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Th9b

MEMORANDUM

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Date: September 7, 2011

To: Commissioners and Interested Parties

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

SUBJECT: **City of Arcata LCP Amendment No. ARC-MAJ-1-09 (LCP Update)
(Meeting of September 8, 2011)**

This addendum contains findings omitted from the August 25, 2011 staff report, discusses changes to the recommended suggested modifications and proposed findings in the staff recommendation, and includes correspondence on the LCP amendment received since publication of the staff report.

1. Findings for Suggested Modifications Nos. 22 through 25

- Insert the following findings at the end of finding for Suggested Modification No. 21 and before the findings for Suggested Modification No. 26 on page 109 of the August 25, 2011 staff report:

SM-22. Title 9 – Land Use Code, Article 7: Planning Permit Procedures

a. Synopsis of Currently-Certified Provisions

LUDG Chapter I, Article 4: Procedures and Administration sets forth the processes for the granting of discretionary authorizations in the City, namely Coastal Development Permits, Conditional Use Permits, Variances, and Zoning Amendments. These standards include procedures for public hearings, noticing such hearings, and appellate provisions.

b. Summary of Proposed Amendments

LUC Chapters 9.70, 9.72, 9.74, and 9.76 contain the regulations relating to the City's review and discretionary authorization of development within the Coastal Zone portions of Arcata. The chapters address 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. LUC Section 9.72.030 specifically addresses the issuance of "Coastal Permits." LUC Section 9.72.090 empowers the City to grant variances to LCP development standards in the Coastal Zone portion of Arcata as provided for by state planning and zoning law (California Government Code Section 65901 *et seq.*) Other sections of Chapters 9.70 through 9.76 address the issuance of other discretionary approvals including major and minor conditional use permits, planned unit development permits, design review recommendations, zoning clearances, and certificates of occupancy. In addition, Chapter 9.78 establishes the City's processes for administering environmental review pursuant to the California Environmental Quality Act (CEQA).

c. Summary of Suggested Modification No. 22: (Title 9 – Land Use Code, Article 7: Planning Permit Procedures)

Suggested Modifications to LUC Article 7 entail the following:

- Inserting new statements declaring the overarching requirement for securing a coastal development permit before a proposed development project may commence, in conformance with the permit exemption, public hearing, public noticing, and appeal provisions of the Coastal Act and its administrative regulations, and/or notwithstanding the issuance of other discretionary approvals.
- Adding new sub-sections addressing provisions for the granting of permit exemptions and emergency permits.
- Revising appropriate sections to expand upon the application requirements and include coverage of project review, referral, and staff recommendation report procedures.
- Adding provisions regarding appropriate public noticing and hearing requirements for appealable and non-appealable developments, and associated noticing processes.
- Inserting new provisions regarding hearing procedures, requisite findings, attaching conditions to permit approvals, consolidated State and City CDPs, application administrative procedures, fees, procedures for completion of action on permit applications, and issuance of notices of final local action to the Commission, respectively.

- Limiting the granting of variances to prescriptive zoning standards which do not deviate from the requirements for Environmentally Sensitive Habitat Areas (ESHA) buffers, setbacks from unstable areas, or other substantive policy requirements necessary to protect other coastal resources.
- Inserting a prohibition within Chapter 9.78 regarding the use of the Statements of Overriding Consideration process under CEQA to resolve conflicts between two or more policies and/or standards of the LCP.

Suggested new language to LUC Section 9.72.030 contains 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.

The suggested modifications to LUC Section 9.72.090 comprise appended language 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. 22 (Title 9 – Land Use Code, Article 7: Planning Permit Procedures)

The Suggested Modifications to Article 7 are necessary to ensure conformance with and adequacy in carrying out the policies and standards of the amended Land Use Plan. Although some flexibility within the administration of a local coastal program may be appropriate, the measures for determining permit requirements, and the noticing, public hearing, and appeal provisions proposed in the updated IP do not fully comport with the minimum requirements set forth in the administrative regulations of the Coastal Act. Accordingly, Suggested Modification No. 22 recommends that the significant detail be added to the development permitting and review provisions of the City's IP to ensure that the review and issuance of coastal development permits, particularly with respect to the protection of the various coastal resources as set forth in the policies and standards of the amended Land Use Plan, are undertaken in a manner more consistent with the requirements for local coastal programs set forth in the Coastal Act and the Commission's administrative regulations. In addition, use 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 compromise 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 limits on the use of variances contained in the suggested modifications to be made to Chapter 9.72, the IP is in conformity with, and adequate to carry out the LUP's policies and standards.

SM-23. Title 9 – Land Use Code, Article 8: Subdivision Regulations and Procedures

a. Synopsis of Currently-Certified Provisions

LUDG Chapter II, Articles 1 through 10 comprise the City's local empowering ordinances for administering the State Subdivision Map Act (California Government Code Section 66410 et seq.) Chapter II covers the full breadth of the provisions of the Map Act, including procedures for the review, approval, and recordation of tentative and final parcel and tract maps, mergers and unmergers of parcels, reversions to acreage, and exceptions for, and acceptance of, dedications.

b. Summary of Proposed Amendments

Proposed new LUC Article 8 sets forth a similar set of regulations for the review, approval, and documentation of the forms of land divisions as that covered in the currently-certified IP. The proposed amended provisions includes updates in state subdivision law which have occurred over the last couple of decades since the current IP was last amended, including additional map exclusions, changes in state licensure requirements, new provisions for vesting tentative maps, changes in lot line adjustment regulations, and bonding for improvements.

c. Summary of Suggested Modification No. 23: (Title 9 – Land Use Code, Article 8: Subdivision Regulations and Procedures)

Suggested Modifications to LUC Article 8 primarily entail changes to the provisions for the approval of subdivisions of land situated outside of the Urban Services Boundary, and including constructive notice of the requirements for obtaining a coastal development permit in addition to any authorizations granted under the City's subdivision ordinances, including those for lot line adjustments mergers, unmergers, and reversions to acreage

d. Discussion of, and Rationale for, Suggested Modification No. 23 (Title 9 – Land Use Code, Article 8: Subdivision Regulations and Procedures)

As proposed, the amended IP contains no supplemental subdivision design standards for land divisions occurring outside of the urbanized portions of the City. Accordingly, the provisions of Coastal Act Section 301250(a), as suggested to be appended into the LUP as new Policy C-GM-1c, would not be adequately implemented. Suggested Modification

No. 23 includes the addition of new policy language providing for consideration of such “rural land divisions” against criteria which has been developed following from case law. 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 land divisions in areas without centralized community services (as suggested to be revised under Suggested Modification No. 3).

SM-24. Title 9 – Land Use Code, Article 9: Land Use Code Administration

a. Synopsis of Currently-Certified Provisions

LUDG Chapter I, Article 3 sets forth the provisions for the review and recognition of legal nonconforming uses and structures and allowance for expansions, additions, enlargements and substitutions to such uses and structures predating contemporary development standards. LUDG Chapter III, Article 8 sets forth measures for the abatement of attractive nuisances. Other than in reviewing associated physical development of infrastructure, or as a function of its environmental review, the currently-certified IP does not contain detailed processes for the review and approval of changes to the Urban Services Boundary.

b. Summary of Proposed Amendments

Proposed IP Article 9 would include detailed provisions for the review and recognition of legal nonconforming uses and structures and allowance for expansions, additions, enlargements and substitutions to such uses and structures predating contemporary development standards. Many of these provisions, along with those for the local processing of LCP amendment and administration of an enforcement program, would be carried forward in their present forms as appear in the currently-certified LUDG. In addition, Article 9 would include implementation measures for carrying out the various growth management policies of the updated LUP, including processes for annexations, pre-zoning, and changes to the Urban Services Boundary.

c. Summary of Suggested Modification No. 24: (Title 9 – Land Use Code, Article 9: Land Use Code Administration)

Suggested Modifications to LUC Article 9 entail the following:

- Adding constructive notice to Chapter 9.90 stating the possible need for securing a coastal development permit for any expansions, additions, enlargements, and substitutions granted under its provisions for nonconforming uses and structures, and prohibiting the use of the nonconforming uses and structures provisions to establish vested rights.

- Further qualifying the requirements for permissible expansions to the Urban Services Boundary to ensure that inappropriate development patterns or growth inducement do not result, and to ensure that development of priority land uses are not precluded.
- d. Discussion of, and Rationale for, Suggested Modification No. 24 (Title 9 – Land Use Code, Article 9: Land Use Code Administration)

The addition of constructive notice in the requirements of Chapter 9.90 of the coastal development regulations will ensure that the policies and standards of the LUP intended for protecting coastal resources will be included in the recognition or authorization of any such nonconforming uses and structures. Moreover, the additional qualifications appended into the wording of Chapter 9.94 at sub-sections 9.94.090 and 9.94.110 will ensure that suggested-to-be-modified LUP Policies C-GM-1a, C-GM-1p, and C-GM-1r are adequately carried out.

SM-25. Title 9 – Land Use Code, Article 10: Glossary

a. Synopsis of Currently-Certified Provisions

LUDG Appendix “A” consists of a set of definitions to the terms used throughout the currently-certified IP. In addition to terminology generally uses in planning and zoning regulations, the appendix also reiterates the statutory definitions of words and terms as set forth in Chapter 2 of the Coastal Act.

b. Summary of Proposed Amendments

The proposed amendments to LUC Article 10 “Glossary” entail a ten-fold expansion to the scope of the currently-certified glossary to include the terminology uses in both the LUP and the IP. This additional coverage includes, in addition to providing definitions to general terms and the uses within the various land use designations and zoning districts, detailed explanation of the vocabulary employed in the review of affordable housing development, emergency preparation and response planning, the protection of environmentally sensitive habitat areas (ESHA), floodplain management, grading, erosion, and sediment control, historic preservation, and signage regulation.

c. Summary of Suggested Modification No. 25: (Title 9 – Land Use Code, Article 10: Glossary)

Suggested Modification No. 25 proposes that several new terms be included in the definitions chapter. 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 IP (i.e., “environmentally sensitive habitat area,” “wetland”).
- Introduce heretofore undefined new terminology relating to new policy initiatives (i.e., “farm dwelling”).
- d. Discussion of, and Rationale for, Suggested Modification No. 25 (Title 9 – Land Use Code, Article 10: Glossary)

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 reflect to full scope of areas qualifying for consideration as such ESHA.

The *Glossary* chapter to the IP either omits, understates, or paraphrases certain key terms which, if applied as written in the interpretation and administration of the IP’s 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, and coastal agriculture, and its requirements regarding certain coastal dependent uses, such as aquaculture. Thus, to ensure that the standards of the IP are applied consistent with Coastal Act Sections 30230, 30231, 30233, 30240, 30241, 30242, and 30222.5, the Commission recommends the appending of several new terms within the Glossary chapter as set forth in Suggested Modification No. 25.

2. Revisions to Suggested Modifications and Findings

Staff is making the following revisions to the staff recommendation for Suggested Modification Nos. 1 and 15. The Suggested Modifications and associated findings language originally recommended by the staff are shown in standard formatted text while revisional additions suggested by the staff appear in **bold double-underlined text** and suggested deletions are shown in ~~**bold double-strikethrough text**~~.

- a. Revise Suggested Modification No. 1 as appears on page I-25 of ther LUP’s *Introduction* (pages 29-30 of Exhibit No 1 to read as follows:

Policies Comprising the Coastal Land Use Plan

The policies contained within the Coastal General Plan constitute the Land Use Plan portion of the City’s Local Coastal Program and govern the review and approval of coastal development permits include the following:

- Chapter 2: Community Development

Land Use Element Designations Descriptions, Allowable Uses, and Development Densities, and Text Policies C-LU-1a through C-LU-1n (LU-1a), C-LU-1o (LU-1b), ~~LU-1e~~, C-LU-1p (LU-1f), C-LU-1q (LU-1g), C-LU-2a, C-LU-2b (LU-2d), C-LU-3a, C-LU-4a, C-LU-4b, ~~LU-4d~~ C-LU-4c (LU-4e), C-LU-4d (LU-4f), ~~LU-4g~~, C-LU-5a, C-LU-5b (LU-5c), C-LU-6a, C-LU-6b, and C-LU-6c; *Growth Management Element* Policies, C-GM-1a through C-GM-1o, C-GM-1p (GM-4a), C-GM-1q (GM-4b), and C-GM-1r (GM-4c); *Transportation Element* Policies C-T-4a, C-T-4b, C-T-4c, C-T-4d, C-T-4e, C-T-5a, C-T-5b, C-T-5c, C-T-5d, ~~T-7a~~, ~~T-7d~~; and *Public Facilities & Infrastructure Element* Policies C-PF-1a (PF-1b), C-PF-2a, ~~PF-2b~~, ~~PF-2f~~, C-PF-3a through C-PF-3f, C-PF-3g (PF-3a), C-PF-3h (PF-3b), ~~PF-3c~~, ~~PF-3d~~, and C-PF-5a (PF-5b).

- Chapter 4: Environmental Quality and Management

Open Space Element Policies C-OS-1a, ~~OS-1b~~, ~~OC-1c~~, ~~OS-1d~~, ~~OS-1e~~, C-OS-1b (OS-1f), ~~OS-1g~~, ~~OS-1h~~, ~~OS-1i~~, C-OS-2a (OS-2b), ~~OS-3a~~, ~~OS-3b~~, C-OS-4a, C-OS-4b through C-OS-4f, C-OS-4g (OS-4b), C-OS-4h through C-OS-4j, and C-OS-4k (OS-4a), ~~OS-4c~~, ~~OS-4d~~, and C-OS-5a, and ~~OS-5b~~; *Resource Conservation & Management Element* Policies C-RC-1a, C-RC-1b, C-RC-1c (RC-1b), C-RC-1d (RC-1c), C-RC-1e (RC-1d), C-RC-1f (RC-1e), C-RC-1g (RC-1f), C-RC-1h (RC-1g), ~~RC-1h~~, ~~RC-1i~~, C-RC-1j, C-RC-2a, C-RC-2b, C-RC-2c (RC-2b), C-RC-2d (RC-2c), ~~RC-2d~~, C-RC-2e (D-3e), C-RC-2f, C-RC-2g (RC-2e), ~~RC-2f~~, ~~RC-2g~~, ~~RC-2h~~, C-RC-2h, C-RC-2i, C-RC-3a, C-RC-3b, C-RC-3c, C-RC-3d, ~~RC-3e~~, C-RC-3f, C-RC-3g, C-RC-3e, C-RC-3i, C-RC-3j (RC-3h), ~~RC-3i~~, C-RC-3k (RC-3j), C-RC-3l (RC-3k), C-RC-3m (RC-3l), C-RC-4a, C-RC-4b, C-RC-4c, C-RC-4d (RC-4f), C-RC-4e (RC-4d), C-RC-4f (RC-4d), C-RC-4g (RC-4f), C-RC-4h, C-RC-4i (RC-4e), ~~RC-5a~~, C-RC-5a through C-RC-5i, C-RC-7a, and C-RC-7b (RC-7a), and C-RC-7c through C-RC-7g; *Air Quality Element* Policies AQ-1a, C-AQ-1a, and C-AQ-1b, AQ-1c, AQ-1d, AQ-2a, AQ-2b, AQ-2c, AQ-2d, AQ-2e, AQ-2f, AQ-2g, AQ-3a, AQ-3b, AQ-3c, AQ-3d, and AQ-4a,

- Chapter 5: Design and Historic Preservation

Design Element Policies C-D-3a, C-D-3b (D-3a), C-D-3c, C-D-3d, C-D-3e, and C-D-3f (D-3h); *Subdivision Design Policy* C-D-4a through C-D-43; and *Historic Preservation Element* Policies C-H-1a (H-1b), C-H-1b (H-1c), C-H-2a, C-H-2b (H-7a), C-H-2c (H-7b), C-H-2d (H-7c), ~~H-7-d~~, and C-H-2e (H-7f).

- Chapter 6: Health and Safety

Public Safety Element Policies ~~PS-1a~~, ~~PS-1b~~, ~~PS-1c~~, C-PS-1a (PS-1d), C-PS-1b (PS-1e), ~~PS-1f~~, C-PS-2a through C-PS-2d, C-PS-2e (PS-2a), C-PS-2f (PS-2b), C-PS-2g (PS-2c), C-PS-2h (PS-2d), C-PS-2i (PS-2e), C-PS-2j (PS-2f), C-PS-2k (PS-2g), ~~PS-2h~~, C-PS-3a through C-PS-3g, C-PS-3h (PS-3a), C-PS-3i (PS-3b),

~~C-PS-3j (PS-3c), C-PS-3k (PS-3d), C-PS-3l, C-PS-3m (PS-3e), PS-3f, PS-4a, C-PS-4a through C-PS-4g, C-PS-4h (PS-4b), C-PS-4i (PS-4c), C-PS-4j (PS-4d), PS-4e, C-PS-4k (PS-4f), C-PS-4l (PS-4g), C-PS-4m (PS-4h), PS-5a, C-PS-5a through C-PS-5c, C-PS-5d (PS-5b), PS-5e, C-PS-5g (PS-5d), PS-5e, PS-6a, PS-6b, PS-6c, C-PS-6a, C-PS-6b (PS-6d), PS-6e, C-PS-6c (PS-6f), PS-6g, PS-7a, PS-7b, PS-7c, PS-7d, PS-7e, PS-8a, PS-8b, PS-8c, and PS-8d; and Noise Element Policies N-1a, N-1b, N-1c, N-1d, N-1e, N-1f, N-1g, N-2a, N-2b, N-2c, N-2d, N-3a, N-3b, N-3c, N-4a, N-5a, N-5b, N-5c, N-5d, N-5e, and N-5f.~~

- Glossary

All definitions of terminology relating to the foregoing policies and standards.

- b. Append the following to the sub-points of Suggested Modification No. 15:

~~g. Delete all policies identified as “Other Initiatives” having no bearing on the review, issuance, or appeal of coastal development permits and the subsection within each LUP chapter element where each non-binding provisions would be relocated.~~

- c. Remove the bold double strike-through text formatting from the following Historical Preservation policies on pages 90 - 103 of Exhibit No. 1 (part 4):

H-1e H-1f H-1g H-1h H-1i H-2a H-2b H-2d H-2e H-4a H-4b H-4c

H-4d H-4e H-4f H-5a H-5b H-5c H-6a H-6b H-6c H-6d H-7e

These policies represent additional provisions proposed by the City to further protect community character consistent with Coastal Act Section 30251.

3. **Attachment:**

Letter dated September 6, 2011 from Humboldt Baykeeper



September 6, 2011

Robert Merrill, Director
North Coast District Office
California Coastal Commission
710 E Street, Suite 200
Eureka CA 95501

Re: City of Arcata LCP Amendment No. ARC-MAJ-1-09 (LCP Update) (Meeting of September 8, 2011), Item Th9b

Mr. Merrill and Coastal Commissioners,

On behalf of the Board and Staff of Humboldt Baykeeper, the following comments are submitted regarding the City of Arcata's Proposed Local Coastal Plan ("LCP") Update. Humboldt Baykeeper works to safeguard our coastal resources for the health, enjoyment, and economic strength of the Humboldt Bay Community through education, scientific research, and enforcement of laws to fight pollution. We thank you for this opportunity to provide additional comments regarding the City of Arcata's proposed LCP Update.

Humboldt Baykeeper would like to thank Coastal Commission Staff for their work in preparing a LCP Update that meets the requirements of the Coastal Act, protecting our invaluable coastal resources. This comment letter does not supersede the comments previously submitted in August, but instead supplements them.

General Comments

Humboldt Baykeeper supports the majority of staff's Suggested Modifications to the LCP Update submitted for certification by the City of Arcata. Separating the Coastal Zone policies from those applicable to the inland portions of the City should further clarify and result in more easily implemented requirements for those portions of the City of Arcata that lie within the Coastal Zone. We additionally support the comments submitted by Ralph Faust regarding tsunami run-up protections for new development.

Specific Comments

Coastal Access

The current LCP for the City of Arcata is inadequate in how it addresses Coastal Act requirements related to coastal access provisions, and must be updated. As currently written it contains no provisions for fostering increased visitor serving development. The LCP as proposed by the City of Arcata remain inadequate because it omits key requirements and the majority of provisions it contains related to coastal access do not in fact apply within the Coastal Zone.

Specific measures must be included in the LCP Update to maximize public access and recreational opportunities as mandated by the Coastal Act. As modified by Commission Staff, the LCP would be updated to include specific policy mechanisms to ensure that new development will not interfere with coastal access, including measures to provide appropriate access in sensitive or hazardous areas, and protecting sites that are suitable, for public access. Furthermore, the Coastal Act gives priority to water-oriented recreation and lower-cost visitor-serving facilities which are omitted from both the current LCP and the LCP Update submitted by the City.

In addition to the provisions above, the LCP Update as submitted by the City omits provisions related to the Legislature's formal recognition of the development of the California Coastal Trail as a statewide planning initiative. As modified by Commission Staff, these provisions are inserted and include measures that would maximize coastal ingress and trail connectivity while protecting sensitive resources.

Environmentally Sensitive Habitat Areas

Biological resources and the protection of environmentally sensitive habitat areas ("ESHA") are key protections found within the Coastal Act. The LCP Update proposed by the City of Arcata does not provide the protection for these resources that the Coastal Act mandates, and does not provide the clarity necessary for their proper implementation. As modified by Commission Staff, however, clear standards and protections are included in the LCP Update.

Neither the current Arcata LCP nor the LCP Update as submitted provide adequate protections for ESHA as mandated by the Coastal Act. Specifically, the amendment as submitted contains inadequate definitions of ESHA, and must be modified to be consistent with the Coastal Act. For example, the LCP Update must incorporate the Coastal Act definition of ESHA, which includes protected animals, plants, and plant communities in the examples of types of ESHA. In addition, the LCP Update must clearly state that ESHA is not a specifically mapped or described area, but instead

emphasize that ESHA may be found in unmapped areas and may be formally designated in the future. The proposed LCP Update as submitted does not clarify what are permissible uses and development in and near ESHAs. Policies must be added that specifically enumerate permitted uses within or near ESHA consistent with sections 30233 and 30236 of the Coastal Act. The proposed amended LUP sets three different standards for ESHA buffers based on standards that are either undefined or vague. We support staff's Suggested Modification number 7, which establishes a default 100 foot buffer around all ESHAs potentially affected by development, whether wetlands or otherwise, with specific criteria to allow for reducing or expanding the buffer.

Water Quality

The LCP Amendment must contain a complete set of water quality standards to provide a legal foundation for basing determinations on CDPs and appeals. The City's LCP amendment as submitted does not include this information. As modified by Commission staff, the LCP Amendment contains these specific policies that address storm water runoff flows and pollution including requirements to minimize both construction phase and post construction impacts to water quality and coastal waters.

Water Quality provisions of an LCP must include measures to protect coastal biological productivity and the quality of coastal waters through establishing comprehensive development standards and permitting review procedures. The goals of the Coastal Act are met by specifically minimizing the adverse effects of wastewater discharges and entrainment, controlling runoff, and maintaining natural vegetation.

In addition to requirements that apply in all areas of the Coastal Zone, the LCP Update as modified by Commission Staff includes specific standards for development with a heightened potential for significant impacts to coastal water quality. For these developments, additional requirements include a hydrological study, the use of specific treatment control Best Management Practices ("BMPs"), and restrictions on post-development runoff to protect against habitat impacts.

We strongly support staff's addition of policies that incorporate post-construction Site Design and source control BMPs that may reduce the need for structural controls by utilizing Low Impact Development methods to minimize impervious surfaces, infiltrate storm water runoff, and preserve natural drainage systems as feasible, and for continued post-construction maintenance of BMPs.

Sea Level Rise

We strongly support the modifications requiring new development to plan for sea level rise, with special consideration for critical infrastructure. Sea level rise is an issue of paramount importance for any area that lies in the Coastal Zone. As sea levels rises, areas vulnerable to flooding during major storms will continue to expand, as well as increasing the risk of the rare but catastrophic event of a major tsunami.

People, infrastructure, and property are already located in areas vulnerable to flooding from a 100-year event. Sea level rise will cause more frequent—and more damaging—floods to those already at risk and will increase the size of the coastal floodplain, placing new areas at risk to flooding.

It is imperative that California cities develop strategies for adaptation and long-term planning to most effectively protect their communities from hazards related to sea level rise, including flooding, erosion, and inundation. The measures will protect life and property as well as coastal resources.

Maps prepared by the Pacific Institute in 2009 project sea level rise and potential inundation due to coastal base flooding of the Arcata area that extends uniformly through the area almost to the extent of the current coastal zone boundary (See http://www.pacinst.org/reports/sea_level_rise/hazmaps/Arcata_South.pdf). Potential threats to the Arcata area from sea level rise specifically include potential inundation of the Arcata Wastewater Treatment Plant, as well as the loss of other valuable infrastructure such as roads. The projection from the Pacific Institute indicate the serious need for preservation and restoration of coastal wetlands to help protect infrastructure and other development from damage from sea level rise and storm surge.

As sea level rises and the 100-year floodplain expands, coastal ecosystems will undergo changes of an unprecedented scale and magnitude. Approximately 90% of Humboldt Bay's salt marshes have been destroyed by diking, draining, and conversion. It is important to implement measures now so that sea level rise will not eliminate the small amount that remains.

With long-term planning, the Humboldt Bay area has a high potential for wetlands to migrate inland rather than being completely decimated to coastal inundation. We commend the City of Arcata's leadership in efforts to restore and expand coastal wetlands. These efforts will help the City withstand sea level rise and storm damage, while protecting this rare and sensitive habitat and the species it supports. Humboldt Baykeeper supports the work of the Coastal Commission and the City of Arcata in planning for and adapting to. We support the inclusion of planning requirements for a minimum of 55" sea level rise hazard analysis for any development within the Coastal Zone, especially for critical infrastructure such as wastewater treatment plants.

Additionally, including the provision that the best available and most recent scientific information be used in this analysis allows for the creation of long range planning documents, such as the LCP Update, while not turning away from the reality that our knowledge and the science that informs it are evolving rapidly.

Conclusion

Humboldt Baykeeper appreciates the opportunity to comment on the proposed LCP Update. We appreciate the work that the Coastal Commission does in protecting our coastal resources and look forward to the updated LCP for the City of Arcata being implemented on the North Coast.

_____/s/_____
Michelle D. Smith
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Eureka, CA 95501

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Th9b

TO: Commissioners and Interested Parties

DATE: September 25, 2011

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

SUBJECT: **City of Arcata LCP Amendment No. ARC-MAJ-1-09 (LCP Update)
(Meeting of September 8, 2011)**

TIMELINE SYNOPSIS

The proposed Local Coastal Program Amendment was submitted on April 17, 2009 and filed on June 23, 2010. The 90-day time limit for the Commission to act on the proposed LCPA was September 21, 2010. A one-year time extension was granted by the Commission on August 11, 2010. As such, the last date for Commission action on this LCPA is September 21, 2011.

The City of Arcata and Commission staff requested that the Commission open the hearing at the August 12, 2011 meeting and then continue the matter to the September meeting to allow more time for the City's review of the staff report and suggested modifications and for discussion between City and Commission staff. At the August 12, 2011 meeting, the Commission opened the hearing and received testimony including comments from City staff, then continued the matter to the September 7-9, 2011 meeting when the Commission must act on the LCPA.

RECOMMENDED 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 on pages 30-32.

STAFF NOTES

1. Process Moving Forward to Resolve Differences with the City.

At the August 12, 2011 hearing, City staff testified that the City had major disagreements with the Commission staff recommendation. In an attempt to resolve as many as possible of the City's concerns with the Commission staff's recommended suggested modifications before the September 8, 2011 continued hearing on the LCP amendment, three meetings were scheduled between Commission and City staff. Prior to these meetings, the City staff received direction from the City Council on the issues that from the Council's perspective should be the top issues to discuss with Commission staff. One of the three scheduled meetings occurred on August 23, 2011, and the remaining two will occur after publication of this staff recommendation on August 26, 2011, but prior to the hearing. In response the City's concerns expressed at the public hearing and during the August 23, 2011 meeting between the Commission and City Staff, Commission staff has made certain initial changes to the Staff recommendation as described in Staff Note 5 below. Staff is hopeful that the two subsequent staff-to-staff meetings will lead to resolution of additional concerns the City has raised. As the two subsequent meetings are occurring too late for most of the resulting changes in the staff recommendation to be included in this report, staff will prepare an addendum that will be presented at the September 8, 2011 continued hearing on the amendment reflecting any further resolution of issues between Commission and City staff.

The staff commiserates with the compressed timeline with which the City can review staff's suggested modifications. However, as noted in the Timeline Synopsis above, the Commission must take action on the subject LCP amendment at the September 8, 2011 hearing. To ameliorate the City's concern about needing more time to evaluate the recommendation, the City has several options.

First the City could choose to withdraw the amendment prior to the Commission's action and reapply for a new amendment once it has fully reviewed the suggested modifications and made any changes the City wishes to make in response to the Commission staff recommendation. If the City chooses not to withdraw the amendment and the Commission denies the LCP amendment as submitted and certifies the amendment with certain suggested modifications which the City finds objectionable, the City will have other options.

Pursuant to the Commission's regulations, the certification of an LCP amendment shall not be deemed effective until the local government by action of its governing body, acknowledges and agrees to any terms or modifications which may have been suggested for final certification and takes whatever formal action is required to satisfy the terms and modifications. The local government has six months (which can be extended by the Commission for up to an additional year) from the date of Commission action to accept the Commission's suggested modifications and take the implementing actions. If the County has not accepted the suggested modifications by that time, then the Commission's approval with suggested modifications would expire and only the Commission's denial stands.

Thus, if the city objects to certain suggested modifications adopted by the Commission, the City could choose to reject the suggested modifications or simply not accept them within the six

month time period; allowing the suggested modifications to expire would keep the LCP amendment with the suggested modifications certified by the Commission from becoming effective. Under that scenario, the City would continue to utilize its 1980s-vintage LCP. The City also retains the option of not accepting some or all of the suggested modifications and resubmitting the amendment with alternatives to the modifications that are objectionable to the City. The resubmittal process could afford the City additional time to evaluate the Commission's modifications, consult with Commission staff, and consider alternatives.

2. Areas of Known Controversy Described in July 28, 2011 Staff Report and Disclosed at August 12, 2011 Hearing

As noted in the July 28, 2011 staff report for the August 12, 2011 hearing, City staff indicated in interagency meetings held in the months preceding the hearing that they were concerned about the size and scope of the suggested modifications recommended by Commission staff. After publication of the report in late July, the City staff did not provide the Commission staff with an identification of which particular suggested modifications it found to be problematic. Instead, the City staff, in oral testimony given at the August 12, 2011 hearing, reiterated the following general observations and assertions regarding the LCP amendment certification review process as it is currently being administered by Commission staff and its perspectives on the merits of its amended LCP as submitted:

- By their very volume and complexity alone, the modifications suggested by the Commission staff represent a hardship to, and burden upon, a local government entity with limited staff and funding resources to integrate the changes into its coastal management program.
- The compressed timeframe between the initial release of the staff's suggested modifications and the start of certification hearings before the Commission was insufficient to afford the City ample time to reasonably absorb and respond to the changes being recommended by the Commission's staff.
- The City staff believes that the suggested changes to the City's proposed LCP amendment go beyond that necessary to achieve conformance with Coastal Act Sections 30512 and 30213 which require the LUP to be consistent with the Act's Chapter 3 policies and the IP to conform with and adequately carry out the policies of the LUP as amended, respectively. The suggested modifications include changes to the local agency-developed format and content of the proposed amended LCP documents which are not crucial to achieving conformance with Coastal Act Sections 30512 and 30513, inconsistent with the limitation placed on the Commission by Sections 30500(c) and 30512.2(a). The modifications represent an effective usurpation of the City's authority to independently develop its own LCP.
- The City staff believes its LCP as originally submitted is fully consistent with the standards for LCPs set forth in Section 30512 and 30213 and that the modifications suggested by the Commission staff are unwarranted with the exception of: (a) modifications that reorganize the proposed consolidated general plan and land use code

documents into coastal zone and inland sub-parts—presumably including the deletion of text not directly applicable to the coastal zone portion of the City or having no bearing on the density or intensity of use of land within the coastal zone, (b) five specific suggested modifications limited to bringing the proposed amendment into compliance with the provisions of Coastal Act Section 30250(b), 30255, and 30515 regarding the location and priority status of coastal dependent uses, and (c) modifications that would identify within the IP certain key standards existing elsewhere in the City’s documents.

- The City has spent 15 years in developing the amended LCP with significant consensus-based public participation. This legacy should be given preferential consideration over any recommended changes by the Commission staff to bring the LCP into Coastal Act consistency from a statewide perspective, including those changes recommended based on the precedential actions of the Commission on preceding LCP amendments.
- While the City might accept appending wholly new policies and standards as might be determined necessary to bring the LCP into Coastal Act consistency, its staff takes exception to the suggested modifications which take the form of revisions to the policy and standards language being proposed by the City.
- Commission staff’s suggestion to replace the cross-references to other City documents and program standards with an enumeration of specific standards is seen as imposing overly onerous administrative responsibilities on City staff.

3. Staff Response to City’s Concerns / Identification of Substantial Issues / Development of Suggested Modifications

The City of Arcata is clearly committed to updating its general planning and development regulatory programs to tackle the changes in land use issues that have transpired since their last LCP update in the mid-1980s. The proposed amendments contain a wide variety of both established and innovative provisions for addressing such local challenges as providing affordable housing, the transition in the City’s economic base from a forest products heavy industrial orientation to light manufacturing and knowledge technologies, converting traditional centralized public utilities to more sustainable forms of energy production and use patterns, and investing in green infrastructure. In addition, the City has also focused a great deal of its planning acumen directly on coastal resource issues, including provisions for integrated stormwater pollution prevention and management, fostering access, particularly non-vehicular modes, and restoring reclaimed former tidelands.

The City staff has expressed frustrations with the Commission staff’s process for reviewing the LCP Update submittal, indicating that the number of recommended suggested modifications are too numerous from the City’s perspective and that the City did not have adequate time to consider the recommended suggested modifications. A number of factors may have contributed to the situation, including the fact that the Commission staff did not have a great deal of participation in the development of the LCP Update.

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The City began work updating its overall General Plan in 1996 with a series of local public workshops and prepared a Public Hearing Draft and Draft Environmental Impact Report (EIR) in September of 1998. The City eventually adopted the updated General Plan and EIR in October of 2000. Commission staff had little participation in this period of plan formulation, in large part because the Commission did not have a district office located within the North Coast. Budget cuts had forced the Commission's original Eureka office to close in 1985, and the North Coast office was relocated 300 miles away to the San Francisco headquarters office of the Commission. The Commission was not able to open the current North Coast District office in Eureka until the fall of 1999. During those years prior to opening the current office in Eureka, opportunities for extended meetings with local government staff and the public to discuss and review LCP amendments were extremely limited due to the Commission's limited staff resources and travel budget. As a result, Commission staff had very little input into the initial stages of preparation of the updated LUP and the formulation of the LUP policies that are the primary subject of the current LCP Update amendment.

The Commission and City staffs did have two meetings in 2000 about the City's anticipated submittal of the updated LUP for certification in 2000. As an updated Implementation Plan (IP) to implement the Updated LUP had not yet been prepared at that time, the Commission and City staff agreed that it would be better for the City to wait to transmit the LUP for certification until after the IP Update had been adopted by the City so that a total LCP Update that included both the updated LUP and IP could be transmitted and reviewed together by the Commission. Over the next 8 years, the City adopted various changes to their existing IP, known as the Land Use and Development Guide, developing what was to become an updated IP. The Commission staff met with City staff at the very beginning of the City's process of updating the IP to offer general guidance on the process of preparing an IP update and later transmitting the document for certification by the Commission. However, there was very little interaction between City and Commission staff during the IP preparation process, partly because the City did not actively solicit Commission staff participation in the process and partly because of limited staffing resources at the Commission's relatively small North Coast office. North Coast staff was involved in the review of LCP updates from other jurisdictions such as Point Arena, Fort Bragg, Del Norte County, and Crescent City that had already been submitted for certification to the Commission during those years.

The City adopted the IP in 2008 and submitted the total LCP Update on April 17, 2009. In response to this application, staff requested additional information and clarifications to complete the submittal on April 30, 2009. The City developed and submitted the information over the next year with the LCP amendment submittal being deemed complete on June 23, 2010. The Commission extended the deadline for final action to September 21, 2011.

In the months leading up and immediately following the submittal of the LCP Update, Commission and City staff met periodically, a total of approximately three times. Due to work on other projects, the Commission staff analyst assigned to the LCP Update was not able to focus full time on the City's LCP Update until the spring of this year. After Commission staff had been able to identify issue areas and begin developing suggested modifications, staff entered into a series of regular meetings to discuss the LCP Update and the Commission staff's concerns with City Staff beginning June 6 of this year. Since that time, Commission and City staff have met a

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total of 5 times. Two additional meetings are scheduled between the date of publication of this report and the continued public hearing.

To afford the City additional time to review the Commission staff recommended suggested modifications and to allow additional time for the staff to consider comments received, staff scheduled the Commission's public hearing so that the Commission would be able to take testimony and consider the LCP Update over two separate meetings instead of just one. The staff report with the suggested modifications for the August hearing was published on July 28, 2011. As discussed below, in publishing this report on August 26, 2011, staff has made changes to the staff recommendation based on comments received at the August 12, 2011 hearing and based on further discussions with staff. Staff will present any additional changes resulting from the remaining meetings with the City staff in an addendum at the September 8, 2008.

The City as to process, the Commission and its staff is committed to addressing the concerns raised by local government representatives, particularly with regard to the complexity of the LCP amendment certification process. Through the workshops held between the Commission and California League of California Cities (LCC) and the California State Association of Counties (CSAC) as the "Local Government Working Group," these dialogues have fostered efforts to establish: (a) improved lines of communication between the Commission and its staff, and their local government counterparts at all levels; (b) provisions for regularly scheduled meetings and earlier project and program review consultations between Commission and agency staff as funding resources permit; and (c) measures to streamline the LCP amendment process in local assistance documents and make these documents more available to local agencies.

Notwithstanding the time and energy the City has invested to revise its LCP to address contemporary community conditions and needs, and the above-described ongoing efforts by the Local Government Working Group toward streamlining the LCP processes and achieving greater intergovernmental harmony, these endeavors do not relieve the Commission of its mandate to ensure that the requirements of the Coastal Act are met. Although Commission and City staff have successfully resolved several areas of disagreement since the August 12, 2011 Commission hearing, Commission staff continue to believe that the amended LCP as proposed by the City of Arcata is inconsistent with the requirements set forth in the Coastal Act.

To certify the amendment to the Land Use Plan (LUP) portion of the City of Arcata Local Coastal Program, the Commission must find that the LUP, as amended, is consistent with the policies of Chapter 3 of the Coastal Act. To certify the amendment to the Implementation Program (IP) portion of the LCP, the Commission must find that the IP, as amended, conforms with and is adequate to carry out the amended LUP. As described above, the Commission staff has found numerous instances where the proposed LUP has entirely omitted or mischaracterized the Chapter 3 requirements. As such, the proposed LCP Update is inconsistent with the statutory requirements of the Coastal Act. The remaining deficiencies include, but are not limited to, the following ten issue areas:

a. Protection and Provision of Public Access and Coastal Recreational Opportunities

Other than providing an inventory of existing designated coastal access facilities, and identifying limitations on the development of access facilities in certain environmentally

sensitive areas, the City's proposed amended LCP contains no specific requirements for: (a) the protection or provision of public access in the approval of new development, (b) requirements that access facilities be conspicuously posted, (c) specifications on the location and amount of new development with respect to facilitating public access and coastal recreational opportunities, or (d) reviewing and approving public access and open space or conservation easements, as required by Coastal Act Sections 30210 through 30224, and 30252, and Section 13512 and 13574 of the Act's administrative regulations.

b. Protection of, and Permissible Uses within, Environmentally Sensitive Habitat Areas

The provisions proposed by the City in their amended LCP with regard to the protection of biological resources in general and Environmentally Sensitive Habitat Areas in particular include some of the basic directives of the Coastal Act with respect to development in or adjacent to such resource areas. However, the proposed amended LCP policies omit some of the protections and use restrictions as set forth in Coastal Act Sections 30240 and 30233. In addition, the wording of the proposed amended LCP provisions would not require application of the protection measures prior to approval of a coastal development permit, instead indicating that the presence of such environmentally sensitive areas must first be established through an overlay zoning process and/or depiction in a wetland map database before the protections and use restrictions would apply to the property containing or in proximity to the biological resources. In addition, the coastal zone portion of the City is crossed by several creek and natural drainages flowing toward Humboldt Bay. As currently worded, the proposed LCP Update contains no specific provisions authorizing development of flood control, water supply, or fish and wildlife improvement projects consistent with Coastal Act Section 30236.

c. Avoidance and Minimization of Natural Hazards

The LCP update as proposed by the City does not address the full range and intensities of natural hazards specified in Coastal Act Section 30253, including: (a) risks of damage from seismic events at intensities greater than those identified as emanating from the Mad River Fault; (b) coastal flooding exposure due to sea level rise or tsunami inundation associated with local source earthquakes on the Cascadia or other Pacific Rim subduction zones; and (c) wildfire originating from other than the City's forested lands.

d. Protection of Coastal Agriculture

The proposed LCP Update identifies no protection or analytical review process to prevent impermissible impacts to agricultural lands, especially with respect to limiting outright conversions. To the contrary, the amended LCP would allow for a wide variety of land uses that have no direct bearing on the production of food and fiber which could have cumulative and indirect adverse impacts on the productive viability of the subject agricultural lands and/or those on adjoining properties, inconsistent with Coastal Act Sections 30241, 30241.5, and 30242.

e. Protection of Coastal Visual Resources

Although the proposed amended LCP identifies several scenic routes and entryways where the open and natural characteristics of these areas are to be maintained, the proposed LCP update does not contain policies or standards intended to address the effects of new development with regard to the obstruction of views to and along the coast and scenic areas, the alteration of natural landforms, or the compatibility of proposed development with the character of the surrounding area character as required by Coastal Act Section 30251.

f. Coastal Water Quality

Several of the measures proposed by the City for addressing the protection of coastal water quality refer to other City documents, such as the City's creeks management and drainage master plans, which were not formally included in the City's submittal. Although these cited documents and programs are incorporated-by-reference into the proposed amended LCP, the City believes it to be unnecessary to reiterate specific standards from the cited documents and programs in the text of its amended LCP. Moreover, the City sees no compelling need for the Commission to review or approve for LCP certification any changes that might be made to the referenced City documents and programs in the future. Contrary to the City's assertions, a complete set of water quality standards must be set forth in the LCP amendment to provide a legal foundation for basing determinations on coastal development permits and appeals. In addition, any changes contemplated to the approved water quality protection practices in the LCP must be certified by the Commission as consistent with the Coastal Act through an LUP amendment prior to their enactment to become legally effective. Furthermore, although many of the water quality protection methods cited in various sections of the City's referenced documents and programs are generally consistent with Coastal Act Sections 30230 and 30231, the methods lack the specificity of many of the LCP water quality policies that have been adopted in the last several years by jurisdictions on the North Coast.

g. Protection, Encouragement, and Provision of Visitor-Serving Facilities

The Coastal Act protects and encourages low cost visitor and recreational facilities and gives priority to visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation over private residential, general industrial, or general commercial development. With the exception of key visitor destinations such as the Arcata Marsh and Wildlife Sanctuary and adjoining natural open space areas to the east and west along the bay margins, and a limited number of highway commercial oriented uses, chiefly in the form of fuel stations, restaurants, and grocery stores, there are presently no developed visitor-serving facilities within the coastal zone portion of the City. Similarly, save for its town center historic hotel and a limited number of boutique lodging units, the majority of the City's transient overnight accommodations are located at the Highway 101/299 interchange just outside of the coastal zone. While the City is proposing new "Commercial Visitor Serving" land use/zoning categories, the proposed LCP update contains no provisions that encourage the development of visitor-serving facilities, including overnight accommodations, and does not specifically designate sites for their development, except in one location where a small number might be included as

part of a mixed-use planned development. Furthermore, the proposed C-VS designation allows for a wide variety of other general commercial uses with no limitations imposed to ensure that any land that may be designated at some future time is developed for visitor-serving uses. As such, the LUP as proposed is inconsistent with the provisions of the Coastal Act designed to protect and encourage visitor and recreational uses over other non-priority types of development.

h. Mitigating Impacts to Archaeological and Paleontological Resources

In its present form, the language of the LCP amendment makes applying mitigation measures for the protection of archaeological resources optional rather than mandating the protection of archaeological resources as directed by Coastal Act Section 30244. The proposed amendment also contains outdated references to formal cultural resources consultation entities and makes no provisions for the protection of paleontological resources also required by Section 30244.

i. Location of New Development / Provision of Community Services

The proposed LCP Update omits requirements set forth in Coastal Act 30250(a) and 30254. Specifically, no standards are provided for addressing rural land divisions in areas beyond the urban service boundary and limiting the extension of services with limited capacities where such extension of services could preclude development of Coastal Act priority uses.

j. Coastal Development Permitting Processes

The proposed amended LCP contains numerous omissions and misstatements regarding the procedure by which coastal development permit applications are to be reviewed and acted upon by the applicable hearing body from those statutorily required by the Coastal Act and its administrative regulations. These procedural omissions and misstatements relate to: (a) determinations of the applicability of permit exemptions, exclusions, or waivers; (b) filing requirements with respect to the application content; (c) determinations of project appealability and the appropriate form of public notice and hearing venue; (d) requisite findings for approval of development permits; (e) issuance of notices of final decision on a permitting matter; and (f) appeal timelines, exhaustion of local administrative remedies, and situations when an appeal may be filed with the Coastal Commission.

The above paragraphs highlight ten of the major inconsistencies of the submitted LCP amendment with the requirements of the Coastal Act. Table 1 below briefly summarizes these and other substantial issues of conformance and needed modifications identified for the land use plan in a manner that correlates the relevant Chapter 3 policies with the corresponding LUP policies:

Table 1: Coastal Act Chapter 3 Policies, Corresponding Proposed Amended Land Use Plan Provisions, and Suggested Modifications

Coastal Act Chapter 3 Policy	Identified Corresponding LUP Policy/Policies	Substantial Issue ID and Suggested Modifications Notes
Public Access		
30210	OS-4b	Identified corresponding policies omit requirements of PRC 30210 with respect to maximizing provision of access and conspicuous posting . Suggest new prefacing Policy C-OS-4a based on PRC 30210
	RC-4b	
30211	RC-4a	Identified corresponding policies omit requirements of PRC 30211 with respect to the extent of the area to which noninterference of access is mandated. Suggest new prefacing Policy C-OS-4b based on PRC 30211.
	RC-4f	
30212	RC-4a	Identified corresponding policies omit requirements of PRC 30212 with respect to the exaction of access dedications in new development authorizations and exemptions thereto . Suggest new prefacing Policy C-OS-4c based on PRC 30212, moving factual statement language of RC-4c.
	RC-4f	
30212.5	LU-5a	Identified corresponding policies omit requirements of PRC 30212.5 with respect to required dispersal of public facilities to prevent overcrowding impacts . Suggest new prefacing policy C-OS-4d based on PRC 30212.5.
	RC-4b	
	RC-4c	
	RC-4f	
30213	RC-4b	Identified corresponding policies omit requirements of PRC 30213 with respect to protection encouragement, provision, and preference of lower cost visitor and recreational facilities . Suggest new prefacing Policy C-OS-4e based on PRC 30213 and/or augmentation of LU-1g language.
	RC4c	
	LU-3a	
30214	RC-4b	Identified corresponding policy omits requirements of PRC 30214 with respect to criteria to be considered in access policy implementation . Suggest new prefacing Policy C-OS-4f based on PRC 30214 verbiage and/or revisions to Policy RC-4b, renumbered as C-RC-4b, to eliminate extra-jurisdictional scope of provision.
Coastal Recreation		
30220	RC-4c	Identified corresponding policy omits requirements of PRC 30220 with respect to provision of sites suitable for certain water-oriented recreational uses . Suggest new prefacing Policy C-GM-1g based on PRC 30220.
30221	RC-4c	Identified corresponding policy omits requirements of PRC 30221 with respect to protection of oceanfront sites for certain recreational uses . Suggest new prefacing Policy C-GM-1h based on PRC 30221.
30222	OS-2b	Identified corresponding policy omits requirements of PRC 30222 with respect to prioritization of suitable private lands for visitor-serving commercial

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Coastal Act Chapter 3 Policy	Identified Corresponding LUP Policy/Policies	Substantial Issue ID and Suggested Modifications Notes
		recreational development. Suggest new prefacing Policy C-GM-1i based on PRC 30222.
30222.5	RC-4e	Identified corresponding policy omits requirements of PRC 30222.5 with respect to prioritization of oceanfront lands for aquaculture, and coastal dependent development or uses . Suggest new prefacing Policy C-GM-1j based on PRC 30222.5.
30223	LU-5a	Identified corresponding policy omits requirements of PRC 30223 with respect to reservation of upland sites for supporting coastal recreational uses . Suggest new prefacing Policy C-GM-1k based on PRC 30223 and/or augmentation of LU-5a language.
30224	RC-2c RC-4c RC-4f	Identified corresponding policies omit requirements of PRC 30224 with respect to encouraging recreational boating uses through development of support facilities . Suggest new prefacing Policy C-GM-1l based on PRC 30224.
Marine Environment		
30230	RC-1c RC-2c RC-2g RC-4a OS-1a	Identified corresponding policies omit requirements of PRC 30230 with respect to the protection of marine and biological resources and aquatic habitat . Suggest new prefacing Policy C-RC-7a based on PRC 30230.
30231	PF-2b PF-2a PF-3a PF-3b RC-2c RC-2g RC-4c	Identified corresponding policies omit requirements of PRC 30231 with respect to the protection of water quality . Suggest: (1) new prefacing Policy C-RC-2b based on PRC 30231.
30232	PS-6d	Identified corresponding policy omits requirements of PRC 30232 with respect to protection against oil and hazardous materials releases . Suggest new prefacing Policy C-PS-6a based on PRC 30232.
30233	RC-3b RC-4d	Identified corresponding policies omit requirements of PRC 30233 with respect to: (a) permissible filling, dredging, and diking of wetlands ; (b) sediment removal ; and (c) shoreline replenishment . Suggest: (1) augmenting the language of RC-3b, renumbered as C-RC-3b, and RC-4d, renumbered as C-RC-4e based on PRC 30233(a); (2) new prefacing Policy C-RC-4g based on PRB 30233(b); and (3) new prefacing Policy C-RC-4h based on PRC 30233(d).
30234	RC-2c	Identified corresponding policy omits requirements of PRC 30234 with respect to protecting recreational boating uses . Suggest new prefacing policy C-GM-1m based on PRC 30234 verbiage.
30234.5	No corresponding policy(ies) identified	Append new Policy C-GM-1n based on PRC 30234.5 language to ensure recognition and protection of the recreational aspects of fishing .

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Coastal Act Chapter 3 Policy	Identified Corresponding LUP Policy/Policies	Substantial Issue ID and Suggested Modifications Notes
30235	No corresponding policy(ies) identified	Add separate new Policy C-RC-4f to meet scope and intent of PRC 30235 regarding mandated approval of shoreline/slope face protective structures.
30236	RC-2c	Identified corresponding policies omit requirements of PRC 30236 with respect to permissible substantial alteration of rivers and streams for specified purposes. Suggest new prefacing Policy C-RC-2i based on PRC 30236.
Land Resources		
30240	RC-1c LU-6a OS-2b	Identified RC-1c omits requirements of PRC 30240 with respect to the protection of both ESHA and parks & recreational areas by limitations to resource-dependent uses and by designing and siting adjacent development. Suggest: (1) amending Policy RC-1c, renumbered as C-RC-1d, to include "parks and recreation areas;" (2) revising RC-1d, RC-1f, RC-1g, and RC-1h, renumbered as C-RC-1e, RC-1g, RC-1h, and RC-1i, respectively, to provide for comprehensive protection of all forms of ESHAs, and incorporate established resource protective measures, such as buffers, consistent with PRC 30010, 30522, 30223, and 30525.
30241	RC-2c RC-4d RC-5a LU-1e LU-6a	Identified corresponding policies omit requirements of PRC 30241 with respect to the protection of prime and other agricultural lands. Suggest: (1) new prefacing Policy C-RC-5a based on PRC 30241; (2) appending new Policies C-RC-5d and C-RC-5e to address subdivision of prime agricultural lands; (3) revising Policy LU-6c, renumbered as C-LU-6c, to conditionally restrict "farm dwelling" residential development; (4) revise Policy LU-6a to eliminate non-agricultural related uses/elevate permitting requirements, renumbered as C-LU-6a; and (5) appending new Policy C-RC-5i requiring stockpiling and reuse of prime agricultural soils.
30241.5	LU-6c	Identified corresponding policy omits requirements of PRC 30241.5 with respect to determining viability of agricultural land for purposes of conversions. Suggest: (1) new prefacing Policy C-RC-5b based on PRC 30241.5; and (2) reiterate within the wording of new Policy C-RC-5d and C-RC-5e regarding subdivisions of prime agricultural lands.
30242	LU-6c	Identified corresponding policy omits requirements of PRC 30242 with respect to the limitations on conversions of agricultural lands. Suggest new prefacing Policy C-RC-5c based on PRC 30242.
30244	H-7a H-7b H-7c H-7d	Identified corresponding policies omit requirements of PRC 30244 with respect to the requiring mitigating impacts to archaeological and paleontological resources. Suggest: (1) new prefacing Policy C-H-7a based on PRC 30244.
New Development		

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Coastal Act Chapter 3 Policy	Identified Corresponding LUP Policy/Policies	Substantial Issue ID and Suggested Modifications Notes
30250(a)	GM-4a PF-5b LU-2a	Identified corresponding policies omit requirements of PRC 30250(a) with respect to the location of new development and criteria for rural land divisions . Suggest new prefacing Policies C-LU-1h and C-LU-1i based on PRC 30250(a) language.
30250(b)	LU-4a	Identified corresponding policy omits requirements of PRC 30250(b) with respect to the location of hazardous industrial development . Suggest new prefacing Policies C-LU-1j and C-GM-1d based on PRC 30250(b).
30250(c)	LU-3a	Identified corresponding policy omits requirements of PRC 30250(c) with respect to the location of visitor-serving facilities . Suggest new prefacing Policy C-LU-1k based on PRC 30250(c).
30251	OS-3b	Identified corresponding policy omits requirements of PRC 30251 with respect to the protection of visual resources . Suggest: (1) new prefacing Policy C-D-3a based on PRC 30251 verbiage; (2) revising Policy D-3a, renumbered as C-D-3b, to restrict scenic highway inventory to those segments within City's limits; (3) revising Policy D-3d, renumbered as C-D-3d, to restrict scenic entryways inventory to those segments within City's limits; and (4) revising the wording of Policy D-3h, renumbered as C-D-3f, to make protection of specified farmland and open countryside areas required rather than elective.
30252	LU-1a	Identified corresponding policy omits requirements of PRC 30252 with respect to the location of new development vis á vis enhancement and maintenance of coastal access . Suggest: (1) new prefacing Policies C-LU-1l and C-GM-1b based on PRC 30252.
30253	PS-2a PS-4c OS-5a	Identified corresponding policies omit requirements of PRC 30253 with respect to avoidance, minimization, and mitigation of geologic, flooding, wildfire hazards, exposure to instability, and minimizing energy consumption . Suggest: (1) new prefacing Policies C-PS-2a, C-PS-4a, and C-PS-5a based on PRC 30253(a) verbiage; (2) new prefacing Policies C-PS-3a based on PRC 30253(b) verbiage; and (3) new prefacing Policy C-AQ-1a based on PRC 30253(c).
30254	RC-4b RC-4c RC-4f GM-4b GM-4c PF-1b	Identified corresponding policies omit requirements of PRC 30254 with respect to the sizing and capacity of new or expanded public works . Suggest revising language of Policies GM-4a and GM-4c, renumbered as Policy C-GM-1o and C-GM-1r, to insert PRC 30254 review criteria.
30254.5	PF-2b PF-2a	PRC 30254.5 relates to limitations on the Commission's authority with respect to the imposition of conditions on sewage treatment plants . Suggest revising language of Policies PF-2a and PF-2b, renumbered as Policies C-PF-2a and C-PF-2b to limit

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Coastal Act Chapter 3 Policy	Identified Corresponding LUP Policy/Policies	Substantial Issue ID and Suggested Modifications Notes
		their scope to furthering local implementation of PRC 30250(a) with regard to the extension of wastewater treatment services beyond the Urban Services Boundary.
30255	LU-1g RC-4c	Identified corresponding policies omit requirements of PRC 30255 with respect to prioritizing and siting coastal-dependent developments . Suggest revising the wording of LU-1g, renumbered as Policy C-LU-1q, based on PRC 30255 verbiage.

To ensure conformity with, and adequacy to implement the LUP policies, Commission staff has also recommended a similar set of suggested modifications to the proposed amended IP, the City’s “Land Use Code.” These modifications relate to many of the same issue areas identified and addressed by the changes recommended for the LUP. In addition, staff is recommending two sets of site-specific suggested modifications to the City’s proposed changes to its land use plan and zoning map.

4. Volume of Suggested Modifications

Commentary presented at the August 12, 2011 hearing centered on the perceived volume of the suggested modifications the Commission staff is making. In particular, references to “nine hundred pages of suggested modifications” were made. The Commission staff is not proposing 900 pages of suggested modifications. To understand the volume of suggested modifications the staff is actually recommending, one must first understand the size of the amended LCP documents that were submitted by the City for certification. Taken together, the LCP document submitted to the Commission for consideration for certification totals 820 pages of text and seven enclosed maps.

As described further in this report’s findings, the proposed LUP amendment was submitted in a consolidated format under one cover together with the policies and standards of the Arcata’s city-wide general plan. As such, the land use plan document has a page count of approximately 255, including various oversized maps and the land use diagram. Similarly, the implementation program portion of the proposed updated LCP was submitted as a unified set of zoning and development regulations for both the coastal zone and non-coastal, more inland portions of the City. This “Land Use Code” has a page count of 565 and includes a zoning map. The document includes numerous standards and procedures for administering the City’s coastal program, as well as a host of other provisions which, while clearly addressing the density and intensity of land use Citywide, have no direct bearing on coastal resources issues or are not intended for governing the review, issuance, or appeal of coastal development permits. These policies address such matters as inclusionary housing standards for targeted residential populations, capping the number of “formula” restaurants, and performance standards for medical marijuana cultivation and dispensary operations. For example, the combined general plan/LUP sets forth a total of 320 policies, of which only a total of 116 are designated, either by special typography,

inclusion in a summary table, or as incorporated-by-reference in the foregoing policies, as being applicable in the coastal zone portions of the city.

With respect to the additional bulk the Commission's staff's suggested modifications would add to the land use plan and implementation program documents, as shown in Exhibit Nos. 1 and 2, after deleting out covers, acknowledgements, tables of contents, section dividers, etc. there are roughly 770 pages of the land use plan, zoning code, and development regulations submitted by the City. The Commission staff's recommended suggested modifications bring the total page count for the combined documents to approximately 840. On its face, this gives the impression that the staff is proposing 70 pages of new policies and standards. However, this is not an accurate conclusion to draw as many of those 70 pages comprise struck-out text within the submitted LUP and IP that both the Commission and City staff mutually agree are either inapplicable in the coastal zone portion of the City or would not govern the issuance of coastal development permits, and would be appropriate to delete in reformatting the general plan/LUP and land use Code/IP into separate coastal and non-coastal documents. Although this text is "not be a part" of the LCP, this text is nonetheless included in Exhibit Nos. 1 and 2 to show which portions of the submitted proposed amended LCP would be excised under a coastal zone only format. Thus, once adjusted for these redacted policies, the volume of the Commission staff's suggested modifications in terms of actual new text to be added to the LCP is on the order of perhaps 20 pages, primarily consisting of supplemental policies and standards for addressing conformity with critical coastal resource issues identified in Table 1 above, including relatively significant portions regarding evaluating conversions of agricultural land, avoiding and minimizing risk exposure to coastal flooding associated with sea level rise and tsunami inundation, procedures for the dedication and acceptance of open space and public access easements, and the critical inclusion of certain Coastal Act definitions. Therefore, the overall volume of the LCP with the inclusion of staff recommended modifications will actually decrease compared to that submitted by the City for review. Moreover, had the City not agreed to separate out the submittal into coastal and non-coastal documents, the number of suggested modifications would have been greater in number in order to address the internal inconsistencies that would arise from having coastal and non-coastal side-by-side within the same document.

Finally, testimony at the August 12, 2011 hearing suggested that many of the Commission staff's suggested modifications are "editorial" in nature. Although the Coastal Act gives wide latitude to the local coastal government to compose its own LCP in terms of format, the content of the program document must nonetheless meet certain minimum standards in terms of its coverage. While some of the modifications may seem optional or arbitrary, they are, in fact, crucial towards achieving the often nuanced distinctions stated in the Coastal Act provisions they intend to manifest. For example, many of the suggested modifications have been included to bring into conformance those provisions of the LUP or IP which intend to serve to execute a particular Coastal Act policy or standard but through paraphrasing have omitted key modifiers or clauses, or have otherwise misstated the statutory language, such that its full scope and intent is not reflected. Also, 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.”). In addition, a number of suggested modifications to the LUP were included recommending that factual statements or declaratory language regarding the City’s position or commitment on a given issue which would have no bearing on the density or intensity of the use of land in terms of governing the issuance of coastal development permits, be relocated to narrative portions of the document or to an “Other Initiatives” chapter sub-section. These revisions were recommended in the interests of ease of administration of the LCP, wherein such enumerated policies and standards that have direct bearing on a development project requiring permit authorization could be quickly and clearly accessed and not be intermixed with the other more subsidiary provisions that have no bearing on development requiring permit authorizations.

Commission staff does not dismiss the City’s concerns over the number of suggested modifications being recommended in the wake of the multi-year task of preparing and adopting an updated LCP. Incorporating the suggested changes will inarguably require the City to commit additional resources in recollating the LCP documents and reviewing other portions of their planning and regulatory program to assure internal consistency with the further revised LCP. However, staff continues to believe that these modifications are necessary if the City’s LCP is to be found legally adequate.

5. Changes to the Staff Recommendation and Suggested Modifications Since the August 12, 2011 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 July 28, 2011 and includes: (1) findings for the certification with Suggested Modifications of the Land Use Plan (LUP) and Implementation Plan (IP) portions of the LCP amendment; (2) findings relating to the proposed site-specific redesignation of lands within the City’s coastal zone area; (3) further changes and additions to the suggested modifications in part resulting from meetings between Commission and City staff since the August 12, 2011 meeting; and (4) additional refinements to the suggested modifications prompted by Commission comments made at the August hearing. The LUP and IP findings are contained in Parts Five and Six of this report, on pages 46 through 101 and pages 106 through 111, respectively.

The changes and additions to the Suggested Modifications since the August 12, 2011 Commission meeting entail:

- Removing suggested modifications addressing the authorization of on-shore oil and gas production, energy generation facilities, and other coastal dependent industrial facilities when required by Coastal Act 30262, 30263, and 30264 in response to the City’s agreement to eliminate a prohibition against such coastal dependent facilities;

- Removing suggested modifications adding Coastal Act policies, in whole or in part, addressing harbor development and commercial fishing that would be inapplicable to the City of Arcata (C-GM-1k, C-GM-1l, C-RC-4f), as the City does not have a harbor that supports a commercial fishing activities;
- Revising suggested modifications regarding the protection of water quality with refinements recommended by the Commission's Water Quality Unit in consultation with City staff. The revisions involve changes to the LUP *Resource Conservation* Policy Groups RC-1, RC-2, RC-4, and RC-7, *Public Facilities* Policy Groups PF-3, and IP Chapters 9.66 *Urban Runoff Pollution Control* 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, (4) Low Impact Development (LID) protocols, (5) "criteria for "developments of water quality concern," and (6) and required licensure for the preparation of water quality and hydrology plans
- Revising suggested modifications regarding the protection of wetlands and ESHA with refinements recommended by the Commission's Staff Ecologist that involve: (a) including the definition of "environmentally sensitive habitat area" (ESHA) in both the LUP and the IP glossaries; (b) modifying suggested modified Policy C-RC-1e, at subsection 3 to include state fully protected species, state species of special concern, and California Native Plant Society List 1b & 2 species in the scope of unique habitat areas to be deemed as comprising ESHA; (c) inserting statements regarding no net loss of wetlands acreage or function criteria and reiterate the need for ratio-multiplier based compensatory replacement mitigation for wetlands permissibly filled, dredged, or diked; and (d) augmenting the wording of suggested modified new Policy C-RC-5f to include a declaration that, unless otherwise authorized, agricultural practices shall not fill wetlands; and
- Changes to Table I-1 of the *Introduction* Chapter regarding the identification of the correct LUP policies as suggested to be modified and their corresponding Coastal Act Chapter 3 provisions.

6. Exhibits to the Staff Report

There are 17 Exhibits to this staff report. These documents comprise over a thousand pages. Due to their size and in order to reduce paper consumption, reproduction, and mailing costs, both the attachments and exhibits are available as digital downloads from the Commission's website. In addition, the Commissioners and the City of Arcata are being mailed a disc containing the staff report, the recommended suggested modifications contained in Exhibits 1 through 4, and the other 14 exhibits. Commission staff will also provide several hard copies of the report, including its attachments and exhibits at the September 8, 2011 meeting.

Exhibit Nos. 1-4 to the staff report are key components of the staff recommendation, as all of the recommended suggested modifications are shown merged into both 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). These full text versions of the City's proposed LCP Amendment, with suggested modifications inserted, show how the suggested modifications fit into the context of the City's proposed LCP documents. Exhibit No. 3 consist of 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 intended for bringing the LCP update into conformance with the Coastal Act, respectively. In addition, Exhibit No. 4 depicts the proposed site-specific changes in land use and zoning designations as well as Commission staff's suggested modification relating to these reclassifications.

Exhibit Nos. 10-11 (Proposed Amended LUP "Arcata General Plan: 2020 and Local Coastal Land Use Plan" with related graphics) and 13 (Proposed Amended IP "Land Use Code" and zoning map) contain the proposed LCP amendment as submitted by the City without the staff's suggested modifications. Exhibit Nos. 5-9, 12, 14 through 16 contain maps of the location and geographic extent of the City's coastal zone portion, 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.

7. Addendum

As discussed above, at the time of the publication of this report, Commission staff has two additional meetings scheduled with City staff prior to the September 8, 2011 hearing to review the various suggested modifications. Staff is hopeful that these discussions will resolve some of the concerns the City has raised. An addendum discussing these meetings and making any changes to the staff recommendation resulting from these meetings will be presented at the September 8, 2011 continued hearing on the proposed LCP Update amendment.

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 1989. Both the currently certified *Coastal Land Use Element* of the City's general plan (LUP) and the *Land Use and Development Guide* (IP) would be replaced by the *Arcata General Plan:2020 – Coastal Land Use Plan* and the Land Use Code, respectively, formatted in an entirely different organizational format. These wholly new documents have been submitted to the Commission for certification. These documents constitute an update of the totality of the City's coastal land use regulatory policies and programs.

The City adopted the new *Arcata General Plan: 2020 – Coastal Land Use Plan* initially in October 2000, and in its current proposed form in October 2008, to replace the currently certified LUP. Although many of the currently-certified policies and standards would be included in the updated, reformatted LUP, some with minor revisions not affecting 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, including measures to protect coastal water quality, protections to an expanded number of environmentally sensitive areas, and provisions

for a multi-modal based transportation system. The proposed LUP amendment would, for the first time, set forth specific policies for each of the land use categories, including identifying a list of permissible uses, a practice deferred to the IP in the current certified version. 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 code and development regulations in October 2008, entitled the "Land Use Code," to carry out the policies of the amended LUP in a consistent manner, including 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 tabular format. The amendments to the IP also include a comprehensive update to the subdivision regulations and unified development review procedures. Furthermore, the LCP update proposes that numerous new or expanded sections be added into the IP setting standards for: (1) residential density bonuses, secondary dwelling units, and inclusionary housing requirements; (2) landscaping, parking, and signage improvements; (3) specific land uses, including bed and breakfast establishments, mixed use developments, formula restaurants, and medical marijuana cultivation and dispensary facilities; (4) water quality best management practices, including the management of stormwater runoff; (5) protection of natural and cultural resources; and (6) avoiding and minimizing natural and man-made hazards. Finally, the amendment reclassifies the zoning over a number of specific properties to correspond with proposed changes in the sites' LUP land use classifications.

The City is also proposing to change the land use and/or zoning designations over several parcels within the coastal zone, primarily associated with the transition of former heavy industrial properties to provide sites for light manufacturing. These five areas are referenced herein as: (1) *Villa Way Estates / McDaniel Slough Area*; (2) *Former Industrial Electric Service Company Agricultural Area*; (3) *Northcoast Hardwoods and Little Lake Industries Sites*; (4) *Former Intertidal Margins of Humboldt Bay in Commission's Original/Retained Jurisdictional Area*; and (5) *Rotary Park*.

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 ___-___.

The Commission effectively certified the total LCP, and the City assumed permit-issuing authority on October 10, 1989. 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 scientific advancements and the corresponding refinement in the Commission's program over the last 25 years in these areas.

The City of Arcata 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 1989. 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.

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 the *Land Use Element* of LUP Chapter 2: *Community Development* and Article 2 of the *Land Use Code* to establish recognized and permissible land uses within each category or planning area in conformance with specific protections for: (a) public access facilities; (b) recreational, and coastal-dependent and coastal-related development; (c) coastal agriculture and environmentally sensitive areas, and other priority uses; (d) hazard prone areas; and (e) sites with significant visual resources, as directed by Chapter 3 of the Coastal Act.
- Revisions to the *Growth Management Element* of LUP Chapter 2: *Community Development* to establish a hierarchy between differing classes of land uses with respect to priority being given to certain coastal dependent and highly valued development types and activities in matters of siting and the provision of services.
- Insertion of policies and standards within the *Transportation Element* of LUP Chapter 2: *Community Development* to implement the construction of the portions of the California Coastal Trail through the City.

- Expanding upon the stormwater policies within the *Public Facilities and Infrastructure Element* of LUP Chapter 2: *Community Development* and Chapter 9.66 of the *Land Use Code* 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 the *Open Space Element* of LUP Chapter 4: *Environment Quality and Management* and the appending of a new Chapter 9.61 *Public Access and Recreational Opportunities* in the *Land Use Code* to ensure consistency with the requirements of the Coastal Act for protecting and providing public access, and prioritizing recreational opportunities at shoreline proximate locales, including privately-owned sites, per Sections 30210-30214 and 30220-30224, respectively.
- Insertion of policies within *Resource Conservation Management Element* of LUP Chapter 4: *Environment Quality and Management* and to Chapter 9.59 of the *Land Use Code* to address the protection of biological resources and the delineation of, use restrictions in and near, and safeguarding of, environmentally sensitive habitat areas as directed by Coastal Act 30230, 30231, 30233, 30236, and 20340. Some of the inserted policies include (a) clarifications that a proposed listing of ESHA in the LUP is not inclusive of all ESHA as defined by Coastal Act Section 30107.5 either as may be currently present or identified in the future, (b) requirements that reductions of ESHA buffers below 100 feet may only be allowed if an analysis of the effects of the development on the ESHA based on standardized criteria has been prepared that demonstrates that the ESHA will be adequately protected, and (c) prohibitions on land divisions in proximity to ESHA that result in parcels with inadequate space to allow future development on the parcels to avoid encroachment into ESHA and ESHA buffers.
- Insertion of policies within *Resource Conservation Management Element* of LUP Chapter 4: *Environment Quality and Management* and to Chapter 9.59 of the *Land Use Code* to address the protection of coastal water quality, as directed by Coastal Act 30230 and 30231.
- Insertion of policies within *Resource Conservation Management Element* of LUP Chapter 4: *Environment Quality and Management* and to Chapter 9.50 *Agriculture Preservation – Right to Farm* of the *Land Use Code* to address the protection of coastal agriculture, including use restrictions, prescriptive standards, and development criteria for limiting conversions and impacts, as directed by Coastal Act 30241, 30241.5, and 30242.
- Insertion of policies and standards within the *Design Element* of LUP Chapter 5: *Design and Historical Preservation* and appending a new Chapter 9.68 *Visual Resources Protection* of the *Land Use Code* to include policies or standards requiring new development to not obstruct views to and along the coast and scenic areas, minimize the alteration of natural landforms, and be compatible with the character of the surrounding area as required by Coastal Act Section 30251.

- Insertion of policies within the *Public Safety Element* of LUP Chapter 6: *Health & Safety* and to Chapters 9.52 *Hillside Development*, 9.62 *Geologic Hazard Review*, and 9.64 *Grading, Erosion, and Sediment Control*, 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, including exposure to coastal flooding from tsunami inundation/runup and sea level rise. The suggested modifications regarding tsunami inundation/runup and sea level rise mirror those adopted by the Commission in other recent LCP update amendments, including amendments to the Del Norte County LCP, City of Crescent City LCP, and the portion of the Humboldt County LCP affecting the town of Samoa.
 - Insertion of expanded procedures and criteria within Chapters 9.70 *Permit Application Filing and Processing*, Section 9.72.030 *Coastal Permit*, 9.74 *Public Hearings*, and 9.76 *Appeals*, to establish minimum public notice and hearing standards, permit issuance procedures, and provisions for 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 Chapter 9.31 and Section 9.42.170 of the *Land Use Code* to reflect current state law with regard to ministerial approval of second dwelling units and the granting of density bonus incentives.
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. “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.

B. Reorganization / Recodification

The amendments to the General Plan (LUP) and Land Use Code (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. Similar to the LUP the City submitted the amendments for certification for implementing the General Plan in a completely restructured “Land Use Code” that differs markedly in form and content from the currently-certified “Land Use and Development Guide.”

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 9C “Coastal Land Use Code”) 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.

The City staff testified at the August 12, 2011 hearing and later reiterated in conversations with Commission staff that they support creating such a separate Coastal Element.

As discussed above, the proposed LCP’s implementation measures would be contained in the Municipal Code, under Title 9 – “Land Use Code.” Several other sets of regulations, including but not limited to, those dealing with sex-oriented business regulations,

standards for the cultivation and dispensing of medical marijuana, and placing limits on the number of formula restaurants, are written as City-wide provisions, applying in both coastal and inland areas. These provisions were not included as part of the City's 1989 original LCP submittal for certification and as such have no bearing on the review and issuance of coastal development permits or constitute a basis by which such coastal development permits could be appealed.

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

In view of the reorganization of the LCP Update submittal into a separate Coastal Element as discussed above, 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 neither intended to directly govern the issuance of coastal development permits through the setting of development limitations, requirements, or prohibitions or be used as a basis for reviewing plan consistency of a land use plan or zoning amendment. In contrast, these provisions identify 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 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 non-governing permit provisions be relocated there under. Such relocated provisions are parenthetically annotated as having been “[Moved to *Other Initiatives*].”

D. Collating Thematic Policies

Given the reorganization of the LCP Update submittal into a separate Coastal Element as discussed above, 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*]).

E. Emphasizing Development as the Subject of Regulations

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.”)

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 Land Use Code (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 Nos. 15b and 27b (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, the City's existing certified LCP is available for review on-line at the Commission's website or by contacting the North Coast District office. 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.

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 ARCATA LAND USE PLAN AMENDMENT ARC-MAJ-1-09**

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

A. **Denial of LUP Amendment No. ARC-MAJ-1-09 As Submitted**

Motion #1

I move that the Commission **CERTIFY** City of Arcata Land Use Plan Amendment ARC-MAJ-1-09 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 Arcata Land Use Plan Amendment ARC-MAJ-1-09 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. ARC-MAJ-1-09 with Suggested Modifications**

Motion #2

I move that the Commission **CERTIFY** City of Arcata Land Use Plan Amendment ARC-MAJ-1-09 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 ARC-MAJ-1-09 for the City of Arcata 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 ARCATA IMPLEMENTATION PLAN AMENDMENT ARC-MAJ-1-09**

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

C. **Denial of Implementation Plan Amendment No. ARC-MAJ-1-09, As Submitted**

Motion #3

I move that the Commission reject Implementation Program Amendment No. ARC-MAJ-1-09 for the City of Arcata 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. ARC-MAJ-1-09 as submitted for the City of Arcata 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. ARC-MAJ-1-09 with Suggested Modifications

Motion #4

I move that the Commission certify Implementation Plan Amendment No. ARC-MAJ-1-09 for the City of Arcata 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 Arcata 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. 1-13 each modify a separate prefacing discussion, chapter, and the definitions glossary 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. 14 and 15) are shown in ***bold italics***, or as notations on the maps within Exhibit No. 3.

Staff recommends the following suggested modifications to the proposed LUP amendment be adopted. Suggested Modification Nos. 1-13 and 16-25 each modify a separate prefacing discussion, element, article, and the glossaries of the Land Use Plan and Implementation Program. The suggested modifications are included in Exhibit Nos. 1 and 2 show the suggested modifications as they apply directly to the entire text of the City's proposed Coastal General Plan and Land Use Code. The suggested-to-be-modified language in Exhibit Nos. 1 and 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., mapping and document formatting Suggested Modification Nos. 14, 15, 26, and 27) are shown in ***bold italics***, or as notations on the maps within Exhibit No. 4.

1. **Suggested Modification No. 1: (General Plan Introduction)**
All changes to LUP *Introduction* preface shown in Attachment No. 1.
2. **Suggested Modification No. 2: (Land Use Element)**
All changes to the *Land Use Element* of LUP Chapter 2 *Community Development* shown in Attachment No. 1.
3. **Suggested Modification No. 3: (Growth Management Element)**
All changes to the *Growth Management Element* of LUP Chapter 2 *Community Development* shown in Attachment No. 1.
4. **Suggested Modification No. 4: (Transportation Element)**
All changes to the *Transportation Element* of LUP Chapter 2 *Community Development* shown in Attachment No. 1.
5. **Suggested Modification No. 5: (Public Facilities and Infrastructure Element)**

All changes to the *Public Facilities and Infrastructure Element* of LUP Chapter 2 *Community Development* shown in Attachment No. 1.

6. **Suggested Modification No. 6: (Open Space Element)**

All changes to the *Open Space Element* of LUP Chapter 4 *Environmental Quality and Management* shown in Attachment No. 1.

7. **Suggested Modification No. 7: (Resource Conservation and Management Element)**

All changes to the *Resources Conservation and Management Element* of LUP Chapter 4 *Environmental Quality and Management* shown in Attachment No. 1.

8. **Suggested Modification No. 8: (Air Quality Element)**

All changes to the *Resources Conservation and Management Element* of LUP Chapter 4 *Environmental Quality and Management* shown in Attachment No. 1.

9. **Suggested Modification No. 9: (Design Element)**

All changes to the *Design Element* of LUP Chapter 5 *Design and Historic Preservation* shown in Attachment No. 1.

10. **Suggested Modification No. 10: (Historic Preservation Element)**

All changes to the *Historic Preservation Element* of LUP Chapter 5 *Design and Historic Preservation* shown in Attachment No. 1.

11. **Suggested Modification No. 11: (Public Safety Element)**

All changes to the *Public Safety Element* of LUP Chapter 6 *Health and Safety* shown in Attachment No. 1.

12. **Suggested Modification No. 12: (Noise Element)**

All changes to the *Noise Element* of LUP Chapter 6 *Health and Safety* shown in Attachment No. 1.

13. **Suggested Modification No. 9 (Glossary)**

All changes to the *Glossary* shown in Attachment No. 1.

LAND USE DIAGRAM

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

All changes to the LUP Map as follows:

a. ***Villa Way Estates / McDaniel Slough Area: Apply proposed Natural Resources – Public Trust land use designation over whole of floodplain area (APN 505-351-022).***

b. ***Former Industrial Electric Service Company Agricultural Area: Retain currently-certified Agricultural Exclusive land use designation on the***

southwest quarter of the former industrial-commercial site bounded on the west by the southern extension of Slaughter House Road (APN 505-251-011).

- c. *Former Intertidal Margins of Humboldt Bay in Commission's Original/Retained Jurisdictional Area: Insert cross-hatching over the intertidal portions of the portions of the land use plan map within the Commission's coastal development permitting jurisdiction proposed for Natural Resources, Agricultural Exclusive and Public Facility, Light Industrial, and Industrial General designations and attach notation of associated limitations on City's permitting authority over the area.*
- d. *Rotary Park: Apply Public Facility designation to developed neighborhood park developed within former vacated street right-of-way (Former First Street between South "F" and "E" Streets).*

REORGANIZATION

15. 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 Introduction section of the Coastal Land Use Plan Policy Document.*
- 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 Element" throughout the LUP and the Zoning title.*
- f. *Publish the updated Coastal Land Use Element incorporating all of the above suggested modifications under separate cover from that of the updated non-coastal Arcata General Plan:2020.*

PART THREE: IMPLEMENTATION PLAN SUGGESTED MODIFICATIONS

Staff recommends the following suggested modifications to the proposed IP amendment be adopted. Suggested Modification Nos. 16-25 each modify a separate chapter of the Land Use Code (“LUC”) (Title 9, City of Arcata Municipal Code), and other provisions applicable to development within the coastal chaptered under other titles of the Municipal Code (i.e., inclusionary housing requirements, grading, subdivision, signage, off-street parking facilities, environmental review, and the granting of non-CDP entitlements, such as non-conforming use allowances and variances). 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 LUC. Because of the length of each suggested modification, Suggested Modification Nos. 16-25 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 AND DEVELOPMENT REGULATIONS

Staff recommends the following suggested modifications to the proposed IP amendment be adopted. Suggested Modification Nos. 15-25 each modify a separate prefacing discussion, element, article, and the glossaries of the Implementation Program. The suggested modifications are included in Exhibit No. 2 showing the suggested modifications as they apply directly to the entire text of the City’s proposed Land Use Code. The suggested-to-be-modified 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., mapping and document formatting Suggested Modification Nos. 26 and 27) are shown in *bold italics*, or as notations on the maps within Exhibit No. 4.

16. **Suggested Modification No. 16: (Title 9 – Land Use Code, Article 1 - Land Use Code Applicability)**
All changes to Article 1 - Land Use Code Applicability shown in Attachment No. 2.
17. **Suggested Modification No. 17: (Title 9 – Land Use Code, Article 2 - Zoning Districts & Allowable Land Uses)**
All changes to Article 2- Zoning Districts & Allowable Land Uses shown in Attachment No. 2.
18. **Suggested Modification No. 18: (Title 9 – Land Use Code, Article 3 - Site Planning and Project Design Standards)**
All changes to Article 3- Site Planning and Project Design Standards shown in Attachment No. 2.

19. **Suggested Modification No. 19: (Title 9 – Land Use Code, Article 4 - Standards for Specific Land Uses)**
All changes to Article 4- Standards for Specific Land Uses shown in Attachment No. 2.
20. **Suggested Modification No. 20: (Title 9 – Land Use Code, Article 5 - Resource Management)**
All changes to Article 5- **Resource Management** shown in Attachment No. 2.
21. **Suggested Modification No. 21: (Title 9 – Land Use Code, Article 6 - Site Development Regulations)**
All changes to Article 6- Site Development Regulations shown in Attachment No. 2.
22. **Suggested Modification No. 22: (Title 9 – Land Use Code, Article 7 - Planning Permit Procedures)**
All changes to Article 7- Planning Permit Procedures shown in Attachment No. 2.
23. **Suggested Modification No. 23: (Title 9 – Land Use Code, Article 8 - Subdivision Regulations and Procedures)**
All changes to Article 8- Subdivision Regulations and Procedures shown in Attachment No. 2.
24. **Suggested Modification No. 24: (Title 9 – Land Use Code, Article 9 - Land Use Code Administration)**
All changes to Article 9- Land Use Code Administration shown in Attachment No. 2.
25. **Suggested Modification No. 25: (Title 9 – Land Use Code, Article 10 - Glossary)**
All changes to Article 10- Glossary shown in Attachment No. 2.

ZONING MAPS

26. **Suggested Modification No. 26 (Zoning Map)**
All changes to the Zoning Map (Title 9 – Land Use Code, Article 9.12 –Zoning Map, Section 9.12.020 – Zoning Map and Zoning Districts) as follows:
 - a. ***Villa Way Estates / McDaniel Slough Area: Apply proposed Natural Resources – Public Trust zoning designation over whole of floodplain area (APN 505-351-022).***
 - b. ***Former Industrial Electric Service Company Agricultural Area: Retain currently-certified Agricultural Exclusive zoning designation on the southwest quarter of the former industrial-commercial site bounded on the west by the southern extension of Slaughter House Road (APN 505-251-011).***
 - c. ***Northcoast Hardwoods and Little Lake Industries Sites: Apply Planned Development Combining Zone Overlay to properties proposed fir Light Industrial redesignation (APNs 021-201-005, -006, -007, -008, -009, -010, 503-231-022, and 503-232-013).***

- d. *Former Intertidal Margins of Humboldt Bay in Commission's Original/Retained Jurisdictional Area*: *Insert cross-hatching over the intertidal portions of the portion of the zoning map within the Commission's coastal development permitting jurisdiction proposed for Natural Resources, Agricultural Exclusive and Public Facility, Light Industrial, and Industrial General designations and attach notation of associated limitations on City's permitting authority over the area.*
- e. *Rotary Park*: *Apply Public Facility zoning designation to developed neighborhood park developed within former vacated street right-of-way (Former First Street between South "F" and "E" Streets).*

REORGANIZATION

27. Suggested Modification No. 27 (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 Element" throughout the Land Use Code title.*
- d. *Change all references to "Land Use Code" to "Coastal Land Use Code" throughout the Land Use Code title.*
- e. *Publish the updated Land Use Code implementation measures as Title 9c – Coastal Land Use Code, Articles 9C.10 through 9C.100, 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 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 checked="" type="checkbox"/>
2.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> ¹	<input checked="" type="checkbox"/>	<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 checked="" type="checkbox"/>
3.	<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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
5.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> ²	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
6.	<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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
8.	<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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
9.	<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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
10.	<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"/>	<input checked="" type="checkbox"/>
11.	<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"/>	<input checked="" type="checkbox"/>
12.	<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 type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>
14a.	<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 type="checkbox"/>
14b.	<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"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14c.	<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"/>
14d.	<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 type="checkbox"/>
15.	<input type="checkbox"/>	<input checked="" type="checkbox"/> ³	<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"/>
IP Modifications											
16.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> ⁴	<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"/>
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 checked="" type="checkbox"/>
18.	<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 checked="" type="checkbox"/>
19.	<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 checked="" type="checkbox"/>
20.	<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 checked="" 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 checked="" type="checkbox"/>
22.	<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 checked="" 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 checked="" type="checkbox"/>

¹ Deletion of Policy LU-4g
² Revisions to Stormwater Management Policies Group PF-3
³ Reformatting General Plan into Coastal Zone and Non-coastal Volumes
⁴ Revisions to LUC Section 9.10.020.D

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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	
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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>
26a.	<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 type="checkbox"/>
26b.	<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"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
26c.	<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 type="checkbox"/>
26d.	<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"/>
26e.	<input 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"/> ⁵	<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 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 Arcata is located in Humboldt County, along the north-northeastern shoreline of Arcata Bay, the northern lobe of Humboldt Bay. Humboldt County covers approximately 10,500 square miles, with an overall population of approximately 134,600.⁶ Arcata is one of four incorporated coastal cities, with a population of more than 17,200 people and together with the Cities of Eureka and Fortuna, and the unincorporated McKinleyville area, represents one of the primary urbanized commercial and residential areas within the County’s coastal zone. Arcata is also home to the campus of Humboldt State University, hosting a current student body population of approximately 7,700 enrolled students.

⁵ Reformatting Land Use Code into Coastal Zone and Non-coastal Parts

⁶ California Department of Finance, 2008.

The portions of Arcata within the coastal zone comprise a relatively narrow area, varying in width from several hundred feet to more than $\frac{3}{4}$ mile, spanning from the City's western and southern municipal boundaries primarily running parallel with the City's shorelines with Arcata Bay — the northern lobe of Humboldt Bay, including the former intertidal, reclaimed agricultural lands in the Bayside community area to the south east of the City's urban center (see Exhibit Nos. 5-7). With the exception of the aforementioned agricultural lands and the portions of the City comprising the Arcata Marsh and Wildlife Sanctuary complex, 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 State Routes 101, 255, and 299 corridors that bisect and cross the City's medial axes and northern periphery. Lands along SR 255/Samoa Boulevard and extending along and west of lower K Street are designated for industrial development to varying intensities, primarily related to the areas timber products processing past. Residential neighborhoods are located within a traditional street grid in proximity to the downtown area and in defined neighborhood areas on the City's western perimeter. The majority of the coastal zone portions of the City, within the area spanning from the McDaniel Slough Restoration Project site to the west along the shoreline and reclaimed lands adjoining Arcata Bay to the mouth of Jacoby Creek, are designated for a combination of public facility and open space uses, chiefly as public parkland and the City's municipal wastewater treatment plant. With the exception of a series of nodes of public parkland, public facilities, two multi-family apartment areas, and low-density residential development along the collector street eastern extension of Samoa Boulevard, the majority of the area between the downtown and the City's southeastern boundary east of Highway 101 is designated and current in agricultural grazing and fish and wildlife restoration uses.

In addition to the variety of natural areas within Arcata, the City lies in relatively close proximity an assortment of other significant public lands in the vicinity, including Redwood National Park, a half-hour's drive to the north, where some of the world's tallest coastal redwood trees are found, as well as several state park and beach units. In addition, the rugged, relatively pristine open ocean coast and placid bay margins 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, Mad River County Park, units of the Humboldt Bay National Wildlife Refuge, and Arcata Marsh and Wildlife Sanctuary, and the Arcata Community Forest to the east. Together, with other natural attractions, such as "Godwit Days," the Arcata Oyster Festival, and so-called "Six Rivers" 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, Arcata 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.

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 October 10, 1989, maps, and various LCP amendments submitted by the City and certified by the Commission over the years since 1989.

Arcata General Plan – Coastal Land Use Element (CLUE): 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 six policy group chapters and 13 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, Arcata’s proposed LCP update involves an entirely new Land Use Plan format.

Land Use Code: The currently certified Arcata LCP Implementation Program (IP), is primarily chartered as Municipal Code Title IX –*Planning and Zoning*, consisting primarily of a series of four ordinances addressing coastal zoning, land divisions, city-wide development regulations, and a set of unified development review procedures, know collectively as the “Land Use and Development Guide” (LUDG). 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.

LCP Certification History

The Land Use Plan (LUP) was certified with suggested modifications by the Commission on June 3, 1980. A resubmittal was certified with suggested modifications on September 2, 1981. The Implementation Program (IP) was certified with suggested modifications on September 2, 1981. A resubmitted total LCP was certified with suggested modifications on May 10, 1988. On October 10, 1989, the Commission effectively certified the total LCP and the City assumed permit-issuing authority.

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:

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Table IV-1: CITY OF ARCATA – 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/LCPZEO Map Change	LUP/LCPZEO Text Change
1-90 (Major)	Res. 890-22 Res. 890-25 Res. 890-34 Ord. 1121	Res. 890-25	C-H-I → C-I-C (Green)	Certified as submitted	N/A
2-90 (Major)	Res. 890-63 Ord. 1163	Res. 901-24	C-A-E → C-P-F (Parks)	Certified as submitted.	N/A
1-91 (Major)	Res. 901-58 Ord. 1174	Res. 901-58	C-R-M → C-CBD LUDG § 1-0306.2 (Fencing and Screen Standards)	Certified as submitted	Certified as submitted
1-92 (Major)	Res. 923-07 Ord. 1182	Res. 912-37	LUDG §§ 1-0219 (C-I-C Standards) LUDG §§ 1-0220 (C-I-H Standards)	N/A	Certified as submitted
1-93 (Major)	Res. 934-11 Res. 934-12 Ord. 1211	Res. 934-11 Res.934-12	C-R-M → C-CBD (Johnson, et al.) C-R-MH → C-R-MH:LHP (Atwood)	Certified as submitted.	N/A
2-93 (Major)	Res. 934-34 Ord. 1220	Res. 934-24	C-R-L → C-R-L:LHP (Thompson)	Certified as submitted.	N/A
1-94 (Major)	Res. 934-45 Ord. 1222	Res. 934-46	C-I-C → C-R-M:PD (Marsh Commons)	Certified as submitted.	N/A
2-94 (Major)	Ord. 1071	Res. 945-13	AE _{HUM} → C-R-R _{ARC} (Spear Avenue Annexation)	Certified as submitted.	N/A
1-95 (Major)	Res. 945-26 Ord. 1233	Res. 945-32	(1) LUDG coastal/non-coastal consolidation (2) LUDG §§ 1-0228 et seq. (:WCP) (3) (Housing Element provisions) (4) (Cat. Ex. Provisions) (5) (Ag lands, farmed wetlands, SCC role) (6) (Update cross references)	Certified w/ suggested modifications. SI acceptance extension (to 11/12/96) granted. Accepted by Res. 956-30 Eff. Cert. 4/11/96.	Certified w/ suggested modifications. SI acceptance extension (to 11/12/96) granted. Accepted by Res. 956-30 Eff. Cert. 4/11/96.
1-96 (De Minimis)	Ord. 1244	Res. 956-22	LUDG §§ 1-0310 (Nonconforming Uses)	N/A	Certified as submitted
1-96 (Major)	Res. 957-17 Res. 957-21	Res. 957-17	Coastal Wetlands Map (Strombeck)	Certified as submitted.	N/A
2-96 (Minor)	Ord. 1255	Res.960-30	LUDG §§ 3-0400 et seq. (Grading Ordinance)	N/A	Certified as submitted.
3-96 (Major)	Ord. 1256	—	C-I-C → C-I-C:PD (Payne)	Certified as submitted.	N/A
4-96 (Minor)	Ord. 1254	—	LUDG § 1-0217 (CBD Landscaping Requirements)	N/A	Certified as

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LCPA File No.	Local Gov't Adoption Res. / Ord. No.	Local Gov't Resolution of Transmittal No.	Subject of Amendment	Action(s) Taken	
				LUP/LCPZEO Map Change	LUP/LCPZEO Text Change
			LUDG § 100225.2 (Reference to LUDG § 1-0217))		submitted.
1-97 (Major)	Res. 967-28 Ord. 1263	Res. 967-87	C-R-M → C-CBD (Lake)	Certified as submitted	N/A
2-97 (Major)	Res. 967-27 Ord. 1262	Res. 967-27	(1) Revise LUP area maps (2) Append LUP PD Location Map (3) C-R-L & C-C-G → C-P-F (Samoa Blvd. "Triangle")	Certified w/ suggested modifications.	Certified w/ suggested modifications.
ARC-MAJ-1-01	Res. 012-33 Ord. 1328	Res. 012-33	C-R-MH→C-CBD (McBain-Trush-Woo)	Certified as submitted.	N/A
ARC-MAJ-1-08	Res. 078-26 Ord. 1371	—	C-R-L→C-R-L:PD (Alliance Meadows)	Certified as submitted.	N/A
ARC-MAJ-1-09	Res. Ord. 1377	Res. 090-28	(LCP Update)	Pending.	Pending.

Development-Initiated and Programmatic Amendments

As Table IV-1 indicates, the majority of the LCP amendments submitted to date by the City of Arcata have been associated with a particular private development proposal or the land use and/or zoning of the development site, with the remaining amendments being programmatic in nature, some being driven by changes in other bodies of federal or state law, such as state planning and zoning law (variances, housing element).

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:

- In mid-1996, a series of four General Plan and Specialized Task Forces were established, with five neighborhood forums, held in November and December of 1996, to gather citizen input. A community-wide workshop, held in April, 1997, and attended by more than 130 community members, helped to define goals and overall direction. The Task Forces held more than 100 regular meetings, all open to the public.
- From the input provided at the meetings, the task forces developed a Preliminary Draft General Plan and presented in a series of follow-up public meetings in April through June of 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

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background and policy issues reports, in September 1998, a Public Hearing Draft, along with an Environmental Impact Report, was completed.

- Public hearings were held by the Planning Commission and the City Council, starting in early 1999, to review the Draft General Plan and the Environmental Impact Report.

Following numerous special meetings and public hearings, the City of Arcata adopted an updated General Plan and certified an Environmental Impact Report for the General Plan on October 18, 2000. Over the next eight years the City adopted various changes to the LUDG, developing what was to become a new Land Use Code.

On April 17, 2009, the City submitted LCP Amendment Application No. ARC-MAJ-1-09 that involved comprehensive changes to the City's Land Use Plan (LUP) pursuant to the City's adopted 2000 General Plan update, as was further locally amended in October 2008 as prompted by the adoption of the Land Use Code. In response to this application, Commission staff sent a letter to the City dated April 30, 2009, requesting additional information and clarifications. This requested additional information was developed and submitted over the next year, with the LCP amendment application being deemed complete for filing on June 23, 2010. If the deadline had not been extended, the 90-day time limit for the Commission to act on the proposed LCPA would have been September 21, 2010. A one-year time extension was granted by the Commission on August 11, 2010. As such, the last date for Commission action on this item is September 21, 2011.

PART FIVE: AMENDMENTS TO THE LAND USE PLAN - FINDINGS

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

A. Amendment Description

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 1989. Both the currently certified *Coastal Land Use Element* of the City's general plan (LUP) and the *Land Use and Development Guide* (IP) would be replaced by the *Arcata General Plan:2020 – Coastal Land Use Plan* and the Land Use Code, respectively, formatted in an entirely different organizational format. These wholly new documents have been submitted to the Commission for certification. These documents constitute an update of the totality of the City's coastal land use regulatory policies and programs.

The City adopted the new *Arcata General Plan: 2020 – Coastal Land Use Plan* initially in October 2000, and in its current proposed form in October 2008, to replace the currently certified LUP. Although many of the currently-certified policies and standards would be included in the updated, reformatted LUP, some 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, including measures to protect coastal water quality, protections to an expanded number of environmentally sensitive areas, and provisions for a multi-modal based transportation system. The proposed LUP amendment would, for the first time, set forth specific policies for each of the land use categories, including identifying a list of permissible uses, a practice deferred to the IP in the current certified version. Finally, the amendment includes a number of other site specific land use classification changes.

The City is also proposing to change the land use designations over several parcels within the coastal zone, primarily associated with the transition of former heavy industrial properties to provide sites for light manufacturing. These five areas are referenced herein as: (1) *Villa Way Estates / McDaniel Slough Area*; (2) *Former Industrial Electric Service Company Agricultural Area*; (3) *Northcoast Hardwoods and Little Lake Industries Sites*; (4) *Former Intertidal Margins of Humboldt Bay in Commission's Original/Retained Jurisdictional Area*; and (5) *Rotary Park*.

The proposed updated LUP document has a significantly changed format from the currently certified LUP and is organized by General Plan "coastal land use 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 also contains explanations 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 "elements" organized in six chapters which include: (1) *Community Vision*

Statement; (2) Community Development; (3) Housing and Human Services⁷; (4) Environmental Quality and Management; (5) Design and Historic Preservation; and (6) Health and Safety. The LUP is also formatted to include a *Glossary* appendix, however, the section defers to the definitions within the companion Land Use Code (IP).

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).] The "SM" nomenclature in the section headings refer to the particular staff recommended suggested modification number for that portion of the proposed LUP Update.

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 parties involved in its preparation. Additional discussion, introduces the reader to a series of thematic subject area(s) organized by coastal resource topic.

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. The summary states the reasons 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. The *Introduction* also presents and defines the applicability icon (☞) used throughout the policy chapters. The section closes with Table I-1 identifying which of the LUP policies serve as local program equivalents to the policies and standards of Chapter 3 of the Coastal Act.

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

- Clarifies the relationship and statutory differences between the General Plan and the LUP.
- Clarifies procedural requirements and processes of the Coastal Land Use Plan.
- Eliminates applicability icon (☞).
- Revises Table I-1 to enumerate which policies, as suggested to be modified, would govern the issuance of coastal development permits.

⁷ The general plan housing and social services element is not proposed to be a part of this updated LCP amendment.

d. Discussion of Bases for Suggested Modifications

The *Introduction* section 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 Implementation Plan to the Commission for certification with the implication that, with these modifications, the LUC 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 Element” and “Coastal Land Use Code” title 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. This reorganization makes it clear that development in the coastal zone must be consistent with all applicable policies of the Coastal Land Use Element 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 *Introduction* entail revisions to its Table I-1 to identify which policies, as proposed by the City or as suggested to be modified, would most directly correspond with the various Chapter 3 policies of the Coastal Act.

The Commission finds that as modified, the Summary chapter, comprising the Part I “Summary” of the LUP *Arcata General Plan :2020 and Local Coastal Land Use Plan*, meets the requirements of, and is in conformity with, the Coastal Act.

SM-2 through SM-12: Chapters 2, 4, 5, and 6 – Community Development, Environmental Quality and Management, Design and Historic Preservation, and Health and Safety – Land Use, Growth Management, Transportation,

Open Space, Resource Conservation and Management, Design, Historic Preservation, Public Safety, and Noise Elements

[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 *Development Constraints* and *Urban Development* sections and the *Shoreline Access* and *Recreation and Visitor Serving Facilities* appendices. Other provisions appear throughout the other portions of the LUP, particularly in the *Environmental Constraints* and *Public Facility* sections, as they relate thematically to the protection of adjacent environmentally sensitive areas from access and recreational uses and the physical development of trail facilities. With the exception of one policy (Urban Development V-2) calling for retaining and supporting expansion of existing visitor-serving development along Samoa Boulevard, the LUP contains no additional provisions for fostering visitor-serving priority development type.

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 slated for deletion or replacement, such as existing Policy V-2. New proposed Policy LU-4f would provide for an “eco-lodge” or other eco-tourism uses at a former timber products processing industrial site in the Samoa Boulevard area as part of a future planned unit development. The City is proposing a new “Commercial Visitor Serving” land use category as part of Policy LU-3a. However, this designation would only be applied to areas outside the coastal zone and includes an inter-mixing of general commercial uses alongside visitor-serving uses.

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

The City's proposed public access, recreation, and visitor-serving policies 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) prohibiting new development from interfering with existing coastal access; (2) including measures to provide for appropriate levels of access and use in areas with environmental resources or hazards, or (3) 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 requires 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. The protection and reservation of existing or particularly suitable sites for future accessways and recreational and visitor-serving facilities is required. Water-oriented recreation and lower-cost visitor-serving facilities are given priority over residential and other land uses.

As suggested to be modified, the *Open Space* 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. 2 and 3 include changes to the visitor-serving facilities, public access, and recreational policies of the LUP as shown in the *Land Use, Growth Management, Open Space, and Resource Conservation and Management* elements of Exhibit No. 1.

Changes in Suggested Modification Nos. 2 and 3 regarding public access, recreational opportunities, and visitor-serving facilities development include:

- Adding omitted language regarding provisions for maximized access, conspicuous posting of access facilities, prohibiting interference with access, and requiring the provision of access facilities in new development.
- Adding omitted Coastal Act policy language regarding priority for lower-cost visitor-serving accommodations and public-access, 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.

The suggested modifications update that public access policies and inventory of the LUP 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 (1) address the Legislature's formal recognition of the development of the California Coastal Trail as a statewide planning initiative; and (2) encourage the development of visitor-serving facilities and accommodations by removing lower priority general commercial development types in the lists of permissible land uses in the Commercial Visitor Serving land use designation.

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 Arcata. Accordingly, a new Policy C-T-5d has been inserted into the LUP's *Transportation* element to provide for future development of the CCT and set design and siting standards to be incorporated into future LCP access components that would maximize coastal ingress and trail interconnectivity while protecting sensitive resources, locate the trail along or as close to the immediate open shoreline where possible, provide for interim alternative routes and closures, provide for acquisition and management goals, and establish signage objectives.

Limited Opportunities for Visitor-Serving Facilities: Section 30213 of the Coastal Act requires that lower cost visitor facilities be protected, encouraged, and, where feasible, provided. The LCP amendment request includes provisions for the development of visitor-serving facilities within a new Commercial Visitor Serving (C-VS) land use designation. However, these types of facilities are designated for locations outside the coastal zone and the land use designation would allow for development of a variety of other general commercial uses with no priority assigned for those businesses focusing on catering to the transient visitor.

However, in contrast to other cities, there are several reasons why requiring the reservation of specific sites within the Arcata Coastal Zone for visitor-serving facilities is not necessary at this time to achieve consistency with the Coastal Act.

- There is a significant inventory of public and private low-cost campground and recreational vehicle park based accommodations within or in close proximity to the coastal zone portions of the City.
- In terms of overall average percentage change over the period spanning 1992 through 2006, Humboldt (2.9%) ranks third from last place in tourism growth among the 58 California counties (4.3% state average).⁸
- Most visitor-serving overnight accommodations within the City are located in the Valley West area just outside of the coastal zone. There are also a number of bed & breakfast inn

⁸ California Travel Impacts by County, 1992-2006. Dean Runyan Associates, March 2008

units located throughout the City, as well as a historic downtown hotel. Occupancy rates for Arcata lodging average around 60%, with prices ranging from \$75 to \$150 per night. The existing overnight accommodations within Arcata and the available land to provide additional rooms in Valley West make the supply sufficient for projected future needs.

- On any given night, there are approximately 475 hotel, motel, and/or other short-stay overnight accommodation rooms available throughout the City of which, on average, roughly 285 rooms would typically be available for let. The average nightly rate for the majority of these short-stay accommodations (\$70.75 for the Eureka-Arcata area) is well below the state nightly average of \$122.90.⁹

Therefore, current visitor-serving facilities appear adequate to provide for current and projected demand for such services. However, should future conditions reach a point where demand for additional visitor-serving facilities in the City were to induce changes in existing land use designations to accommodate such development, protections should be put in place to ensure that any such newly designated areas are actually developed with the intended facilities rather than for other general commercial uses.

Therefore, a suggested modification attaches limitations on the uses allowed in the Commercial Visitor Serving land use category within the coastal zone. These modifications, as inserted in Policy LU-3a and the accompanying entry in Table LU-4, require that, in addition to deleting certain clearly general commercial uses, the “specialty retail sales and services” and “motor vehicle services” use types be: (a) limited to firms specializing in providing goods and services primarily intended for the care, comfort, and support of coastal visitors and the traveling public, and (b) restricted to highway commercial, transient related services, as contrasted with similar businesses intended for area residents, respectively.

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. 2 and 3 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; and (2) 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. 2 and 3 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

⁹ California Tourism – March 2008 Compared with March 2007, Smith Travel Research ©2008

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 *Environmental Constraints* section and the *Marine and Water Resources* appendix of the currently-certified LUP set forth policies and standards for the protection of coastal water quality. The emphasis of these provisions is to establish guidance for development of the City's stormwater and drainage regulatory programs with respect to identifying measures for the protection of water resources and aquatic-oriented biological habitat, including aquaculture, consistent with Sections 30230 and 30231, of the Coastal Act.

3. **Summary of Proposed Amendments**

The *Public Facilities and Infrastructure* and *Resource Conservation and Management* elements of the City's proposed updated LUP address 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 policies 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. The suggested modifications for this section include:

- Adding the specific water quality provisions of Coastal Act Sections 30230 and 30231
- Identifying different types of water quality best management practices (BMPs) including site design, source control and treatment control BMPs.
- Specifying that site design and source control BMPs need to be considered for all coastal development projects and that when these are not adequate to protect coastal water resources that treatment control BMPs are required.
- Identifying the goals of Low Impact Development management practices and recommending the use of LID methods to maintain the natural hydrologic functions of the development site.
- Incorporating a design storm standard that provides a basis for determining the size and type of treatment control BMP that is appropriate for specific development locations.
- Identifying Developments of Water Quality Concern, which are likely to have adverse coastal water quality impacts unless mitigated with treatment control BMPs.

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 Policy Groups PF-3, RC-2, RC-7, and PS-3 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 PF-3a states that, "The City shall utilize creeks for drainage only when the basic natural functions will not be degraded." Similarly, Policy PF-3b provides that, "As stated in the Drainage Master Plan, the City shall manage the storm and surface water system in Arcata to maintain a hydrologic balance in order to protect water quality, prevent property damage, provide for the safety and enjoyment of citizens, and preserve and enhance habitat and sensitive areas." These proposed policies are not strong enough, nor is the LUP adequately comprehensive in its scope of coverage of water quality protection measures (or dependence upon the standards of a drainage plan which is not proposed to be part of the LCP), 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 Arcata'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, 7, and 11 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 Nos. 5, 7, and 11 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 it is determined that 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. 5, 7, and 11 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 Arcata's coastal zone and must be denied. However, if modified by the changes and additions included as part of Suggested Modification Nos. 5, 7, and 11, 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 *Environmental Constraints and Development Constraints* sections and the *Water and Marine Resources and Diking, Dredging, Filling, and Shoreline Structures* appendices of the currently-certified LUP set forth policies and standards for a variety of aquatic-oriented biological resources, the latter primarily regarding conditional, permissible development in wetlands and open coastal waters. The emphasis of these chapter sections is 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 *Resource Conservation and Management* 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 *Resource Conservation and Management* 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 development in or near wetland, estuary, or stream ESHAs, or some other kind of environmentally sensitive habitat areas. The suggested modification include the insertion of several new policies that address omitted 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. The primary suggested modifications to the LUP elements addressing biological resources and environmentally sensitive habitat areas entail:

- Adding key policies crucial to consistency with Coastal Act Sections 30240, 30233, and 30236 regarding biological resources, environmentally sensitive areas, and water quality directives.
- Including a policy requiring that the adoption of any future small wind generator system enabling ordinances incorporate established guidelines for site assessment, mitigation and monitoring to avoid and reduce bird and bat strike impacts.
- Defining ESHA consistent with Coastal Act Section 30107.5 and describing the types of habitat that constitute ESHA.
- Consolidating biological resource protection provisions 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 Protective Policies for ESHAs from Policies Affecting General Biological Resources and Permissible Uses In/Near ESHAs: 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 clearly do not distinguish 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. Rather, these provisions are presented in the context of different habitat substrates, such as "streams and watercourses," "wetlands," and "open waters and tidelands." Moreover, there is not sufficient detail and guidance provided in the various biological resource sub-sections with which to regulate development within and adjacent to ESHA, inconsistent with the requirements of Section 30240.

As modified, the *Resource Conservation and Management* 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 *Resource Conservation and Management* element of Exhibit No. 1.

Types of ESHA: The proposed LUP update contains numerous protective and development policies for several types of "marine resources" and "biological resources," including intertidal

areas, wetlands, and riparian areas. However, the LUP amendment limits the types of environmentally sensitive habitat areas (ESHA), for which the protections of Coastal Act 30240 would apply to rivers, creeks, sloughs, and associated riparian habitats, wetlands, estuaries, and other unique habitat areas, such as waterbird rookeries; shorebird concentration sites, habitat for all rare, threatened, or endangered plant and animal species on federal or state lists, and vegetated dunes, and Public Trust lands. By limiting the types of ESHA that would be protected by policies mirroring the requirements of Section 30240 of the Coastal Act to a specific list, the LUP policies do not take into account that there are, or, there area likely to be either now or at some future time, other types of habitats identified 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 fully protected and species-of-concern fauna, and plants or plant communities recognized on the California Native Plant Society's List 1B (rare and endangered in California and elsewhere) and 2 (rare, threatened, or endangered in California but more common elsewhere) in the 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 enumerate 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 100- to 25-foot-wide buffer is required to be established around the upland periphery of sensitive habitat areas, depending upon their substrate type. The amended LUP proposes three policies which address buffer widths:

RC-1f *Sensitive habitat buffer requirements.* A setback separating all permitted development from adjacent sensitive habitat areas shall be required. The purpose of such setbacks shall be to prevent any degradation of the ecological functions provided by the habitat area as a result of the development. The following shall apply to such setbacks:

1. The minimum width of setbacks for streams and wetlands shall be as provided in policies RC-2 and RC-3, respectively.
2. The minimum width of all other habitat setbacks shall be 100 feet, unless the designated setback would eliminate all reasonable use of the property.
3. A definition and map of sensitive habitat will be maintained by the City.

RC-2b *Environmental Buffer Area (EBA).* A streamside protection area is hereby established along both sides of the streams identified on the City Watercourse Map. The purpose of the EBA is to remain in a natural state in order to protect streams’ ecosystems and their associated riparian habitat areas. The EBA shall include:

1. In areas where existing development, as defined in the Land Use Code, is adjacent to the stream, the EBA shall be not less than 25 feet outward on both sides of the stream, measured from the top of bank.
2. In all other locations within the City, the EBA shall be not less than 100 feet outward on both sides of the stream, measured from the top of bank.

3. In locations within the City having significant areas of riparian vegetation exceeding 100 feet in width measured from the top of bank, the EBA shall be expanded to encompass all of the riparian vegetation, except in no case shall the EBA exceed 250 feet in width from the top of bank on either side of the stream.

RC-3c Designation of Environmental Buffer Areas (EBA). An EBA shall be established to separate all permitted development from adjacent existing wetlands which are to be preserved in a natural state and new wetland areas which are created as a mitigation. The EBA's purpose is to remain in a natural state in order to protect wetland ecosystems and their associated habitat areas from destruction or degradation. The extent of the EBA shall be established based upon analyses and recommendations contained in a site-specific wetland delineation study, but shall include the wetland area and a setback area which shall generally range from a 50 foot minimum to a 100 foot maximum. Specific findings, based on evidence provided for City review, shall be required for setbacks less than 100 feet.

As cited above, the proposed amended LUP sets three different standards for the areas around ESHAs: (1) a 100-foot width buffer around “all other habitat” except streams and wetlands unless “all reasonable use of the property” would be “eliminated” under Policy RC-1f; (2) a 100-foot buffer from the top of bank of streams, unless there is “existing development,” as defined in the Land Use Code, adjacent to the stream, wherein a 25-foot width would be required per Policy RC-2b; and (3) a 50-foot minimum to a 100-foot maximum buffer width around wetlands, with requirements for specific findings, based on evidence provided for City review, for setbacks less than 100 feet under Policy RC-3c. However, no standards are provided as to what factors would be considered in determining if “all reasonable use of the property” would result from the imposition of a 100-foot-wide “other habitat” setback that would allow for its reduction. In addition, though stated in Policy RC-2b as being a determining criterion for reducing stream buffer widths from 100 feet to 25 feet, no definition is provided as what constitutes “existing development” the Land Use Plan’s glossary. Moreover, the terms “buffer” and “setback” are used interchangeably throughout the ESHA policies, even though these terms have distinct separate meanings under the Land Use Code glossary (see LUC Chapter 9.100). Thus, as proposed, the updated LUP would establish a series of varying standards as to what buffer width would apply to a given situation based on criteria that is either undefined or vague in meaning.

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 25, 50, or 100 feet or to lessen the width to less than that specified. While the proposed LUP amendment does provide for reducing buffers taking into consideration undefined “existing development,” “elimination” of “reasonable use of property,” or based upon “specific findings, based on evidence provided for City review,” 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 Policies RC-1g, RC-3a, and RC-3h 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. 20, a series of new coastal development permit application and review chapters are suggested to be added to the IP, one of which, Chapter 9.59, contains a detailed list of required contents for biological reports.

Uses within ESHA Buffers: With regard to allowable uses with ESHA buffers, the proposed amended LUP contains two policies which enumerate lists of permissible activities as follows:

RC-2c *Allowable uses and activities in Environmental Buffer Areas.* The following compatible land uses and activities may be permitted in EBAs, subject to all other policies in this Element, including those requiring avoidance of impacts and other mitigation requirements:

1. Outside the Coastal Zone:
 - a. agricultural operations compatible with maintenance of riparian resources;
 - b. fencing along property boundaries and along EBA setback boundaries to prevent bank erosion and degradation of natural riparian vegetation by livestock;
 - c. maintenance of existing roads, driveways, and structures;
 - d. construction of public road crossings;
 - e. forest management practices as permitted by the State of California or Arcata's Forest Management Plan;
 - f. construction and maintenance of foot trails for public access;
 - g. construction and maintenance of utility lines;
 - h. resource restoration projects;
 - i. emergency or preventive removal of sediment and vegetation for flood control purposes (only when authorized by the City of Arcata).

2. In the Coastal Zone:
 - a. all uses and activities listed in (1) above;
 - b. public coastal access improvements;
 - c. boat launching facilities.
3. If the provisions herein would result in any legal parcel, not on Public Trust lands, created prior to the date of this plan, being made unusable in its entirety for any purpose allowed by the land-use plan, exceptions to the foregoing may be made to allow a reasonable economic use of the parcel, subject to approval of a conditional use permit. Any land use, construction, grading, or removal of vegetation which is not listed above shall be prohibited.

RC-3d *Allowable uses and activities in Environmental Buffer Areas.* The following compatible land uses and activities may be permitted in EBAs, subject to all other policies in this Element, including those requiring avoidance of impacts and other mitigation requirements:

1. Resource restoration or enhancement projects.
2. Farming, consistent with policy RC-3I.
3. Outdoor recreation activities, such as bird watching, hiking, boating, horseback riding, and similar activities.
4. Education, scientific research, and use of nature trails.
5. Drainage ditches when compatible with wetland function.
6. Minor modification of existing, serviceable structures.
7. Fencing to prevent livestock from degrading wetlands and riparian vegetation.

Any use, construction, grading, or removal of vegetation which is not listed above shall be prohibited.

Similar to the situation regarding determinations of appropriate ESHA buffer widths, the uses permitted in buffers are subject to evaluation based on denial of use of land or subject determinations as to the uses compatibility with the potentially affected resources that the buffer is to be protecting. Accordingly, Suggested Modification No. 7 includes recommended changes to the text of the buffer use provisions to further qualify instances where the specified uses may be authorized, and expanding the identity of the authorizing body for instances where the decision may be made by the Commission, such as in the case of a permit appeal.

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 that do not bear 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. Land Resources (Coastal Agriculture, Soils & Timberlands, Archaeological/Paleontological)

a. Relevant Coastal Act Chapter 3 Provisions

Section 30241 Prime agricultural land; maintenance in agricultural production

The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:

(a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.

(b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.

(c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.

(d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.

(e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.

(f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.

Section 30241.5 Agricultural land; determination of viability of uses; economic feasibility evaluation

(a) If the viability of existing agricultural uses is an issue pursuant to subdivision (b) of Section 30241 as to any local coastal program or amendment to any certified local coastal program submitted for review and approval under this division, the determination of "viability" shall include, but not be limited to, consideration of an economic feasibility evaluation containing at least both of the following elements:

(1) An analysis of the gross revenue from the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program.

(2) An analysis of the operational expenses, excluding the cost of land, associated with the production of the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program.

For purposes of this subdivision, "area" means a geographic area of sufficient size to provide an accurate evaluation of the economic feasibility of agricultural uses for those lands included in the local coastal program or in the proposed amendment to a certified local coastal program.

(b) The economic feasibility evaluation required by subdivision (a) shall be submitted to the commission, by the local government, as part of its submittal of a local coastal program or an amendment to any local coastal program. If the local government determines that it does not have the staff with the necessary expertise to conduct the economic feasibility evaluation, the evaluation may be conducted under agreement with the local government by a consultant selected jointly by local government and the executive director of the commission.

Section 30242 Lands suitable for agricultural use; conversion

All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

Section 30243 Productivity of soils and timberlands; conversions

The long-term productivity of soils and timberlands shall be protected, and conversions of coastal commercial timberlands in units of commercial size to other uses or their division into units of noncommercial size shall be limited to providing for necessary timber processing and related facilities.

Section 30244 Archaeological or paleontological resources

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

b. **Synopsis of Currently-Certified Land Resources LUP Provisions**

The *Development Constraints* section and *Agriculture* appendix of the currently-certified LUP sets forth policies and standards for the protection and conservation of coastal agriculture. The emphasis of these provisions is to establish guidance for the County's development regulatory program with respect to identifying measures for the protection of agricultural resources consistent with Sections 30241, 20341.5, and 30242 of the Coastal Act. These policies include definitions of "prime" and "general" agricultural lands, allowances for continued grazing and pasturage agricultural uses within seasonal "farmed" wetlands, and identification of compatible nonagricultural uses, such as "Private and public non-vehicular recreational activities such as hiking, riding, fishing, hunting, and other recreational activities which do not require permanent structures, facilities, or foundations." No criteria for limiting conversions of agricultural lands, stipulating when conversions would be permissible, and identifying other protective measures and restrictions on uses and development on both agricultural lands and in adjacent non-agricultural areas, such as the enactment of a "right-to-farm" ordinance, are provided. The

general thrust of the policies addressing soils resources involve setting limitations on the covering of agricultural areas with greenhouses.

It is noted that the currently-certified LUP contains no specific enumerated policies or standards address the protection from, and mitigation for, impacts to archaeological and paleontological resources as mandated by Coastal Act 30244.

c. Summary of Proposed Amendments

The *Land Use, Resource Conservation and Management* elements of the proposed amended LUP set forth policies and standards for agricultural lands. In addition, the Historical Preservation element at Policy Group H-7 sets out a series of new measures to be followed to protect cultural resources, including archaeological resources, which were heretofore absent in the currently-certified LUP. Many of the agricultural policies within the *Land Use and Resource Conservation and Management* elements originate from the currently certified LUP and are proposed to be brought forward with only minor changes to their scope and intent. New provisions are limited to statements regarding the importance of agricultural and other natural resource lands to the community, and supporting community sustainable agricultural endeavors. With respect to archaeological resources, the amended LUP states that the City may electively require that measures be taken to mitigate potential impacts to these resources, and cites an outdated referral agency to which project consultations are to be requested. Like its predecessor, the proposed amended LUP contains no provisions for the protection of paleontological resources

d. Summary of, and Rationale for, Suggested Modifications to Proposed Updated Land Resources Policies

The primary intent of the suggested modifications to the *Land Use and Resource Conservation and Management* elements is to clarify and provide additional detail as to how existing certified provisions must be administered consistent with the Coastal Act coastal agriculture and soils conservation policies. These modifications include:

- Including recitations of the criteria for limiting and authorizing conversions of agricultural lands as set forth in Coastal Act Sections 30241, 30241.5, and 30242.
- Providing specific details as to the issues to be evaluated and factors considered in considering land divisions of agricultural lands and conversions of agricultural lands to non-agricultural uses.
- Setting limits or conditions on the development of uses and improvements not directly related to agricultural operations, such as non-farm secondary dwellings, the size and intensity of all residential improvements, conditionally permissible guest ranches or other farm-based accommodations, and other ancillary conditional uses such as gravel extraction.

Limitations on Conversions and Non-agricultural Development: Coastal Act Sections 30241 and 30242 limit the conversion of agricultural lands to nonagricultural uses and development, generally only allowing such conversions on lands located on the periphery of urban areas or in

locations where continued or renewed agricultural use is not feasible. Neither the currently certified LCP nor the proposed amended LUP contains any policies or standards that incorporate the conversion provisions of Coastal Act Sections 30241 and 30242. Moreover, the Agricultural Exclusive designations/districts in both the currently certified and proposed amended LCP list single-family residences (whether farm dwellings or not) as principally permitted uses. In addition, the A-E designation/district lists other non-agricultural uses as conditionally permitted uses, such as second dwellings, community care facilities, guest lodging, and commercial recreation which are not agricultural in nature.

Suggested Modification No. 2 involves changes to the Agricultural Exclusive land use designation within the *Land Use* and *Resource Conservation and Management* elements to clarify that the only uses allowed are agricultural uses or non-agricultural uses on lands where conversions of agricultural lands to non-agricultural uses would be consistent with the requirements of Coastal Act Sections 30241 and 30242 that limit such conversions to lands located on the periphery of urban areas or in locations where continued or renewed agricultural use is not feasible. The recommended suggested modifications would limit principally permitted residences in the agricultural designations/districts to farm dwellings and would only allow the conditional non-agricultural uses in the Agricultural Exclusive designation/district in cases where an agricultural conversion analysis is provided that demonstrates the conversion to a non-agricultural use is consistent with the conversion criteria of Sections 30241 and 30242 of the Coastal Act. While the Commission acknowledges the concerns that have been raised that implementing the restrictions of these suggested modifications would unduly restrict the development of non-agricultural uses on the affected lands and that such restrictions would represent a significant departure from existing practice in the City, the Commission finds that Sections 30241 and 30242 do not allow for nonagricultural uses on agricultural lands unless the locations where non-agricultural uses are proposed comply with the agricultural conversion criteria. Staff also notes that neither the currently certified or the proposed LCP contain policies that incorporate the conversion provisions of Coastal Act Sections 30241 and 30242.

Additional Requirements for Division of Agricultural Lands: Land divisions can greatly affect the agricultural viability of agricultural lands. If not carefully planned, land divisions can reduce the size of agricultural parcels to a point where the parcels can no longer function as an economic unit, constrain planting and harvesting areas, create access problems, and isolate agricultural lands from essential infrastructure. Such adverse impacts to agricultural productivity can increase the pressure to convert divided agricultural lands to non-agricultural uses, contrary to the requirements of Sections 30241 and 30242 of the Coastal Act.

Therefore, the Commission finds that Suggested Modification Nos. 2 and 7 to the agricultural resources policies of the *Land Use* and *Resource Conservation and Management* elements of the LUP are needed to require applicants for permits for land divisions to submit a continued viability analysis and agricultural management plan detailing how the agricultural land would remain in active agricultural production once subdivided. Concerns have been raised that the requirements of the recommended suggested modifications would be unduly burdensome to owners of agricultural lands who wish to divide their property or develop their properties with improvements not directly related to agricultural pursuits, and implementing these restrictions would represent a significant departure from existing practice in the City. The Commission

believes that the required viability analysis and management plan would provide essential information to demonstrate that the proposed land division would not have significant adverse affects on the agricultural viability of the land that would convert the land to non-agricultural uses inconsistent with Sections 30241 and 30242 of the Coastal Act.

Protection of Agricultural Lands from Adjacent Development: Coastal Act Section 30241 also directs that conflicts between agricultural and urban land uses be minimized through, among other methods, establishing stable boundaries between urban and rural areas, and ensuring that impairment of agricultural viability does not result from public service and facility expansions and nonagricultural development. As presently proposed, the amended LUP would create a new Agricultural Residential land use designation, which, while limiting the residential component to “very low density,” and intended for providing sites for non-commercial agricultural production, would allow for a wide variety of uses which could cumulatively impact agricultural viability of adjoining areas. These uses include multiple residential development, lodging facilities, and community care facilities. The Commission notes that while no lands within the coastal zone are proposed by be designated as AR, the designation could be sought at a future time, and these use allowance could become problematic at that time if not addressed as part of this amendment request. Suggested Modification No. 2 includes a recommendation that this land use designation be struck and that the Residential Low Density land use designation be utilized in its place in future instances where a transitional designation between urban and resource lands is needed.

Protection of Soils Resources: With respect to the protection of productive soil resources, Suggested Modification No. 7 includes a recommendation that a new Policy C-RC-5i be appended to the *Resource Conservation and Management* element requiring that any prime agricultural soils removed in the construction of agricultural-related structures that could not be feasibly located elsewhere to avoid such impacts, be stockpiled and reused on productive agricultural lands.

Protection of Archaeological and Paleontological Resources: Finally, as regards the protection of archaeological and paleontological resources, Suggested Modification No. 10 recommends: (a) appending a new prefacing Policy C-H-7a and revising the language of Policy H-7c of the *Historic Preservation* element to mandate mitigation of potential impacts to both archaeological and paleontological resources; and (b) that Policy H-7b be revised to include consultation with local Tribal Historical Preservation Officers.

As submitted, the policies of the LUP are not sufficiently detailed to protect prime and non-prime agricultural, soil, and archaeological and paleontological resources in Arcata’s coastal zone and must be denied. However, if modified by the changes and additions included as part of Suggested Modification Nos. 2 and 7, the Commission finds that the proposed LUP, as modified, is consistent with Coastal Act Sections 30241, 30241.5, 30242, 30243 and 30244.

E. 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 *Environmental Constraints* section and the *Hazard Areas* appendix 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. 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 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. 11 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 30232 and 30250(b).
- Adding policies requiring that all 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, as applicable to the development and site; 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 cliff faces and within slope failure 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 Section 30253. 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. 11, in part, incorporate the development standards of Coastal Act Section 30253 and require in modified/new Policies C-PS-2a through C-PS-2d, PS-b through PS-2g, C-PS-3a through C-PS-3f, and PS-3e, that applications for development located in or near areas subject to geologic hazard include a geologic/geotechnical evaluation(s). Suggested Modification No. 11 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 C-PS-3g 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.

Tsunami Inundation

Suggested Modification No. 11 also 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.

In the past 62 years, from 1959 to 2011, the North Coast has experienced three significant, damaging tsunamis — in 1960, 1964, 2006, and most recently in March 2011. 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.

The Arcata coastal planning area includes a number of bay fronting lots, either improved with or slated for residential, commercial, industrial and public facilities development along Arcata Bay. These lots 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 2008, contains only site-specific policies concerning tsunami hazards. The proposed updated LCP contains no 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 Arcata, 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 Arcata 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 Arcata areas.¹⁰

¹⁰ The Commission notes that other scenario-based model tsunami inundation research has been conducted for the Arcata area since the 1994 NOAA study, notably *Tsunami Inundation at Arcata, California Generated by Earthquakes Along the Cascadia Subduction Zone*, Uslu, B., J.

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 6 – *Health and Safety* do not detail flooding from tsunami inundation in its coverage of applicable risk types to be minimized. As noted above, Arcata waterfront lies partially within mapped tsunami wave run up inundation areas. By accommodating future residential, commercial, industrial, and public facilities 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

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. 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)

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 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. 11 new Policies C-PS-4b, C-PF-4f, and C-PS-4g which require: (1) the utilization of tsunami inundation mapping, as may be developed from time to time; (2) setting the living space floor elevation of all new permanent residences created through new land divisions to be one foot above predicted runup depths; (3) designing such permanent residential structures to have resilient designs to withstand wave-strike by tsunamis; and (4) the approval of tsunami safety and evacuation plans for 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. 11 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 in new subdivisions 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 Humboldt City coastline areas in the Arcata 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)¹¹ 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

¹¹ 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

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.

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.¹² 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

¹² 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/>

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 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. 11, new policy C-PS-4d 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.

F. 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 *Development Constraints* section and the *Diking, Dredging, Filling, and Shoreline Structures* appendix of the currently-certified LUP contain policies and standards for authorizing certain provisional developments in coastal waters, along shorelines, and within wetlands. 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. However, the currently-certified LUP contains no provisions for permissible channelization, damming, or other substantial alterations of rivers and streams as provided for in Coastal Act Section 30236.

3. Summary of Proposed Amendments

The portions of the proposed updated LUP addressing conditional development in aquatic-dominant environments primarily: (1) details the locations, uses, and conditions where the filling, dredging, or diking may be authorized; (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 additional policies proposed in 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 omits certain requirements 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 No. 1, 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, deleting impermissible uses, such as filling farmed wetlands associated with continued agricultural use or where solely determined as needed for aquaculture (Policy RC-4d, third sub-part).
- 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 along the 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 No. 7 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.

G. 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 *Urban Services Boundary* section and *Locating New Development* appendix. The emphasis of the policies and standards is to: (a) authorize development only when adequate public service have been demonstrated so that service over-commitments do not occur; (b) set limits on the timing of annexations; and (c) foster a compact community form that emphasized automotive dependency, consistent with Sections 30250(a) and 30252 of the Coastal Act.

3. Summary of Proposed Amendments

The *Land Use, Growth Management, and Public Facilities & Infrastructure* elements 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 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.

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

The suggested modifications to the updated LUP's *Land Use, Growth Management, and Public Facilities & Infrastructure* policies are primarily required to ensure that certain key provisions of the Coastal Act are addressed in the LUP, especially the requirements of Section 30250(a) and 30252. These suggested modifications entail:

- Reiterating the requirements of Coastal Act Section 30250(a) as newly appended Policies C-LU-1h and C-GM-1a.
- Restating the requirements of Coastal Act Section 30252 as newly appended Policies C-LU-1i and C-GM-1b.

As presently proposed, the growth and development provisions within *Land Use* and *Growth Management* elements 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(a) and 30252 would not be included. However, as modified by Suggested Modification Nos. 2 and 2 to insert new Policies C-LU-1h, C-GM-1a, LU-1i, and C-

GM-1b, the proposed updated LUP would be consistent with the Location of New Development policies of the Coastal Act.

H. Coastal-Dependent and Other Priority Uses¹³

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 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

¹³ 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.

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.

Section 30261 Tanker facilities; use and design

Multicompany use of existing and new tanker facilities shall be encouraged to the maximum extent feasible and legally permissible, except where to do so would result in increased tanker operations and associated onshore development incompatible with the land use and environmental goals for the area. New tanker terminals outside of existing terminal areas shall be situated as to avoid risk to environmentally sensitive areas and shall use a monobuoy system, unless an alternative type of system can be shown to be environmentally preferable for a specific site. Tanker facilities shall be designed to (1) minimize the total volume of oil spilled, (2) minimize the risk of collision from movement of other vessels, (3) have ready access to the most effective feasible containment and recovery equipment for oil spills, and (4) have onshore deballasting facilities to receive any fouled ballast water from tankers where operationally or legally required.

Section 30262 Oil and gas development

a) Oil and gas development shall be permitted in accordance with Section 30260, if the following conditions are met:

(1) The development is performed safely and consistent with the geologic conditions of the well site.

(2) New or expanded facilities related to that development are consolidated, to the maximum extent feasible and legally permissible, unless consolidation will have adverse environmental consequences and will not significantly reduce the number of producing wells, support facilities, or sites required to produce the reservoir economically and with minimal environmental impacts.

(3) Environmentally safe and feasible subsea completions are used when drilling platforms or islands would substantially degrade coastal visual qualities unless use of those structures will result in substantially less environmental risks.

(4) Platforms or islands will not be sited where a substantial hazard to vessel traffic might result from the facility or related operations, as determined in consultation with the United States Coast Guard and the Army Corps of Engineers.

(5) The development will not cause or contribute to subsidence hazards unless it is determined that adequate measures will be undertaken to prevent damage from such subsidence.

(6) *With respect to new facilities, all oilfield brines are reinjected into oil-producing zones unless the Division of Oil and Gas, Geothermal Resources of the Department of Conservation determines to do so would adversely affect production of the reservoirs and unless injection into other subsurface zones will reduce environmental risks. Exceptions to reinjections will be granted consistent with the Ocean Waters Discharge Plan of the State Water Resources Control Board and where adequate provision is made for the elimination of petroleum odors and water quality problems.*

(7) (A) *All oil produced offshore California shall be transported onshore by pipeline only. The pipelines used to transport this oil shall utilize the best achievable technology to ensure maximum protection of public health and safety and of the integrity and productivity of terrestrial and marine ecosystems.*

(B) *Once oil produced offshore California is onshore, it shall be transported to processing and refining facilities by pipeline.*

(C) *The following guidelines shall be used when applying subparagraphs (A) and (B):*

(i) *"Best achievable technology," means the technology that provides the greatest degree of protection taking into consideration both of the following:*

(I) *Processes that are being developed, or could feasibly be developed, anywhere in the world, given overall reasonable expenditures on research and development.*

(II) *Processes that are currently in use anywhere in the world. This clause is not intended to create any conflicting or duplicative regulation of pipelines, including those governing the transportation of oil produced from onshore reserves.*

(ii) *"Oil" refers to crude oil before it is refined into products, including gasoline, bunker fuel, lubricants, and asphalt. Crude oil that is upgraded in quality through residue reduction or other means shall be transported as provided in subparagraphs (A) and (B).*

(iii) *Subparagraphs (A) and (B) shall apply only to new or expanded oil extraction operations. "New extraction operations" means production of offshore oil from leases that did not exist or had never produced oil, as of January 1, 2003, or from platforms, drilling island, subsea completions, or onshore drilling sites, that did not exist as of January 1, 2003. "Expanded oil extraction" means an increase in the geographic extent of existing leases or units, including lease boundary adjustments, or an increase in the number of well heads, on or after January 1, 2003.*

(iv) *For new or expanded oil extraction operations subject to clause (iii), if the crude oil is so highly viscous that pipelining is determined to be an infeasible mode of transportation, or where there is no feasible access to a pipeline, shipment of crude oil may be permitted over land by other modes of transportation, including trains or trucks, which meet all applicable rules and regulations, excluding any waterborne mode of transport.*

(8) *If a state of emergency is declared by the Governor for an emergency that disrupts the transportation of oil by pipeline, oil may be transported by a*

waterborne vessel, if authorized by permit, in the same manner as required by emergency permits that are issued pursuant to Section 30624.

(9) In addition to all other measures that will maximize the protection of marine habitat and environmental quality, when an offshore well is abandoned, the best achievable technology shall be used.

b) Where appropriate, monitoring programs to record land surface and near-shore ocean floor movements shall be initiated in locations of new large-scale fluid extraction on land or near shore before operations begin and shall continue until surface conditions have stabilized. Costs of monitoring and mitigation programs shall be borne by liquid and gas extraction operators.

c) Nothing in this section shall affect the activities of any state agency that is responsible for regulating the extraction, production, or transport of oil and gas.

Section 30263 Refineries or petrochemical facilities

(a) New or expanded refineries or petrochemical facilities not otherwise consistent with the provisions of this division shall be permitted if (1) alternative locations are not feasible or are more environmentally damaging; (2) adverse environmental effects are mitigated to the maximum extent feasible; (3) it is found that not permitting such development would adversely affect the public welfare; (4) the facility is not located in a highly scenic or seismically hazardous area, on any of the Channel Islands, or within or contiguous to environmentally sensitive areas; and (5) the facility is sited so as to provide a sufficient buffer area to minimize adverse impacts on surrounding property.

(b) New or expanded refineries or petrochemical facilities shall minimize the need for once-through cooling by using air cooling to the maximum extent feasible and by using treated waste waters from inplant processes where feasible.

Section 30264 Thermal electric generating plants

Notwithstanding any other provision of this division, except subdivisions (b) and (c) of Section 30413, new or expanded thermal electric generating plants may be constructed in the coastal zone if the proposed coastal site has been determined by the State Energy Resources Conservation and Development Commission to have greater relative merit pursuant to the provisions of Section 25516.1 than available alternative sites and related facilities for an applicant's service

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

The *Development Constraints* section, and the *Commercial Fishing and Recreational Boating* and *Industrial Development* appendices 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 hazardous industrial uses. In addition, reservation of sites for certain forms of heavy industrial and energy production, processing, and storage uses are identified. 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 along the shoreline, 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 Arcata 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 Resource Conservation and Management* elements 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 portions of Arcata in proximity to the bayfront. The proposed provisions reiterate the priority status to such uses as appointed by Coastal Act Section 30255, and set conditional criteria for development of coastal-dependent uses on Public Trust former tidelands. With specific regard to on-shore petroleum exploration, production, and processing, proposed Policy LU-4g would prohibit such development within the bounds of the City.

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, and 30260 as new Policies C-GM-1h, C-GM-1m, C-GM-1n, and C-GM-1f, respectively.
- Applying the requirements of Coastal Act Section 30255 within the revised wording of Policy LU-1g (renumbered as C-LU-1q), as relates to appropriate locations for coastal related development supporting coastal dependent uses.
- With the consent of the City under the auspices of a “friendly” suggested modification, striking proposed Policy LU-4g as inconsistent with Coastal Act Sections 30262 and 30263.

Thus, as currently proposed, the policies within the updated LUP regarding priority coastal-dependent and coastal-related uses omit or misstate 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 Resource Conservation and Management* elements of the updated LUP, as set forth in Suggested Modification Nos. 2 and 7, the amendments to the LUP regarding priority coastal-dependent and

coastal-related uses can be found consistent with Sections 30222.5, 30234, 30234.5, 30255, and 30260 through 30264.

I. 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 *Urban Services Boundary* section, and the *Locating and Planning New Development*, and *Public Works* appendices 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. 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 *Transportation* and *Public Facilities & Infrastructure* elements 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 limiting 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 to serve certain priority uses as set forth in Sections 30254, 30254.5, and 30412. To address these omissions, the suggested modifications entail:

- Revising Policy GM-4a to include limitations on the capacities of regulated public utilities, water supply and delivery, wastewater collection, treatment, and disposal, and stormwater and drainage collection, treatment, and conveyance public works facilities to that necessary to serve development or uses planned for and permitted consistent with the provisions of the Coastal Land Use Plan.

- Revising Policy GM-4c to limitations the extension of services either through the formation of new or expansion of existing special districts 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.

As currently proposed, the policies within the updated LUP regarding public works services and facilities omit key provisions of the Coastal Act regarding these services. 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 *Transportation* and *Public Facilities & Infrastructure* elements of the updated LUP, as set forth in Suggested Modification Nos. 4 and 5, the amendments to the LUP regarding public works facilities and services can be found consistent with Sections 30254, 30254.5, and 30412.

J. 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 *Development Constraints* section and the *Coastal Visual Resources and Special Communities* appendix 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. The emphasis of this chapter is to require that development be reviewed for 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

Policy Group D-3 of the proposed updated LUP's *Design* element addresses the protection of visual resources in the review of development. All eight of the policies within the currently

certified LUP are brought forward either verbatim or in revised form. In addition, one new policy is proposed designating the open natural vistas along Highway 101 and Samoa Boulevard, including the Arcata Bottom and forested flanks of Fickle Hill as scenic vistas and landscape features which should be retained for their visual character.

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

As currently proposed, the policies within the *Design* element 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. 9, the amendments to the LUP regarding the protection of visual resources can be found consistent with Section 30251.

SM-13. *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 appendix.

b. Summary of Proposed Amendments

Although formatted for such an appendix, the proposed amended LUP does not contain a glossary. Instead, readers of the LUP are referred to the glossary within the Land Use Code (IP)

c. Summary of Suggested Modification No. 13: (Definitions)

Suggested Modification No. 13 proposes that a glossary of terminology used in the LUP be appended onto the document as an appendix 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.

d. Discussion of Basis for Suggested Modifications

Without a glossary of terminology defining certain key terms, misinterpretation of the LUP's policies and standards could result in actions being taken by the City inconsistent with the requirements of the Coastal Act. As a result, policies designed to protect environmentally

sensitive habitat areas, wetlands, water quality, and/or the programmatic requirements regarding the permitting of coastal development could be misapplied. Thus, to ensure that the policies of the LUP are applied consistent with the Coastal Act, including but not limited to, Sections 30230, 30231, 30233, 30240, and the development controls provisions of Chapter 7, Suggested Modification No. 13 requires the inclusion of a Definitions appendix.

SM-14: *LUP Maps*

a. Synopsis of Currently-Certified LUP Maps

The City of Arcata'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 effectively certified in 1989. As shown on Table IV-1, the land use plan map has been amended a total of 11 times to date.

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. E-12). 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* element, Suggested Modification No. 2. The land use changes raising site-specific substantial issues of Coastal Act conformance can generally be described as located in four areas by dominant land use character: (1) Villa Way Estates/McDaniel Slough Area; (2) Former Northcoast Hardwoods Industrial Site; (3) Former Industrial Electric Company Site; (4) Johnson Industries/Former Little Lake Industries Sites; and (5) Rotary Park (see Exhibit No. 4).

Villa Way Estates/McDaniel Slough Area

The Villa Way Estates/McDaniel Slough Area land use redesignation involves one parcel, APN 505-351-022 and non-enrolled City-owned lands comprising the western floodplain of lower McDaniel Slough (see Exhibit No. 1, page 1). This area is proposed to be reclassified from Public Facility – Park (PF-P) to a combination of Natural Resources – Public Trust Lands (NR:PT) and Public Facility (PF).

Former Northcoast Hardwoods Industrial Site

The Former Northcoast Hardwoods Industrial Site land use redesignation involves changing this former timber products industrial site along the north side of State Highway 255 on the City's western margins from Heavy Industrial (IH) to Light Industrial (IL) (see Exhibit No. 4, page 2).

Former Industrial Electric Company Site

The Former Industrial Electric Company Site land use redesignation (see Exhibit No. 4, page 3) entail:

- Changing the currently certified Heavy Industrial (IH) designations along the site's Highway 255 frontage (APNs 021-191-002, -006, & -007; 503-251-011 & -013) to Light Industrial (IL)
- Changing the currently certified Agricultural Exclusive (AE) designation over the southern portion of the site (APNs 503-251-002 & -003) to Natural Resources – Public Trust Lands (NR:PT)
- Changing the currently certified Agricultural Exclusive (AE) designation over the southwestern corner of the property to Light Industrial (IL)

Johnson Industries/Former Little Lake Industries Sites

The Johnson Industries/Former Little Lake Industries Sites land use redesignations (see Exhibit No. 4, page 4) entail changing this current metal pipe and conduit manufacturing and former timber products industrial sites along the south side of State Highway 255 along South I Street from Heavy Industrial (IH) to Light Industrial (IL) (see Exhibit No. 4, page 2)

Rotary Park

The Rotary Park land use redesignation (see Exhibit No. 4, page 5) entails retaining the current undesignated status of the former street right-of-way.

c. Discussion of Basis for Suggested Modifications:

The Commission finds that portions of all five 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.

Villa Way Estates/McDaniel Slough Area: As mentioned above, the Villa Way Estates/McDaniel Slough Area redesignation entails changing the land use plan designation from Public Facility – Park (PF-P) to a combination of Natural Resources – Public Trust Lands (NR:PT) and Public Facility (PF). 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 floodplain status, in the absence of additional information substantiating how Public Facility development could be undertaken on the narrow area bordering the slough 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. 14 includes the recommendation that the non-enrolled parcel's change from Public Facility – Park (PF-P) to Public Facility (PF) be denied and the whole of the site be redesignated to Natural Resources – Public Trust Lands (NR:PT).

Former Northcoast Hardwoods Industrial Site: The Former Northcoast Hardwoods Industrial Site is located along the City's western border on the north side of Highway 255. The City is proposing to change the Heavy Industrial land use category in this area to Light Industrial in response to the changes in the City's economic base and the associated demand for sites for less intensive manufacturing uses. The change to light industrial use does not raise inconsistencies with the Coastal Act. However, Policy LU-4a in Table LU-7 identifies the area to be redeveloped as a Planned Development project type, but the proposed redesignation of the site does not include a Planned Development designation. Suggested Modification No. 14 includes a provision that the IL designation include a :PD suffix designating the site as subject to the LUP provisions for Planned Developments.

Former Industrial Electric Company Site: The redesignation is being pursued by the City in the interest of diversifying establishing a stable boundary between the adjoining resource lands and the improvements along the industrial-commercial State Route 255 corridor. However, no information has been provided regarding the conversion of a portion of the site from Agricultural Exclusive to Light Industrial in terms of the effects that change would have on the continued viability of surrounding agricultural areas. Accordingly, given the limitations of Section 30240 and 30242 of the Coastal Act on the conversion of agricultural lands to other uses, the Commission finds that such redesignation of this portion of the former Industrial Electric Company site would be inconsistent with the Chapter 3 policies of the Coastal Act and must be denied. The conversion cannot be found consistent with the Coastal Act until such a conversion evaluation is developed and affirmative findings can be made regarding the redesignation's consistency with the Coastal Act policies for protecting coastal agriculture.

Johnson Industries/Former Little Lake Industries Sites: The Johnson Industries/Former Little Lake Industries Sites are located along South I Street and Highway 255. The City is proposing to change the Heavy Industrial land use category in this area to Light Industrial in response to the changes in the City's economic base and the associated demand for sites for less intensive manufacturing uses. The change to light industrial use does not raise inconsistencies with the Coastal Act. However, Policy LU-4a in Table LU-7 identifies the area to be redeveloped as a Planned Development project type but the proposed redesignation of the site does not include a Planned Development designation. Suggested Modification No. 14 includes a provision that the IL designation include a :PD suffix designating the site as subject to the LUP provisions for Planned Developments.

Rotary Park: The Rotary Park site comprises the First Street right-of-way which connects South F Street with South G Street in South of Samoa neighborhood area of Arcata. As with all of the other street rights-of-way throughout the City, the area is presently undesignated on the Land Use Diagram and is proposed to retain that designation. However, the former right-of-way has been subsequently developed with a public park playground equipment, benches, etc. and appears in the City's park's plan as a recreational unit. Therefore, to protect the park for public recreational use consistent with Coastal Act Sections 30210 and 30213, the area should be designated as Public Facility (PF).

SUGGESTED MODIFICATION – 15: *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 also contains 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 Introduction is followed by a series of chapters containing "element" sub-sections including: (1) *Community Development*; (2) *Housing and Human Services*;¹⁴ (3) *Environmental Quality and Management*; (4) *Design and Historic Preservation*; and (5) *Health and Safety*.

c. Summary of, and Rationale for, Suggested Modification No. 15 (LUP Organization):

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

- Delete all "wave" (☪) symbols from all Elements of the Coastal Land Use Plan.

¹⁴ The Housing and Human Services Element is not proposed to be a part of this LCP update.

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- 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 the Introduction of the Coastal Land Use Plan Policy Document 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 Element” throughout the LUP and the Coastal Zoning and Coastal Subdivision titles.
- Publish the updated Coastal Land Use Element incorporating all of the above suggested modifications under separate cover from that of the updated non-coastal Arcata General Plan.

The objective of these suggested changes, as well as similar suggested modifications to the IP as described in Suggested Modification No. 27, 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 submitted, the General Plan contains policies applying in both the coastal zone and throughout the inland portions of the City as well.

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 a separate Coastal Land Use Element and Development Code for the portions of the City inside the coastal zone, Commission staff and City staff agreed to do away with the ☞ symbols, and reorganized the coastal zone-specific portion 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 Health and Safety chapter, policies regarding the operation of various City functions, such as the schools and public safety agencies in the Public Facilities and Infrastructure chapter, and procedures for transportation management in the *Transportation* chapter. 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” subsection of the chapter under Suggested Modification No. 15, 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. 14 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 ARCATA'S IMPLEMENTATION PLAN AMENDMENT, AND APPROVAL WITH MODIFICATIONS

A. Amendment Description

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 1989. Both the currently certified *Coastal Land Use Element* of the City's general plan (LUP) and the *Land Use and Development Guide* (IP) would be replaced by the *Arcata General Plan:2020 – Coastal Land Use Plan* and the Land Use Code, respectively, formatted in an entirely different organizational format. These wholly new documents have been submitted to the Commission for certification. These documents constitute an update of the totality of the City's coastal land use regulatory policies and programs.

The City adopted amendments to its currently certified coastal zoning code and development regulations in October 2008, entitled the "Land Use Code," to carry out the policies of the amended LUP in a consistent manner, including 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 tabular format. The amendments to the IP also include a comprehensive update to the subdivision regulations and unified development review procedures. Furthermore, the LCP update proposes that numerous new or expanded sections be added into the IP setting standards for: (1) residential density bonuses, secondary dwelling units, and inclusionary housing requirements; (2) landscaping, parking, and signage improvements; (3) specific land uses, including bed and breakfast establishments, mixed use developments, formula restaurants, and medical marijuana cultivation and dispensary facilities; (4) water quality best management practices, including the management of stormwater runoff; (5) protection of natural and cultural resources; and (6) avoiding and minimizing natural and man-made hazards. Finally, the amendment reclassifies the zoning over a number of specific properties to correspond with proposed changes in the sites' LUP land use classifications.

The City is also proposing to change the zoning designations over several parcels within the coastal zone, primarily associated with the transition of former heavy industrial properties to provide sites for light manufacturing. These five areas are referenced herein as: (1) *Villa Way Estates / McDaniel Slough Area*; (2) *Former Industrial Electric Service Company Agricultural Area*; (3) *Northcoast Hardwoods and Little Lake Industries Sites*; (4) *Former Intertidal Margins of Humboldt Bay in Commission's Original/Retained Jurisdictional Area*; and (5) *Rotary Park*.

The proposed omnibus amendment to the Implementation Plan (IP) portion of the County's LCP is similar in complexity to the changes proposed for the Land Use Plan. The proposed updated IP document would entail a significantly changed format from the currently certified LUP and, be codified as Title 9 of the City's Municipal Code.

B. 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-16. Title 9 – Land Use Code, Article 1: Land Use Code Applicability

a. Synopsis of Currently-Certified Provisions

Article 1 is the first chapter of the City’s currently-certified Land Use Development Guide (LUDG). The section contains the “general provisions” for 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

Article 1 is the first chapter of the City’s Land Use Code (LUC) portion of its zoning and development regulations Title 9. 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.

c. Summary of Suggested Modification No. 16: (Title 9 – Land Use Code, Article 1: Land Use Code Applicability)

The suggested modifications to Article 1 entail:

- Identification of all sections of the Land Use Code which constitute the LCP Implementation Plan, including provisions incorporated-by-reference, clearly intended for governing the issuance and appeal of coastal development permits of as may be recommended to be included through Commission suggested modifications.
- Clarifications regarding the need for zoning designations to be certified by the Commission prior to becoming effective in areas annexed to the City.

d. Discussion of, and Rationale for, Suggested Modification No. 16 (Title 9 – Land Use Code, Article 17.60: Land Use Code Applicability)

The suggested modifications to Article 1 clearly identify which portions of the Land Use Code function as the City LCP’s Implementation Plan for purposes of the review, issuance, and appeal of coastal development permits to ensure applicable provisions are not overlooked.

SM-17. Title 9 – Land Use Code, Article 2: Zoning Districts and Allowable Uses

a. Synopsis of Currently-Certified Provisions

Article 2 is the second section of the City's currently-certified Land Use Development Guide (LUDG). The section enumerates the principal and conditionally permitted uses and prescriptive development standards for each of the zoning districts

b. Summary of Proposed Amendments

Article 2 sets forth the permissible uses and prescriptive standards (e.g., maximum structural height, minimum lot dimensions, yard areas, and setbacks) for each of the zoning districts. The various amendments to the zoning district standards of Article 2 are primarily proposed to implement the policies of the Land Use Plan, especial with regard to providing detailed regulations to carry out those more generally established under the corresponding land use category.

c. Summary of Suggested Modification No. 17: (Title 9 – Land Use Code, Article 2: Zoning Districts & Allowable Land Uses)

The Suggested Modifications to Article 2 are similarly intended to bring the LCP into consistency with the Coastal Act with respect to internal consistency and adequacy of implementation of the policies of the LUP as amended, particularly with regard to the general standards set forth in the corresponding land use categories. These changes include similar deletion of the Wetlands Protection Combining Zone as was similar recommended under Suggested Modification No. 2.

d. Discussion of, and Rationale for, Suggested Modification No. 17 (Title 9 – Land Use Code, Article 2: Zoning Districts & Allowable Land Uses)

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 permissible uses identified and development standards set forth in the land use categories should be consistently further detailed in each of the corresponding zoning district chapters.

SM-18. Title 9 – Land Use Code, Article 3: Site Planning and Project Design Standards

a. Synopsis of Currently-Certified Provisions

LUDG Article 3 sets forth specific development standards for a wide variety of development projects, including the awarding of density bonuses, landscaping standards, off-street parking requirements, and signage regulations.

b. Summary of Proposed Amendments

LUC Article 3 sets forth specific development standards for a wide variety of development projects, including the awarding of density bonuses, the authorization of secondary dwelling units, landscaping standards, off-street parking requirements, and signage regulations.

- c. Summary of Suggested Modification No. 18: (Title 9 – Land Use Code, Article 3: Site Planning and Project Design Standards)

Suggested Modifications to LUC Article 3 include the following:

- Revising the provisions for the granting of density bonus incentives to conform to contemporary state housing law with respect to Coastal Act compliance.

- d. Discussion of, and Rationale for, Suggested Modification No. 18 (Title 9 – Land Use Code, Article 3: Site Planning and Project Design Standards)

The Suggested Modifications to Article 3 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 ensuring that the issuance of residential density bonuses does not result in development inconsistent with the policies and standards of the LCP.

SM-19. Title 9 – Land Use Code, Article 4: Standards for Specific Land Uses

- a. Synopsis of Currently-Certified Provisions

LUDG Article 3 sets forth specific development standards for a wide variety of development projects, including the awarding of density bonuses, landscaping standards, off-street parking requirements, and signage regulations.

- b. Summary of Proposed Amendments

The proposed amendments to LUC Article 4 “Standards for Specific Land Uses” include:

- Adding provisions for second dwelling units as a principal permitted use subject to meeting specified design requirements.
- Adding provisions for development of bed and breakfast establishments as a conditional use.
- Establishing a process for the authorization of telecommunication facilities.

- c. Summary of Suggested Modification No. 19: (Title 9 – Land Use Code, Article 4: Standards for Specific Land Uses)

Suggested Modifications to LUC Article 4 entail the following:

- Revising the provisions for the ministerial authorization of secondary dwelling units conforms to contemporary state housing law with respect to Coastal Act compliance.
 - Deleting provisions for development of bed and breakfast facilities in Agricultural Exclusive and Residential Very Low Density zoning districts
 - Including a caveat regarding the limitations on the regulation of telecommunication facilities be local and state agencies.
- d. Discussion of, and Rationale for, Suggested Modification No. 19 (Title 9 – Land Use Code, Article 4: Standards for Specific Land Uses)

The Suggested Modifications to Article 3 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) ensuring that the ministerial authorization of secondary dwelling units do not result in development inconsistent with the policies and standards of the LCP; (b) the economic viability of agricultural lands are protected from the introduction of non-agricultural use in the area; and (3) the preemptions of federal law are disclosed in the regulations regarding authorizations for telecommunications facilities.

SM-20. Title 9 – Land Use Code, Article 5: Resource Management

a. Synopsis of Currently-Certified Provisions

The currently certified LUDG does not contain a discrete section regarding the management of natural resources. Instead, such standards appear in a number of contexts throughout the code's zoning and development regulations and review procedures,

b. Summary of Proposed Amendments

LUC Article 5 sets forth procedures and standards for the protection of specified natural resources, including agricultural lands and environmentally sensitive habitat areas. The proposed amendments to LUC Article 5 “Resource Management” include:

- Provisions for the preservation of agricultural lands, primarily through the adoption of a right-to-farm ordinance
- Hillside development standards.
- Historic resources protection.
- Identifying standards for the protection and preservation of of environmentally sensitive habitat areas

c. Summary of Suggested Modification No. 20: (Title 9 – Land Use Code, Article 5: Resource Management)

Suggested Modifications to LUC Article 5 entail the following:

- Appending detailed standards for the evaluation of conversions and subdivisions of agricultural land and related requisite findings for approval.
- Adding criteria for determining the adequacy of reduced-width ESHA buffers.

d. Discussion of, and Rationale for, Suggested Modification No. 20 (Title 9 – Land Use Code, Article 5: Resource Management)

The Suggested Modifications to Article 5 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) protecting agricultural lands); and (b) protecting ESHA from development in adjacent areas.

SM-21. Title 9 – Land Use Code, Article 6: Site Development Regulations

a. Synopsis of Currently-Certified Provisions

LUDG Chapter II, Article 4 sets forth the procedures for reviewing exposures of persons and property to geologic, flood, and wildfire hazards associated with new development

b. Summary of Proposed Amendments

Proposed Land Use Code Chapter Article 6 would establish standards and procedures for:

- Flood hazard mitigation standards
- Review of geologic hazards
- Grading, erosion and sediment control

In addition, Article 6 at Chapter 9.66 also proposes 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, including:

- 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. 21: (Title 9 – Land Use Code, Article 6: Site Development Regulations)

Suggested Modifications to LUC Article 6 entail the following:

- Changes to Chapter 9.60 Flood Hazard Mitigation Standards Control to incorporate tsunami inundation/runup evaluation requirements and incorporate the effects of projected sea level rise in technical evaluations.
 - Appending a new Chapter 9C.61 setting forth standards and procedures for exaction, dedication, and acceptance of coastal access facilities.
 - Changes to Chapter 9.62 to append current slope stability analytical standards into the procedures for geologic hazard and instability evaluations.
 - Changes to Chapter 9.66 Urban Runoff Pollution Control to incorporate:
 - Construction Pollution Prevention Plans that specify interim BMPs used to minimize erosion and sedimentation during construction and prevent contamination of runoff by construction chemicals and materials.
 - Post-Construction Runoff Mitigation Plans that specify site design, source control, and if necessary, treatment control BMPs that will be implemented to minimize stormwater pollution and increases in runoff volume and rate from development after construction.
 - Water Quality and Hydrology Plans that include the additional information needed to appropriately protect coastal waters from Developments of Water Quality Concern such as pre- and post-construction hydrograph estimates, documentation that BMPs are designed to treat runoff from the design storm and documentation of any claims that required BMPs are infeasible.
 - Requiring that Developments of Water Quality Concern submit information on potential adverse water quality impacts of the project and document the basis for selecting BMPs to mitigate those impacts, all signed by a licensed water quality professional.
 - Appending a new Chapter 9C.68 containing procedures and standards for reviewing the effects of new development on coastal visual resources
- d. Discussion of, and Rationale for, Suggested Modification No. 21 (Title 9 – Land Use Code, Article 6: Site Development Regulations)

The bases for the suggested modifications to LUP Chapters 9.60 and 9.62 are to include contemporary standards for assessing exposure to coastal flooding and geologic instability hazards for adequate implementation of the amended policies of the LUP's *Health and Safety* element.

The basis for the suggested modification to append a new Chapter 9C.61 is to establish contemporary procedures and standards for the exaction, dedication, and acceptance of coastal access facilities such that the amended provisions of the LUP's Policy Group OS-4 can be adequately implemented.

The basis for the suggested modifications to proposed new Chapter 9.66 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. In addition, the suggested modification to include the regulations within the range of Title 9 which comprises the “Land Use Code” is intended to avoid confusion as to whether the provisions apply solely to the non-Coastal Zone portions of the City or City-wide.

The basis for the suggested modifications to add a new LUC Chapter 9C.68 is to provide specific standards and procedures for implementing Policy Group D-3 of the amended LUP.

SM-26. Zoning Map Amendments

a. Synopsis of Currently-Certified Provisions

LUC Chapter 9.12 – Zoning Map, Section 9.12.020 – Zoning Map and Zoning Districts, 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 9 – Land Use Code, Article 1, Chapter 9.12 – Zoning Map, Section 9.12.020 – Zoning Map and Zoning Districts) 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 15 as follows:

- (1) Villa Way Estates/McDaniel Slough Area; (2) Former Northcoast Hardwoods Industrial Site; (3) Former Industrial Electric Company Site; (4) Johnson Industries/Formal Little Lake Industries Sites; and (5) Rotary Park (see Exhibit No. 4).

Villa Way Estates/McDaniel Slough Area

The Villa Way Estates/McDaniel Slough Area land use redesignation involves one parcel, APN 505-351-022 and non-enrolled City-owned lands comprising the western floodplain of lower McDaniel Slough (see Exhibit No. 1, page 1). This area is proposed to be reclassified from Public Facility – Park (PF-P) to a combination of Natural Resources – Public Trust Lands (NR:PT) and Public Facility (PF).

Former Northcoast Hardwoods Industrial Site

The Former Northcoast Hardwoods Industrial Site land use redesignation involves changing this former timber products industrial site along the north side of State Highway 255 on the City’s western margins from Heavy Industrial (IH) to Light Industrial (IL) (see Exhibit No. 4, page 2).

Former Industrial Electric Company Site

The Former Industrial Electric Company Site land use redesignation (see Exhibit No. 4, page 3) entail:

- Changing the currently certified Heavy Industrial (IH) designations along the site's Highway 255 frontage (APNs 021-191-002, -006, & -007; 503-251-011 & -013) to Light Industrial (IL)
- Changing the currently certified Agricultural Exclusive (AE) designation over the southern portion of the site (APNs 503-251-002 & -003) to Natural Resources – Public Trust Lands (NR:PT)
- Changing the currently certified Agricultural Exclusive (AE) designation over the southwestern corner of the property to Light Industrial (IL)

Johnson Industries/Former Little Lake Industries Sites

The Johnson Industries/Former Little Lake Industries Sites land use redesignations (see Exhibit No. 4, page 4) entails changing this current metal pipe and conduit manufacturing and former timber products industrial sites along the south side of State Highway 255 along South I Street from Heavy Industrial (IH) to Light Industrial (IL) (see Exhibit No. 4, page 2)

Rotary Park

The Rotary Park land use redesignation (see Exhibit No. 4, page 5) entails retaining the current undesignated status as a former street right-of-way.

c. Discussion of Bases for Suggested Modifications:

The Commission finds that portions of all five of the zoning changes are not consistent with the LUP Map, as modified. Therefore, Suggested Modification No. 26 is included to required rezoning the five sites to zoning districts that correspond with the LUP Map designations as amended.

SM- 27. Organization/Recodification

a. Synopsis of Currently-Certified IP Organization

The currently-certified Implementation Plan portion of the City's LCP is contained within a consecutive set of ordinances collectively cited as the "Land Use and Development Guide" (LUDG).

b. Summary of Proposed Amendments

The proposed amended Implementation Plan portion of the City's LCP is contained within a consecutive set of sections of Title 9 of the Municipal Code, spanning Chapters 9.10 through 9.100, collectively cited as the "Land Use Code."

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 Land Use Code implementation measures as Title 9 – Land Use Code, Articles 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. 27 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 Arcata'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.