-Certified Provisions

CZZR Chapter 17.65 sets forth the intent of, the principal and conditional permitted used allowed in, and the prescriptive standards (e.g., maximum structural height, minimum lot dimensions, yard areas, and setbacks) for development within “Coastal Zone Single Family Residential – Beach” zoning districts.

- b. Summary of Proposed Amendments

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The proposed amendments to CZZR Chapter 17.65 “CZ-R1 Coastal Zone Single Family Residential – Beach District” entail:

- Renaming the chapter to “CZ-R1B Coastal Zone Low Density Residential – Beach District.”
 - Adding a statement prohibiting any use or the construction, erection, alteration, addition to, enlargement of, or relocation of any building or structure within CZ-R1B zoning districts unless such development is in compliance with the development regulations of the district.
 - Reformatting the structure of the permissible uses section into discrete “Principal Permitted Uses” and “Uses Permitted Subject to a Use Permit” sub-sections.
 - Consolidating all prescriptive development standards into distinct “Property Development Standards,” “Building Placement,” and “General Provisions” sub-sections.
 - Adding provisions for second dwelling units as a conditional permitted use subject to meeting enhanced minimum lot size requirements.
 - Adding provisions for development of bed and breakfast establishments as a conditional use.
- c. Summary of Suggested Modification No. 15: (Title 17 – Zoning, Chapter 17.65: CZ-R-1 Coastal Zone Low Density Residential – Beach District)

Suggested Modifications to CZZR Chapter 17.65 entail the following:

- Adding “small neighborhood commercial uses, such as owner/resident grocery shops, that do not detract from the primary intended residential character of the district and are compatible with surrounding neighborhoods” and “publicly owned buildings and structures (such as schools and public utility substations)” to the list of conditionally permitted uses.
 - Adding a “maximum lot area” standard to the prescriptive development regulations sub-section.
 - Revising references to other CZZR sections as needed to reflect the suggested recodification of those referenced provisions.
- d. Discussion of, and Rationale for, Suggested Modification No. 15 (Title 17 – Zoning, Chapter 17.65: CZ-R-1 Coastal Zone Low Density Residential – Beach District)

The Suggested Modifications to Chapter 17.65 are necessary to ensure conformance with and adequacy in carrying out the policies and standards of the amended Land Use Plan with respect to having mechanisms within the IP for implementing the provisions of the LUP for: (a)

conditional development of small neighborhood commercial and certain publicly-owned uses in “Residential (SF 2-6)” designated areas; and (b) the “Residential” classification’s two-dwellings-per-acre minimum residential density standard. In addition, the changes to the CZZR cross-references ensure that other applicable development regulations are accurately cited.

SM-16. Title 17 – Zoning, Chapter 17.68: CZ-C2 Coastal Zone General Commercial District

a. Synopsis of Currently-Certified Provisions

CZZR Chapter 17.68 sets forth the intent of, the principal and conditional permitted used allowed in, and the prescriptive standards (e.g., maximum structural height, minimum lot dimensions, yard areas, and setbacks) for development within “Coastal Zone General Commercial” zoning districts.

b. Summary of Proposed Amendments

The proposed amendments to CZZR Chapter 17.68 “CZ-C2 Coastal Zone General Commercial District” entail:

- Adding a statement prohibiting any use or the construction, erection, alteration, addition to, enlargement of, or relocation of any building or structure within CZ-C2 zoning districts unless such development is in compliance with the development regulations of the district.
- Renaming the permissible use section to “Principal Permitted Uses.”
- Clarifying that the primary development type intended for CZ-C2 districts is “public utilities.”
- Consolidating all prescriptive development standards into distinct “Property Development Standards,” “Building Placement,” and “General Provisions” sub-sections.

c. Summary of Suggested Modification No. 15: (Title 17 – Zoning, Chapter 17.68: CZ-C2 Coastal Zone General Commercial District)

Suggested Modifications to CZZR Chapter 17.68 entail the following:

- Adding a new “uses permitted subject to a use permit” sub-section and enumerating therein the various permissible conditional uses identified in the multiple land use classifications the CZ-C2 zoning district implements.
- Adding land use category qualifiers to the lists of principal and conditionally permitted uses to more directly match the recognized permissible uses identified in the multiple land use classifications the CZ-C2 zoning district implements.

- Revising the maximum lot coverage standard to from no maximum to 50% to match the FAR for the multiple land use classifications the CZ-C2 zoning district implements.
- d. Discussion of, and Rationale for, Suggested Modification No. 15 (Title 17 – Zoning, Chapter 17.65: CZ-R-1 Coastal Zone Low Density Residential – Beach District)

The Suggested Modifications to Chapter 17.65 are necessary to ensure conformance with and adequacy in carrying out the policies and standards of the amended Land Use Plan with respect to having mechanisms within the IP for implementing the provisions of the LUP for: (a) conditional development of the various uses in the “Public Facility,” “General Commercial,” and “Visitor Local Commercial” (suggested to be modified to “Visitor Serving Commercial” under Suggested Modification No. 3); and (b) regulating the amount of areal impervious surface and/or structural development on a given parcel.

SM-17. Title 17 – Zoning, Chapter 17.69: Coastal Zone Highway Services District

a. Synopsis of Currently-Certified Provisions

CZZR Chapter 17.69 sets forth the intent of, the principal and conditional permitted used allowed in, and the prescriptive standards (e.g., maximum structural height, minimum lot dimensions, yard areas, and setbacks) for development within “Coastal Zone Highway Services” zoning districts.

b. Summary of Proposed Amendments

The proposed amendments to CZZR Chapter 17.69 “CZ-HS Coastal Zone Highway Services District” entail:

- Adding a statement prohibiting any use or the construction, erection, alteration, addition to, enlargement of, or relocation of any building or structure within CZ-HS zoning districts unless such development is in compliance with the development regulations of the district.
- Reformatting the structure of the permissible uses section into discrete “Principal Permitted Uses” and “Uses Permitted Subject to a Use Permit” sub-sections.
- Revising the intent statement and list of permissible uses sub-sections to more clearly match those recognized for development in “Visitor Local Commercial” land use category designated areas (suggested to be modified to “Visitor Serving Commercial” under Suggested Modification No. 3).
- Adding “new timeshare resort hotels which provide at least one recreational facility (pool, court, playground, picnic area, trail, etc) to which the general public has access” to the list of conditionally permitted uses.

- Consolidating all prescriptive development standards into distinct “Property Development Standards,” “Building Placement,” and “General Provisions” sub-sections.
- c. Summary of Suggested Modification No. 17: (Title 17 – Zoning, Chapter 17.69: CZ-HS Coastal Zone Highway Services District)

Suggested Modifications to CZZR Chapter 17.69 entail the following:

- Deleting the provisions for development of “indoor recreation and entertainment facilities such as specialty attractions, theatres, and sports activities including equipment rentals and sales” as principal permitted uses, substituting in their place provision for development of “aquaria.”
- d. Discussion of, and Rationale for, Suggested Modification No. 17 (Title 17 – Zoning, Chapter 17.69: CZ-HS Coastal Zone Highway Services District)

The Suggested Modifications to Chapter 17.69 are necessary to ensure conformance with and adequacy in carrying out the policies and standards of the amended Land Use Plan with respect to having mechanisms within the IP for implementing the provisions of the LUP for: (a) conditional development of the various uses in the “Visitor Local Commercial” land use category (suggested to be modified to “Visitor Serving Commercial” under Suggested Modification No. 3), with particular regard to limiting general commercial uses which bear no relation to coastal visitation.

SM-18. Title 17 – Zoning, Chapter 17.70: Coastal Zone Harbor Related District

a. Synopsis of Currently-Certified Provisions

CZZR Chapter 17.70 sets forth the intent of, the principal and conditional permitted used allowed in, and the prescriptive standards (e.g., maximum structural height, minimum lot dimensions, yard areas, and setbacks) for development within “Coastal Zone Harbor Related” zoning districts.

b. Summary of Proposed Amendments

The proposed amendments to CZZR Chapter 17.70 “CZ-HR Coastal Zone Harbor Related District” entail:

- Adding a statement prohibiting any use or the construction, erection, alteration, addition to, enlargement of, or relocation of any building or structure within CZ-HR zoning districts unless such development is in compliance with the development regulations of the district.
- Reformatting the structure of the permissible uses section into discrete “Principal Permitted Uses” and “Uses Permitted Subject to a Use Permit” sub-sections.

- Revising the intent statement and list of permissible uses sub-sections to expand the scope of the district to include not only uses located on upland areas in proximity to the harbor that are dependent upon and directly supportive of waterfront harbor dependent uses to include other conditionally permitted uses which would “benefit from a harbor location,” including “recreational vehicle parks including one residential unit for a resident manager” and “residential uses, up to 15 units per acre density, when located above the ground floor as a secondary use.”
- Consolidating all prescriptive development standards into distinct “Property Development Standards,” “Building Placement,” and “General Provisions” sub-sections.
- Establishing maximum height, minimum yard area, and maximum lot coverage standards to control the mass and bulk of structural development and to conform with the maximum 55% FAR set forth in the “Harbor Related” land use classification the CZ-HR zoning district implements.

c. Summary of Suggested Modification No. 18: (Title 17 – Zoning, Chapter 17.70: Coastal Zone Harbor Related District)

Suggested Modifications to CZZR Chapter 17.70 entail the following:

- Deleting the provisions for development of “benefit from a harbor location,” including “recreational vehicle parks including one residential unit for a resident manager” and “residential uses, up to 15 units per acre density, when located above the ground floor as a secondary use” as conditionally permitted uses.
- Adding provisions for “commercial uses incidental to the principal harbor related uses, including small convenience stores, restaurants, and cafes intended primarily to support harbor support workers and occupants” as conditionally permitted uses.

d. Discussion of, and Rationale for, Suggested Modification No. 18 (Title 17 – Zoning, Chapter 17.70: Coastal Zone Harbor Related District)

The Suggested Modifications to Chapter 17.70 are necessary to ensure conformance with and adequacy in carrying out the policies and standards of the amended Land Use Plan, as further suggested to be modified for consistency with priority use policies of the Coastal Act Chapter 3. Second only to the protections for public access and environmentally sensitive areas, the Coastal Act emphasizes in several contexts the importance of reserving and providing sites for development of certain “coastal dependent,” “coastal related,” and other specified priority uses (see Part Five, Findings Section I, SM-3-8, sub-part G “Coastal-Dependent and Other Priority Uses”).

The City currently has two areas designated for harbor related development, the lands along the inner harbor strand between the Elk Creek estuary and the Crescent City Harbor District lands south of Highway 101, comprising approximately 35 acres, and the roughly four acres of land and water areas along and flanking the “B” Street Pier (see Exhibit No. 13). The former area lies

adjacent to the land and water areas within the unincorporated portion of the Crescent City Harbor proper and along the inner harbor shoreline planned and zoned under the County of Del Norte's LCP for Harbor Dependent uses and development. These adjoining harbor lands are developed with an assortment of coastal dependent uses including the inner harbor small boat basin and transient docks, the Citizen's Dock and its fueling and ice plant, and hoisting facilities, adjoining parking and fish net and crab pot working and staging and storage areas, recreational boating docks, and an abalone cultivation facility. Beyond the areas to the south lie a wastewater pre-treatment facility and a variety of harbor tenant-based commercial uses including a ship building and repair dry dock, various marine supply concerns, a yacht club, and several small restaurants, retail shops, and offices for a variety of harbor-based organizations (i.e., Harbor District, Sheriff's marine posse, Friends of Coast Guard Auxiliary, and the Fishermen's Wives Hall.

As discussed in Part Five, Findings Section I, SM-3-8, sub-part G.4., the currently certified LUP restricts uses in the Harbor Related (HR) land use designated areas to those, "Commercial and recreational activities that are dependent in some way upon a harbor location." Similarly, the currently certified Coastal Zone Harbor Related (CZ-HR) zoning district standards identify a very limited number of specific principal permitted uses such as "commercial fishing berths," "fish processing plants," and "boat building and repair," with a list of potential conditionally permitted uses, ranked in descending priority as: (1) "energy facilities, provided that such facilities have proper protection devices to prevent crude oil, gas, petroleum or other hazardous substances from being spilled or from contaminating areas beyond the project site;" (2) "recreational facilities, including but not limited to, recreational vehicle parks and buildings necessary to that operation;" (3) "restaurants;" and (4) "museums, specifically those dealing with coastal activities."

The proposed amendments to the IP's CZ-HR chapter would significantly expand the range of qualified permissible uses to include numerous other types of uses which would not be limited to those "dependent in some way on a harbor location," but those which are ... "not dependent upon immediate access to the harbor but benefit from a harbor location." Among the list of new, principally permitted uses that could be developed under the amended designation are "marine curio manufacture and sales," "hotels and motels," and "visitor related services including retail sales shops." Consideration could also be given for conditionally permitting several new uses, including "residential uses as a secondary use at a density not to exceed 15 units per acre (including condominiums)," "recreational facilities," and "recreational vehicle parks."

Coastal Act Section 30255 directs that, "Coastal-dependent developments shall have priority over other developments on or near the shoreline... When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support." In addition, Sections 32221, 30222.5, 30223, 30224, 30234, and 30234.5 identify numerous priority uses for which oceanfront and/or shoreline adjacent sites and adjoining nearby areas should be prioritized for development thereupon, including, public and private recreational uses and development, aquaculture, coastal recreational upland support uses, and recreational boating dry storage areas. Notably absent from this listing are tourist oriented products manufacturing and sales, short-term/overnight accommodations, and permanent residences.

As discussed above in Part Four, Suggested Modification No. 3 would reassert the limitations on development in the Harbor Related land use designations to those primarily involving “coastal related” uses as defined by the Coastal Act, namely those uses which are “...dependent upon a (use which requires a site on, or adjacent to, the sea in order to be able to function at all).” Visitor-serving facilities, residential development, and general retail commercial uses would be struck from the lists of principally and conditionally permitted uses in the plan and zone category descriptions. Consequently, to ensure internal vertical consistency between the Land Use Plan and applicable implanting zoning district standards, as required by Coastal Act Section 30513. Suggested Modification No. 18 similarly strikes these uses from the list of conditionally permissible uses within CZ-HR districts. In keeping with the Coastal Act’s directives to protect and encourage coastal-dependent and coastal related development, Suggested Modification No. 3 includes the addition of new policy language providing for consideration of “restaurants, cafes, small convenience stores, and other similar retail establishments designed to serve the need of harbor support area workers and occupants” as non-conflicting conditional support uses. To implement this policy, the language of CZZR Section 17.70.030 is similarly suggested to be modified to include among the list of conditionally permissible uses “commercial uses incidental to the principal harbor related uses, including small convenience stores, restaurants, and cafes intended primarily to support harbor support workers and occupants.”

Thus, as currently proposed, the standard within the updated IP regarding priority coastal-dependent and coastal-related uses would be in conflict with the policies of the Land Use Plan is intended to implement. As such, the IP amendment would not conform with, or be adequate to carry out, the provisions of the land use plan, as suggested to be certified with certain suggested modifications, and must be denied. However, the Commission finds that with the changes to the use provisions sections of the updated IP, as set forth in Suggested Modification No. 18, the amendments to the IP regarding priority coastal-dependent and coastal-related uses can be found to be in conformance with, and adequate to carry out, the provisions of the certified land use plan.

SM-19. Title 17 – Zoning, Chapter 17.70A: Coastal Zone Harbor Dependent District

a. Synopsis of Currently-Certified Provisions

Chapter 17.70A is a new proposed chapter to the CZZR. Currently the CZZR does not contain any standards for development within designated “Coastal Zone Harbor Dependent” zoning districts.

b. Summary of Proposed Amendments

Proposed new CZZR Chapter 17.70A sets forth the intent of, the principal and conditional permitted used allowed in, and the prescriptive standards (e.g., maximum structural height, minimum lot dimensions, yard areas, and setbacks) for development within “Coastal Zone Harbor Dependent” zoning districts.

c. Summary of Suggested Modification No. 19: (Title 17 – Zoning, Chapter 17.70A: Coastal Zone Harbor Dependent District)

Suggested Modifications to CZZR Chapter 17.70A entail changes to the provisions of Section 17.70A.030 to both add qualifications to, and expand upon, the proposal for allowing “restaurants and cafes” as conditionally permitted uses to include “commercial uses incidental to the principal harbor related uses, including small convenience stores, restaurants, and cafes intended primarily to support harbor support workers and occupants.”

d. Discussion of, and Rationale for, Suggested Modification No. 19 (Title 17 – Zoning, Chapter 17.70A: Coastal Zone Harbor Dependent District)

As discussed under the rationale for the preceding Suggested Modification No. 18, in keeping with the Coastal Act’s directives to protect and encourage coastal-dependent and coastal related development, Suggested Modification No. 19 includes the addition of new policy language providing for consideration of certain small scale support uses that would not otherwise detract from or displace harbor dependent uses among the list of conditionally permissible uses in CZZR Section 17.70A.030. These changes are needed to assure that this chapter of the IP conforms with and adequately carries out the policies of the Land Use Plan regarding uses in Harbor Dependent designated areas (as suggested to be revised under Suggested Modification No. 3).

SM-20. Title 17 – Zoning, Chapter 17.73: Coastal Zone Waterfront Commercial District

a. Synopsis of Currently-Certified Provisions

CZZR Chapter 17.73 sets forth the intent of, the principal and conditional permitted used allowed in, and the prescriptive standards (e.g., maximum structural height, minimum lot dimensions, yard areas, and setbacks) for development within “Coastal Zone Waterfront Commercial” zoning districts.

b. Summary of Proposed Amendments

The proposed amendments to CZZR Chapter 17.73 “CZ-CW Coastal Zone Waterfront Commercial District” entail:

- Adding a statement prohibiting any use or the construction, erection, alteration, addition to, enlargement of, or relocation of any building or structure within CZ-CW zoning districts unless such development is in compliance with the development regulations of the district.
- Identifying within the purpose and intent sub-section the area as being for development of “a mixture of shop, service, recreation and accommodation uses for visitor uses in the Battery Point area adjacent to Beachfront Park and Crescent City's harbor.”

- Establishing provisions for development of: (a) “visitor services located inside a building such as Automatic Teller Machines, laundries, beauty services and spas, and photo processing;” (b) “specialty shops such as books, gifts, jewelry, collectibles, clothing, antiques or art galleries;” and (c) and “entertainment and recreational facilities such as theatres, sports activities including equipment rentals and sales or public access facilities,” as principal permitted uses.
 - Establishing provisions for development of: (a) “new timeshare resort hotels providing at least one recreational amenity;” (b) certain “outdoor accessory uses to a permitted use;” (c) “private parking facilities, including fee parking facilities not required by code for another use;” (d) bed and breakfast establishments; (e) “residential uses, up to 15 units per acre density when located above the ground floor as a secondary use;” and (f) “public utility service pumping stations, power stations, equipment buildings and installations, drainage ways, storage tanks and transmission lines found by the planning commission to be necessary for the public health, safety or welfare and designed to minimize any visual, hearing and/or air quality impacts” as conditionally permissible uses.
 - Consolidating all prescriptive development standards into distinct “Property Development Standards,” “Building Placement,” and “General Provisions” sub-sections.
 - Establishing a maximum lot coverage standard to control the mass and bulk of structural development and to conform with the maximum 50% FAR set forth in the “Visitor Local Commercial” (suggested to be modified to “Visitor Serving Commercial” under Suggested Modification No. 3) and “Harbor Related” (suggested to be deleted from Land Use Plan category / zoning district consistency Table 1-1 under Suggested Modification No. 3) land use classifications the CZ-HR zoning district implements.
- c. Summary of Suggested Modification No. 20: (Title 17 – Zoning, Chapter 17.73: Coastal Zone Waterfront Commercial District)

Suggested Modifications to CZZR Chapter 17.73 entail the following:

- Deleting the provisions in Section 17.73.020 for development of “specialty shops such as books, gifts, jewelry, collectibles, clothing, antiques or art galleries as principal permitted uses, substituting in their place provisions for development of same as conditional permitted uses under Section 17.73.030.
- d. Discussion of, and Rationale for, Suggested Modification No. 20 (Title 17 – Zoning, Chapter 17.73: Coastal Zone Waterfront Commercial District)

Consistent with the stated purpose and intent of the CZ-CW district to provide for development of visitor-serving accommodations and facilities and to ensure that the general commercial development types not clearly oriented toward serving the needs of visitors to the coast proposed in amended Section 17.73.020.B do not supplant sites for such visitation supporting uses,

provisions for development of such “specialty shops” must be subject to the enhanced review required for conditional uses as set forth in Chapter 17.82 “Coastal Zone Use Permits.”

SM-21. Title 17 – Zoning, Chapter 17.79: Site Plan and Architectural Review

- a. Synopsis of Currently-Certified Provisions

- b. Summary of Proposed Amendments

The proposed amendments to CZZR Chapter 17.79 “Site Plan and Architectural Review” entail:

- Expanding the scope of the review requirements to include the Coastal Zone waterfront Commercial (CZ-CW) and Coastal Zone Harbor Dependent (CZ-HD) zoning districts.

- Adding a second planning commissioner to the review board.

- Adding a new “review standards” section enumerating several aspects of the development to be considered in the committee’s evaluation of the project’s compatibility and harmony with its surroundings.

c. Summary of Suggested Modification No. 21: (Title 17 – Zoning, Chapter 17.79: Site Plan and Architectural Review)

Suggested Modifications to CZZR Chapter 17.79 entail the following:

- Adding language to more clearly include the protection of coastal visual resources, particularly with respect to effects on views to and along the coast and scenic areas, minimizing alterations of natural landforms, and compatibility with surrounding character alongside maintaining area aesthetics and ensuring architectural harmony as the intent for and purpose of the subject review committee.

- Inserting cross references to suggested new CZZR Chapter 17.84F “Coastal Resource Protection – Visual Resources” identifying the supplemental application information, review procedures, mandatory conditions and findings to be provided, followed, applied, and adopted, respectively, for ensuring conformance with and adequacy to carry out the visual resource protection policies of the proposed amended Land Use Plan, as further suggested to be modified by Suggested Modification No. 6 (see Part Five Findings Section I. “SM-3 through SM-8”, sub-part I “Visual Resources,” and the findings justifying Suggested Modification No. 24 (“SM-24”) below).

d. Discussion of, and Rationale for, Suggested Modification No. 21 (Title 17 – Zoning, Chapter 17.79: Site Plan and Architectural Review)

The stated reasons for the site plan and architectural review set forth in proposed amended Chapter 17.79 is “to assure compatibility, harmony in appearance in neighborhoods, reduce

negative impacts on adjacent properties reduce the unnecessary destruction of the environment and ground cover to avoid the creation of hazardous conditions and drainage problems, to avoid monotonous and otherwise non-aesthetic development injurious to the overall community; to provide a vehicle to encourage full development of streets servicing the properties, and to assure full installation of all public utilities necessary to serve such properties.” While all of these stated purposes are valid City undertakings, they fail to specifically include protection of the coastal visual resources comprising the setting of a given development site in terms of views to and along the ocean and scenic areas, natural landforms, and the overall character of its surroundings. As the site plan and architectural review committee is intended to be the primary opportunity in which aesthetical considerations are to be evaluated as part of the development permit process, the Commission finds that specific inclusion of coastal visual resources in the purview of the review committee is the appropriate venue for including such review criteria. According, the Commission finds that the proposed amendments to Chapter 17.79 must be denied unless the revisions set forth in Suggested Modification No. 21 are included to ensure that the IP is in conformity with, and adequate to carry out the policies of the proposed amended Land Use Plan as suggested to be further modified by Suggested Modification No. 6.

SM-22. Title 17 – Zoning, Chapter 17.83: Special Zoning Uses

a. Synopsis of Currently-Certified Provisions

CZZR Chapter 17.83 in its currently certified form as “Coastal Zone Transition Zoning and Uses,” sets forth a variety of provisions for: (a) determining which set of zoning district standards apply to portions of split-zoned parcels; (b) exceptions to the permissible use and dwelling density standards of certain residential zoning districts for lots situated immediately adjacent to another, more development intensive residential, commercial, or industrial district.

b. Summary of Proposed Amendments

As proposed to be amended by the City, Chapter 17.83 would essentially be rewritten into a set of zoning regulations for five different development types including: (1) the authorization of second dwelling units; (2) the granting of residential density incentive bonuses; (3) the authorization of small wind generation facilities pursuant to California Government Code Section 65892.13 which allows local governments to take over the function of authorizing certain small wind generator facilities from the California Energy Commission and Public Utilities Commission; (4) the placement of mobilehomes on CZ-R1 zoned parcels in lieu of conventional housing; and (5) the permitting of mobilehome parks within residential zoning districts.

c. Summary of Suggested Modification No. 2: (Title 17 – Zoning, Chapter 17.83: Special Zoning Uses)

The suggested modifications to Chapter 17.83 entail:

- Revising the provisions for the approval of second dwelling units to conform to contemporary state housing law with respect to Coastal Act compliance.

- Revising the provisions for the granting of density bonus incentives to conform to contemporary state housing law with respect to Coastal Act compliance.
 - Deleting the outdated provisions of Section 17.83.040 “Small Wind Energy Systems” in their entirety, reserving the section number for new provisions for the development of small wind generator devices meeting contemporary state energy statutes.
 - Adding provisos to the sections stating the continuing need to secure coastal development permits, notwithstanding provisions for the subject development types and grants of authority.
- d. Discussion of, and Rationale for, Suggested Modification No. 22 (Title 17 – Zoning, Chapter 17.83: Special Zoning Uses)

Since its submittal in 2003, state planning and zoning law has been further amended with respect to the various types of development addressed by proposed amended Chapter 17.83. Such interim amendments include changes to the hearing processes for authorizing second dwelling units, the allowable percentage of increased development density that may be granted for affordable housing projects, and specific content and scope of enabling ordinances for empowering local governments to regulate small wind energy generating systems within their jurisdiction.

Under the currently certified Implementation Plan, no provisions exist for allowing small wind generating systems in any zone as an enumerated use. The proposed provisions in CZZR Chapter 17.83 would allow for authorizing small wind energy system development in any zoning district with the issuance of a use permit subject to making generalized findings with respect to the system’s: (a) degree of compatibility of the particular use on a particular side, in consideration of other existing and potential uses within the general area; (b) technological processes and equipment as relates to noise, dust, vibration, and hazards; and (c) placement on a site in terms of its suitability for not becoming a neighborhood nuisance, conforming to the priorities for development the district and the policies of the land use plan, and other matters pertinent to the particular case. Such findings do not fully address the numerous coastal resource issues that development of such systems may present, including effects on biological resources, coastal access and visual resources of the area.

In addition, the Commission notes that with respect to conformance with state law, the provisions of California Government Code Section 65892.13, under which CZZR Section 17.83.040 cites as its authority, became inoperative on July 1, 2006 and self-repealed on January 1, 2006. Moreover, contemporary small wind energy system enabling legislation, enacted in 2009 (CGC §§65893 through 65899), differ markedly from the preceding provisions on which CZZR Section 17.83.040 were structured. Further, as discussed under the findings for Suggested Modification No. 7 in Part Five, in 2007 the California Energy Commission and the California Department of Fish and Game adopted released “California Guidelines for Reducing Impacts to Birds and Bats from Wind Energy Development - Commission Final Report,” which set forth a

variety of site assessment, mitigation selection, and monitoring guidelines to aid local governments in the review of small wind generating systems.

Thus, to ensure that inappropriate development of small wind energy systems does not occur inconsistent with the coastal resource protections afforded by the LUP policies and standards, (and other bodies of state law), Suggested Modification No. 22 includes the striking of CZZR Section 17.83.040 and the attachment of a place-holder “reserved” tag to the section, to provide a location in the City’s IP for future codification of small energy permitting provisions which address the various substantial issues of concern identified herein, including inappropriately designed or sited facilities, and the need to incorporate in such future ordinances review and requisite mitigation and monitoring criteria for preventing and reducing impacts to wildlife.

Therefore, the suggested modifications to CZZR Chapter 17.83 are necessary to ensure that provisions for development of second dwellings, wind energy generating systems, mobilehomes in lieu of conventional housing, and mobilehome parks in residential zones, and the granting of density bonuses is consistent with current state law to ensure that the IP is adequate to carry out the policies of the proposed amended Land Use Plan.

SM-23. Title 17 – Zoning, Chapter 17.84: Coastal Zone Coastal Development Permits and Appeals

a. Synopsis of Currently-Certified Provisions

CZZR Chapter 17.84 contains the regulations relating to the City’s review and discretionary authorization of development within the Coastal Zone portions of Crescent City. The chapter addresses the granting of exemptions and exclusions to coastal development permit requirements, CDP application requirements, project review procedures, hearing and public notice requirements, and appeal provisions.

b. Summary of Proposed Amendments

No changes are proposed.

c. Summary of Suggested Modification No. 23: (Title 17 – Zoning, Chapter 17.84: Coastal Zone Coastal Development Permits and Appeals)

Suggested Modifications to CZZR Chapter 17.84 entail the following:

- Inserting a new Section 17.84.012 stating the overarching requirement for securing a coastal development permit before a proposed development project may commence.
- Adding new Sections 17.84.014 and 17.84.016 addressing provisions for the granting of permit exemptions and emergency permits.
- Revising Section 17.84.020 to expand upon the application requirements and include coverage of project review, referral, and staff recommendation report functions.

- Adding a new Section 17.84.025 and augmenting the coverage of Sections 17.84.030 and 17.84.035 (renumbered to Section 17.84.031) regarding determining appropriate public noticing and hearing requirements for appealable and non-appealable developments, and associated noticing processes.
 - Inserting new Sections 17.84.032 through 17.84.037 regarding the conducting of hearings, requisite findings, provisions for the attachment of conditions to permit approval, procedures for open space easements and public access documentation, application administrative procedures, fees and guidelines, and procedures for completion of action on a given permit application and issuance of notices of final local action to the Commission, respectively.
 - Supplementing the coverage of Section 17.84.040 to address provisions for appeals of planning commission actions directly to the Commission, the waiver of appeal fees, grounds for appeal, and appeal filing requirements.
- d. Discussion of, and Rationale for, Suggested Modification No. 23 (Title 17 – Zoning, Chapter 17.84: Coastal Zone Coastal Development Permits and Appeals)

The Commission finds that, while encouraging some flexibility within the administration of a local coastal program may be appropriate, the often vague and decentralized form and content of the currently certified IP have given rise to several significant problems in the implementation of the LCP over the years, leading to numerous appeals which might have been avoided had more precise administrative processes been in place. Accordingly, Suggested Modification No. 23 recommends that the significant detail be added to the Chapter 17.84 to ensure that the review and issuance of coastal development, particularly with respect to the granting of exemptions, permits and appeals thereto, the attachment of conditions to permit approvals, and the adoption of requisite findings are undertaken in a manner more consistent with the requirements for local coastal programs set forth in the Coastal Act.

SM-24. New Title 17 – Zoning, Chapters 17.84A through 21.55G: – Coastal Resource Protection Application Review, Findings, and Development Standards

a. Synopsis of Currently-Certified Provisions

Chapters 17.84A through 17.84G are new CZZR provisions. Currently no supplemental coastal resource-specific application review, findings, and development standards appear in the certified IP.

b. Summary of Proposed Amendments

Not applicable.

- c. Summary of Suggested Modification No. 24: (New Title 17 – Zoning, Chapters 17.84A through 21.55G: – Coastal Resource Protection Application Review, Findings, and Development Standards)

Suggested new CZZR Chapters 17.84A through 17.84G contain specific requirements for the provision of supplemental application materials, including access studies, biological assessments, preliminary stormwater water quality treatment plans, erosion control plans, cultural resource evaluations, visual resources analyses, and investigations regarding the exposure to and measures for reducing, risks of geologic instability and flooding hazards. In addition each chapter sets forth requisite supplemental findings which must be made prior to approval of the subject development, and mandatory development standards to be incorporated into any such project authorization.

- d. Discussion of, and Rationale for, Suggested Modification No. 24 (New Title 17 – Zoning, Chapters 17.84A through 21.55G: – Coastal Resource Protection Application Review, Findings, and Development Standards)

Similar to the situation discussed under Suggested Modification No. 23 above, while the Commission finds that flexibility within the administration of a local coastal program may be appropriate, the very informal, ad hoc basis by which development projects are reviewed under the currently certified IP have given rise to several significant problems in the implementation of the LCP over the years, leading to numerous appeals which might have been avoided had more precise review processes been in place. Accordingly, Suggested Modification No. 24 recommends that the significant detail be added to the development permitting and review portions of the City’s IP to ensure that the review and issuance of coastal development, particularly with respect to the protection of the various coastal resources as set forth in the policies and standards of the proposed amended Land Use Plan, as further suggested to be modified, are undertaken in a manner more consistent with the requirements for local coastal programs set forth in the Coastal Act.

SM-25. Title 17 – Zoning, Chapter 17.85: Variances

- a. Synopsis of Currently-Certified Provisions

CZZR Chapter 17.85 is the local enabling ordinance to empower the City to grant “common” variances to LCP development standards in the Coastal Zone portion of Crescent City as provided for by state planning and zoning law (California Government Code Section 65901 *et seq.*)

- b. Summary of Proposed Amendments

No amendments are proposed.

- c. Summary of Suggested Modification No. 25: (Title 17 – Zoning, Chapter 17.85: Variances)

The suggested modifications to CZZR Chapter 17.85 comprise appended language within Section 17.85.010, sub-section G, limiting the granting of variances to certain prescriptive development standards and prohibiting the use of the variance process for deviation for minimum lot area for lot line adjustments and land divisions, the reduction of requisite buffers between development and environmentally sensitive areas, setbacks for geologic instability, and other provision or exactions relating to the protection of coastal resources. Constructive notice of the continuing requirements to obtain a coastal development permit is also stated.

d. Discussion of, and Rationale for, Suggested Modification No. 25 (Title 17 – Zoning, Chapter 17.85: Variances)

Although some flexibility is warranted in the granting of deviations from rote development standards for good cause, misuse of the IP’s variance provisions to reduce protections to coastal resources or to protect persons and property for risks of natural and man-made hazards could result in nullification in part or whole of the effectiveness of the protective provisions of the Land Use Plan. Accordingly, the proposed amended IP would not conform with or be adequate to carry out the policies and standards of the Land Use Plan. However, with the constraints suggested modifications to be made to Chapter 17.85, the IP could be found in conformity with, and adequate to carry out the LUP’s policies and standards.

SM-26. Title 17 – Zoning, Chapter 17.86: Coastal Zone Waterfront Development

a. Synopsis of Currently-Certified Provisions

CZR Chapter 17.86 establishes use limitations on lands along the City’s beachfront and waterfront areas to those for recreational and public purposes. The chapter sets specific site plan submittal and review requirements for development being undertaken directly by a public agency such as the City, or by a private lessee.

b. Summary of Proposed Amendments

The proposed amendments to Chapter 17.86 entail:

- Clarifying that the provisions of the chapter apply only to City-owned beachfront and waterfront areas, insofar as all such lands containing beach and harbor frontage beyond the mean high tide line are in municipal ownership.
- Adding rock materials as a building and/or landscaping material to be encouraged in development in the area covered by the chapter.
- Reiterating the policies and standards for provision, dedication, and management of coastal access facilities as set forth in Chapter 3, Article 2 of the Coastal Act.

c. Summary of Suggested Modification No. 26: (Title 17 – Zoning, Chapter 17.86: Coastal Zone Waterfront Development)

The suggested modifications to CZZR Chapter 17.86 are limited to adding language into Section 17.86.020, to include visual resources effects among the aspects of a development project to be considered as part of the site plan review process.

d. Discussion of, and Rationale for, Suggested Modification No. 26: (Title 17 – Zoning, Chapter 17.86: Coastal Zone Waterfront Development)

The stated reasons for the beach and waterfront site plan review within proposed amended Chapter 17.86 are to “limit the development of the beachfront or waterfront area of city owned lands to recreational and public purposes and to provide for public access to local beaches on adjacent lands.” To this end, specific review standards are set forth to ensure that development within city beach and waterfront areas: (a) “ shall be designed and used for tourists, recreational and harbor-related purposes;” (b) “reserve such rights-of-way for street and utility purposes as deemed necessary or appropriate;” (c) is “in keeping with the highest standards of architectural design represented in the city area;” (d) “[n]atural materials such as wood, timber or rock [are] be used wherever practical;” and (e) “[a] festive atmosphere is encouraged, but all elements and aspects of the development shall be carefully designed and in good taste.” While all of these stated purposes are valid City undertakings, they fail to protect coastal visual resources comprising the setting of a given development site in terms of views to and along the ocean and scenic areas, natural landforms, and the overall character of its surroundings. As the site plan review is intended to be the primary opportunity in which aesthetical considerations are to be evaluated as part of the development permit process, the Commission finds that specific inclusion of coastal visual resources in the purview of the review committee is the appropriate venue for including such review criteria. According, the Commission finds that the proposed amendments to Chapter 17.86 must be denied unless the revisions set forth in Suggested Modification No. 26 are included to ensure that the IP is in conformity with, and adequate to carry out the policies of the proposed amended Land Use Plan as suggested to be further modified by Suggested Modification No. 6.

SM-27. New Title 12 – Streets, Sidewalks, and Public Places, Chapter 12.34: Public Trees

a. Synopsis of Currently-Certified Provisions

Streets, Sidewalks, and Public Places Chapter 12.34 is being proposed as a new set of regulations to be included in the City’s IP. Currently no standards appear in the certified IP regarding the designation, installation, and protection of public street landscaping, memorial, and landmark trees.

b. Summary of Proposed Amendments

The proposed new Chapter 12.34 includes:

- Provisions for the placement and dedication of memorial and landmark trees on public property.

- Identification of Monterey cypress (*Cupressus macrocarpa*) as a designated tree species to be protected on public property.
 - Standards for the placement and removal of landmark trees.
 - Other provisions for trees and landscaping on City property.
- c. Summary of Suggested Modification No. 27: (New Title 12 – Streets, Sidewalks, and Public Places, Chapter 12.34: Public Trees)

The suggested limitations to proposed new Chapter 12.34 are limited to reiterative codification of the provisions as new CZZR Chapter 17.87.

- d. Discussion of, and Rationale for, Suggested Modification No. 27 (New Title 12 – Streets, Sidewalks, and Public Places, Chapter 12.34: Public Trees)

The basis for the suggested modifications to proposed new Chapter 12.34 is to charter the regulations within the range of Title 17 which comprises the “Coastal Zone Zoning Regulations” so that confusion is avoided as to whether the provisions apply solely to the non-Coastal Zone portions of the City or City-wide.

SM-28. New Title 12 – Streets, Sidewalks, and Public Places, Chapter 12.36: Stormwater Management) and Associated Stormwater Management Resolution No. 2003-10

- a. Synopsis of Currently-Certified Provisions

Streets, Sidewalks, and Public Places Chapter 12.36 and the associated uncodified stormwater Resolution are being proposed as a new set of regulations to be included in the City’s IP. Currently no standards appear in the certified IP regarding the management of stormwater.

- b. Summary of Proposed Amendments

The proposed new Chapter 12.36 and resolution includes:

- Standards for the management of stormwater drainage, both quantitatively and qualitatively, to avoid flooding and water quality impacts, respectively.
 - Identification of local enforcement mechanisms to address illegal stormwater connections and discharges.
 - Requirements for the use of water quality best management practices to prevent impacts to coastal waters.
- c. Summary of Suggested Modification No. 28: (New Title 12 – Streets, Sidewalks, and Public Places, Chapter 12.36: Stormwater Management and Associated Stormwater

Management Resolution No. 2003-10) and Associated Stormwater Management Resolution)

The suggested modifications to proposed new Chapter 12.36 entail:

- Consolidating the provisions of the modified ordinance and resolution and their reiterative codification as new CZZR Chapter 17.88.
- Striking all references to the stormwater management resolution within the text of the consolidated ordinance.
- d. Discussion of, and Rationale for, Suggested Modification No. 28 (New Title 12 – Streets, Sidewalks, and Public Places, Chapter 12.36: Stormwater Management and Associated Stormwater Management Resolution No. 2003-10) and Associated Stormwater Management Resolution)

The basis for the suggested modifications to proposed new Chapter 12.36 and Resolution is to bring the provisions into conformity with the policies and standards for water quality protection within the proposed amended Land Use Plan, as further suggested to be modified by Suggested Modification Nos. 5 and 7. Moreover, as the resolution passed by the City has no force of law due to its lack of codification as an ordinance within the IP, to assure that its provisions are implemented, the provisions of the resolution need to become a functioning sub-part of the stormwater drainage management development regulations chapter. In addition, the suggested modification to charter the regulations within the range of Title 17 which comprises the “Coastal Zone Zoning Regulations” is intended to avoid confusion as to whether the provisions apply solely to the non-Coastal Zone portions of the City or City-wide.

SM-29. New Title 17 – Zoning, Chapter 17.59 Bed and Breakfast Establishments

a. Synopsis of Currently-Certified Provisions

Zoning Chapter 17.59 is being proposed as a new set of regulations to be included in the City’s IP. Currently no standards appear in the certified IP regarding development of bed and breakfast establishments.

b. Summary of Proposed Amendments

The proposed new Zoning Chapter 12.59 includes:

- Provides definitions unique to the terms of the ordinance.
- Establishes provisions for authorizing bed and breakfast establishments in certain specified zoning districts as a conditionally permitted use.

- Establishes requirements for obtaining business licenses and providing minimal public safety amenities, and limitations on alterations of historic structures, food services, and owner occupancy.
- Sets prescriptive standards for maximum number of rooms, off-street parking requirements, signage, and noise.
- c. Summary of Suggested Modification No. 29: (New Title 17 – Zoning, Chapter 17.59 Bed and Breakfast Establishments)

The suggested modifications to proposed new Chapter 17.59 are limited to striking references to zoning districts that would not exist within the Coastal Zone portion of the City and recommending reiterative codification of the provisions as new CZZR Chapter 17.89.

- d. Discussion of, and Rationale for, Suggested Modification No. 29 (New Title 17 – Zoning, Chapter 17.59 Bed and Breakfast Establishments)

The basis for the suggested modifications to proposed new Chapter 17.59 is to charter the regulations within the range of Title 17 which comprise the “Coastal Zone Zoning Regulations” so that confusion is avoided as to whether the provisions apply solely to the non-Coastal Zone portions of the City or City-wide.

SM-30. Zoning Map Amendments

- a. Synopsis of Currently-Certified Provisions

CZZR Chapter 17.63 – Coastal Zone District Classifications, Section 17.63.020 – Boundaries, comprises the zoning map for the City’s Implementation Plan, and establishes the boundaries of the various zoning districts.

- b. Summary of Proposed Amendments

The proposed amendments to the zoning map entail the following:

Modify all proposed changes to the Zoning Map (Title 17 – Zoning, Chapter 17.63 – Coastal Zone District Classifications, Section 17.63.020 - Boundaries) that raise substantial conformity and/or adequacy of implementation issues with the policies and standards of the proposed amended Land Use Plan as further suggested to be modified by Suggested Modification Nos. 1 through 12 as follows:

1. **Battery Point Recreational Area:** A. Rezone portions of the Coastal Zone Harbor Related (CZ-HR) zoning district along and flanking the B Street Pier to: (1) Coastal Zone General Commercial (CZ-C2) over the southern .42 acre of the Crescent City Regional Wastewater Treatment Plant; (2) Coastal Zone Open Space (CZ-O) over the approximately .33 acre portion of APN situated between the Battery Point Lighthouse parking lot and the intertidal reach between Crescent

City Harbor's Outer Breakwater and the B Street Pier; and (3) Coastal Zone Open Space (CZ-O) over the intertidal and open water areas of Crescent City Harbor east of the B Street Pier; and B. rezone a roughly 10,000 square-foot area situated southwest of the westerly bend of Howe Drive from Coastal Zone Open Space (CZ-O) to Coastal Zone Harbor Related (CZ-HR).

2. **Beach Front Park / Mouth of Elk Creek Area:** A. Rezone the Coastal Zone General Commercial (CZ-C2) area situated along the west side of Beach Front Park between Front and Battery Streets to Coastal Zone Open Space (CZ-O); and B. zone the currently undesignated intertidal and open water areas within the Elk Creek estuary with a Coastal Zone Open Space (CZ-O) zoning designation.
 3. **Inner Harbor Area:** Rezone portions of the Coastal Zone Harbor Related (CZ-HR) zoning district situated between the Elk Creek estuary and King Street south of Highway 101 / Sunset Circle to: (a) Coastal Zone Highway Services (CZ-HS (APNs); and (b) Coastal Zone Open Space (CZ-O) (APNs).
 4. **Former McNamara-Peepe Mill Site Area:** Zone the currently uncertified three-acre site containing wetlands and riparian vegetation ESHAs and ESHA buffer area to Coastal Zone General Commercial zoning designation.
- c. **Summary of Suggested Modification No. 30: (Zoning Map Amendments)**
1. **Battery Point Recreational Area:** (a) Retain currently-certified Open Space zoning designation on portion of the site south of Howe Drive between the wastewater treatment plant and Crescent City Harbor proposed for redesignation to Harbor related; and (b) insert cross-hatching over the intertidal portions of the area within the Commission's coastal development permitting jurisdiction proposed for Open Space designation and attach notation of associated limitations on the City's permitting authority over the area.
 2. **Beach Front Park / Mouth of Elk Creek Area:** Insert cross-hatching over the intertidal portions of the area within the Commission's coastal development permitting jurisdiction proposed for Open Space designation and attach notation of associated limitations on the City's permitting authority over the area.
 3. **Inner Harbor Area:** With the exception of the Crescent City Harbor Districts dredge spoils disposal site (APNs 118-020-29 and rear portion of 118-020-42) and the former Eureka Fisheries ice packing plant (APN 118-380-22), retain currently-certified Harbor Related zoning designation over all portions proposed for redesignation to Coastal Zone Highway Services and Open Space designations.
 4. **Former McNamara-Peepe Mill Site Area:** Change proposed Coastal Zone General Commercial zoning designation for this currently uncertified site

containing wetlands and riparian vegetation ESHAs and ESHA buffer area to Coastal Zone Natural Resources zoning designation.

d. Discussion of, and Rationale for, Suggested Modification No. 30 (Zoning Map Amendments)

1. **Battery Point Recreational Area:**

(a) The area in question, comprising the portion of “Howe Park” between the wastewater treatment plant, Howe Drive, and the harbor, consists of a low terrace situated at an approximately 8-10 feet elevation (msl) above the intertidal reaches of the harbor. The area is vegetated with a cover of Hooker willow, a facultative wetland species, and contains a seep where sub-surface drainage through the adjoining parklands discharges onto the harbor beach. Wetland delineations conducted for the upgrade of the wastewater treatment plant found this area to meet the Commission’s definition of “wetlands.” With the possible exception of “small public facilities such as public utility substations” or “fuel sales and bulk fuel storage” being considered as a form of “new or expanded energy facilities,” there are no uses under the proposed CZ-HR zoning designation that would be a permissible use for which the diking, dredging, or filling of wetlands could be authorized. Accordingly, retention of the currently-certified Open Space zoning designation is necessary to insure conformity with and adequacy of the IP to carry out the policies and standards of the Land Use Plan with respect to the protection of environmentally sensitive habitat areas and limitations on development in wetlands.

(b) The insertion of cross-hatching on the City’s zoning map over the intertidal portions of the area within the Commission’s coastal development permitting jurisdiction proposed to be zoned by the City as Coastal Zone Open Space and the associated notation of the limitations on City’s permitting authority over the area are necessary to ensure that the IP is in conformity with the Land Use Plan in terms of clearly identifying the limited geographic scope of the area delegated to the City for the issuance coastal development permits upon the Commission’s certification of the LCP.

2. **Beach Front Park / Mouth of Elk Creek Area:** The insertion of cross-hatching on the City’s zoning map to the intertidal portions of the area within the Commission’s coastal development permitting jurisdiction proposed to be zoned by the City as Coastal Zone Open Space and the associated notation of the limitations on City’s permitting authority over the area are necessary to ensure that the IP is in conformity with the Land Use Plan in terms of clearly identifying the limited geographic scope of the area delegated to the City for the issuance coastal development permits upon the Commission’s certification of the LCP.

3. **Inner Harbor Area:** The proposed redesignation of approximately 20 acres currently designated for harbor related development would significantly reduce

the amount of land reserved for development of harbor dependent uses. Much of the area situated between Elk Creek and the Crescent City Harbor District lands south of Highway 101 currently designated for Harbor Related uses is proposed to be reclassified to a variety of Open Space, Highway Services (commercial), and Harbor Dependent zoning designations. Accordingly, as discussed under LUP Suggested Modification No. 3, given the requirements of the Coastal Act to protect, reserve, and provide sites for coastal related uses, the Commission finds that such redesignation of the Inner Harbor area to designations which would facilitate development of lower priority uses would be inconsistent with the Chapter 3 policies of the Coastal Act and, with two specific exceptions, must be denied. These exceptions entail: (1) the lands comprising and immediately adjacent to the Crescent City Harbor District's upland dredged spoils disposal ponds proposed for redesignation to Coastal Zone Harbor Dependent (CZ-HD) (APNs 118-020-29 and south portion 118-020-42); and (2) the 2.2-acre site of the former crab processing / ice plant (APN 118-380-22) proposed for Coastal Zone Highway Services (CZ-HS) zoning. The Commission finds these two land use reclassifications to be consistent with applicable Coastal Act Chapter 3 policies insofar as: (a) the redesignation of the dredge spoils ponds area is for a designation intended for higher priority coastal dependent uses; and (b) with no harbor shore frontage, a location at significant distance from harbor dependent lands that Harbor Related lands are intended to support, the existence of fish packing and ice facilities within the harbor proper, and lying along a developed highway services oriented area along Highway 101, the former crab processing / ice plant is a less-desirable site for continued reservation for harbor related uses. Consequently, Suggested Modification No. 10 required that, with the exception of the two areas described above, the 20 acres of the Inner Harbor area must remain designated with the Harbor Related land use classification. To ensure conformance of the zoning map with the modified land use classification, Suggested Modification No. 30 requires that the Coastal Zone Harbor Related zoning designation be retained over all of the affected Inner Harbor Area with the exception of the dredge spoils site and the ice packing plant site. This modification will ensure consistency with, and adequacy to carry out the policies of the LUP as modified.

4. **Former McNamara-Peepe Mill Site Area:** The area in question, comprising the portion of a former timber products processing mill consists of the open waters of a former log pond together with a fringing willow and alder covered riparian corridor and a band of adjoining graded and surfaced upland areas where the production facilities were housed. The City proposes that the uncertified area be reclassified to a "Coastal Zone General Commercial (CZ-C2)" zoning designation allowing for development of a variety of retail commercial and light industrial uses consistent with the C-2 designation for the adjoining non-coastal zone areas to the west.

Based upon a review of the U.S. Fish and Wildlife Service National Wetland Inventory's mapping, aerial photography of the area, and site visits conducted by

Commission staff, the portions of the former McNamara-Peepe Mill Site within and along the easterly approximately 100 feet of this roughly 200-foot-deep area clearly comprise wetlands and riparian vegetation ESHAs. The remaining 100-foot westerly area is covered with transitional tree cover, with only small portions of the former razed mill site constituting cleared gravel filled or paved areas. These areas functionally serve as non-development buffer areas for protecting the adjoining ESHAs to the east from the impacts of adjacent development. Therefore, as discussed under LUP Suggested Modification No. 10, the Commission finds that designation of the site as “General Commercial (CZGC)” land use classification would facilitate development of the site nonconforming with the policies and standards of the Land Use Plan regarding the protection of environmentally sensitive areas and the designation must be denied. Consequently, Suggested Modification No. 10 requires that the area be designated with a “Natural Resources (CZNR)” land use designation. To ensure consistency of the zoning map with the modified land use classification, Suggested Modification No. 30 includes a recommendation that the three-acre portion comprising the former McNamara-Peepe Mill Site Log Pond ADC be designated with a “Coastal Zone Natural Resources (CZ-NR)” zoning designation. This modification will ensure that environmentally sensitive habitats and their necessary buffer area will not be developed with non-resource dependent or degrading uses that would adversely affect the ESHA resources of the site.

SM- 31. Organization/Recodification

a. Synopsis of Currently-Certified IP Organization

The Implementation Plan portion of the City’s LCP is contained within a consecutive set of sections of Title 17 of the Municipal Code, spanning Chapters 17.60 through 17.86, collectively cited as the “Coastal Zone Zoning Regulations.”

b. Summary of Proposed Amendments

Other than the addition of new Chapters 12.34, 12.36, and 17.59, and uncodified Resolution No. 2003-10, which would effectively result in the IP expanding into other areas of the Municipal Code beyond the bounds of the currently consolidated “Coastal Zone Zoning Regulations” (Chapters 17.60 through 17.86), no other changes to the structure of the IP is proposed.

c. Summary of Suggested Modification No. 31: (Organization/Recodification)

1. Revise descriptive narrative text as necessary to conform narrative text to any associated policy(ies) that have been added, revised, or rechaptered through the suggested modifications.
2. Number all chapters and sections, including table entries, in appropriate sequential order and correct all policy and standards cross-references prior to

submission to the Commission for certification pursuant to Sections 13544 and 13544.5 of the California Code of Regulations.

3. Change all references to “General Plan” to “Coastal Land Use Plan” throughout the Coastal Zoning title.
 4. Publish the updated Coastal Zone Zoning Regulations implementation measures as Title 17 – Zoning, Chapters 17.60 through 17.89, incorporating all of the above suggested modifications.
- d. Discussion of, and Rationale for, Suggested Modification No. 31 (Organization/Recodification)

The Commission finds that, while encouraging some flexibility within the administration of a local coastal program may be appropriate, a decentralized IP structure has given rise to several significant problems in the implementation of other local government’s LCPs over the years, leading to numerous appeals which might have been avoided had a more concise organization been in place. Accordingly, Suggested Modification No. 31 recommends that the whole of the IP continue to be formatted and published as a consolidated set of consecutive zoning code chapters containing the zoning and development regulations for the coastal portions of the City, separate and apart from other provisions intended for the non-coastal portions of the City. The Commission finds that with such a stand-alone format, the IP can be clearly administered (and amended from time to time as needed) without additional problematic oversights occurring as have in the past.

PART SEVEN: CALIFORNIA ENVIRONMENTAL QUALITY ACT

CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 21080.9 of the California Environmental Quality Act (CEQA) exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with a local coastal program (LCP). Instead, the CEQA responsibilities are assigned to the Coastal Commission. Additionally, the Commission's Local Coastal Program review and approval procedures have been found by the Resources Agency to be functionally equivalent to the environmental review process. Thus, under Section 21080.5 of CEQA, the Commission is relieved of the responsibility to prepare an environmental impact report for each local coastal program submitted for Commission review and approval. Nevertheless, the Commission is required when approving a local coastal program to find that the LCP or LCPA does conform with the provisions of CEQA including the requirement in CEQA section 21080.5(d)(2)(A) that the LCPA will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. (14 C.C.R. §§ 13542(a), 13540(f), and 13555(b)).

The City of Crescent City's LCPA consists of a Land Use Plan amendment and an Implementation Plan Amendment. The Land Use Plan amendment as originally submitted raises a number of concerns regarding the Chapter 3 policies of the Coastal Act and thus cannot be found to be consistent with and adequate to carry out the Chapter 3 policies of the Coastal Act. The Commission, therefore, has suggested modifications to bring the Land Use Plan amendment into full conformance with the requirements of the Coastal Act. As modified, the Commission finds that approval of the Land Use Plan amendment will not result in significant adverse environmental impacts under the meaning of the California Environmental Quality Act.

Further, the Commission finds that approval of the Implementation Program Amendment with the incorporation of the suggested modifications to implement the Land Use Plan would not result in significant adverse environmental impacts under the meaning of CEQA. Absent the incorporation of these suggested modifications to effectively mitigate potential resource impacts, such a finding could not be made.

Therefore, the Commission finds that approval of the LCP amendment conforms to the applicable provisions of CEQA as there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.