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Staff: Robert Merrill
Staff Report: November 24, 2004
Hearing Date: December 10, 2004
Commission Action:

TO: Commissioners and Interested Parties

FROM: Peter M. Douglas, Executive Director
Chuck Damm, Deputy Director
Robert S. Merrill, North Coast District Manager

SUBJECT: **City of Eureka LCP Amendment No. EUR-MAJ-1-00 (Large Commercial Uses).**
(Meeting of December 10, 2004, in San Francisco)

SYNOPSIS:**Amendment Description:**

The City of Eureka is requesting certification of LCP Amendment No. EUR-MAJ-1-00 (Large Commercial Uses) to the City's certified Implementation Plan (IP) to make two basic changes with regard to the standards for retail and wholesale commercial uses of 40,000 square feet or greater. First, the proposed IP amendment would change retail and wholesale commercial uses of 40,000 square feet or greater from principally permitted uses to conditionally permitted uses in the General Industrial (MG) and Limited Industrial (ML) zoning districts. Second, the proposed IP amendment would require a series of public hearings, including one public hearing before the Planning Commission and two public hearings before the City Council as part of the review of conditional use permits for any retail or wholesale commercial use of 40,000 square feet or greater.

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Summary of Staff Recommendation:

The staff recommends that the Commission, upon completion of a public hearing: **(1) deny the IP amendment request as submitted; and (2) certify the IP amendment request with suggested modifications.**

Proposals to add commercial uses to industrial districts in waterfront cities such as Eureka raises issue of conformance with Coastal Act policies that give priority to coastal-dependent and coastal-related industrial and port uses over other kinds of uses on or near the shoreline. In this case, however, the proposed changes to the conditionally permitted uses in the Limited Industrial (ML) and General Industrial (MG) zoning districts would not usurp areas needed for expansion or the coastal dependent and coastal-related industrial uses. The City has three separate zoning districts for industrial uses including the Limited Industrial (ML), General Industrial (MG) and Coastal-Dependent Industrial (MC) districts. The Coastal-Dependent Industrial district is the only one of the three that is specifically intended for industrial uses that are considered to be coastal-dependent or coastal-related. The proposed LCP amendment makes no change to the allowable uses within the MC district, only to the Limited Industrial (ML) and General Industrial (MG) districts. Thus, land zoned as Coastal-Dependent Industrial (MC) will continue to be fully available for coastal dependent or coastal-related industry and port uses. Furthermore, there is no identified need to expand the MC districts into the adjoining ML and MG industrial districts as the MC districts cover virtually all of the shoreline along the west side of the City and are largely underdeveloped and under-utilized.

However, the proposed amendment to the City's certified Implementation Plan would not fully conform with the certified LUP. To be certified, a proposed IP amendment must be found to conform with and adequately carry out the LUP. Section 156.078 of the zoning code would be amended to add "retail sales establishments with single occupant floor areas of 40,000 square feet or larger," and "wholesale stores with single occupant floor areas of 40,000 square feet or larger," to the list of conditionally permitted uses in the MG General Industrial district. However, the addition of large commercial uses as conditionally permitted uses in the MG General Industrial zoning district would not conform with the current list of conditionally permitted uses in the MG General Industrial land use classification of the certified LUP, as none of the listed conditionally permitted uses in the land use classification involve a commercial use. Therefore, the amendment to the Implementation Plan as submitted would not conform with and carry out the certified LUP and must be denied.

If the proposed amendment to the Implementation Plan were modified to delete this particular proposed change to Section 156.078 to add large commercial uses as a conditional use in the MG zoning district, staff believes the overall LUP amendment could be found to conform with and adequately carry out the LUP. Therefore, staff recommends that the Commission attach Suggested Modification No. 1 to delete the provision of the proposed amendment that would add retail sales establishments with

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single occupant floor areas of 40,000 square feet or larger and wholesale stores with single occupant floor areas of 40,000 square feet or larger as conditional uses in the General Industrial (MG) zoning district. As modified, staff believes the IP amendment would conform with and adequately carry out the certified LUP.

The appropriate motions and resolutions to adopt the staff recommendation are found on pages 3-5.

Analysis Criteria:

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 LUP.

Additional Information:

For additional information about the LCP Amendment, please contact Robert Merrill at the North Coast District Office at (707) 445-7833. Please mail correspondence to the Commission at the above address.

PART ONE: RESOLUTIONS AND SUGGESTED MODIFICATIONS

**I. MOTIONS, STAFF RECOMMENDATIONS, AND RESOLUTIONS FOR
LCP AMENDMENT NO. EUR-MAJ-1-00**

**A. DENIAL OF IMPLEMENTATION PROGRAM AMENDMENT NO. EUR-
MAJ-1-00, AS SUBMITTED:**

MOTION I: I move that the Commission reject Implementation Program Amendment No. EUR-MAJ-1-00 for the City of Eureka as submitted.

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a YES vote. Passage of this motion will result in rejection of Implementation Program 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 I TO DENY CERTIFICATION OF THE
IMPLEMENTATION PROGRAM AS SUBMITTED:**

The Commission hereby denies certification of the Implementation Program submitted for the City of Eureka and adopts the findings set forth below on grounds that the Implementation Program Amendment as submitted does not conform with and is inadequate to carry out the provisions of the Land Use Plan as certified. Certification of the Implementation Program 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 as submitted.

**B. APPROVAL OF IMPLEMENTATION PROGRAM AMENDMENT NO.
EUR-MAJ-1-00 WITH SUGGESTED MODIFICATIONS:**

MOTION II: I move that the Commission certify the Implementation Program Amendment No. EUR-MAJ-1-00 for the City of Eureka if it is modified as suggested in this staff report.

**STAFF RECOMMENDATION TO CERTIFY WITH SUGGESTED
MODIFICATIONS:**

Staff recommends a YES vote. Passage of this motion will result in certification of the Implementation Program 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 II TO CERTIFY THE IMPLEMENTATION PROGRAM
WITH SUGGESTED MODIFICATIONS:**

The Commission hereby certifies the Implementation Program Amendment for the City of Eureka if modified as suggested on the grounds that the Implementation Program Amendment with the suggested modifications conforms with and is adequate to carry out the provisions of the Land Use Plan as certified. Certification of the Implementation Program 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 Program 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.

**II. SUGGESTED MODIFICATIONS TO THE IMPLEMENTATION PLAN
AMENDMENT:**

SUGGESTED MODIFICATION NO. 1:

Delete the new language proposed by the City to be added to Section 156.078 – “GENERAL INDUSTRIAL DISTRICTS,” that would add retail sales establishments with single occupant floor areas of 40,000 square feet or larger and wholesale stores with single occupant floor areas of 40,000 square feet or larger as conditional uses in the General Industrial (MG) zoning district.

PART TWO: AMENDMENTS TO IMPLEMENTATION PLAN

I. ANALYSIS CRITERIA

Section 30513 of the Coastal Act establishes the criteria for Commission action on proposed amendments to certified Implementation Programs (IP). Section 50513 states, in applicable part:

...The commission may only reject zoning ordinances, zoning district maps, or other implementing actions on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection specifying the provisions of land use plan with which the rejected zoning ordinances do not conform or which it finds will not be adequately carried out together with its reasons for the action taken.

To approve the amendment, the Commission must find that the amended Implementation Plan will conform with and adequately carry out the provisions of the LUP as certified. For the reasons discussed in the findings below, the proposed amendment to the Implementation Program as submitted is not consistent with or adequate to carry out the certified Land Use Plan. As modified, the proposed amendment to the Implementation Program would be consistent with and adequate to carry out the certified Land Use Plan.

II. FINDINGS FOR DENIAL OF IP AMENDMENT NO. DNC-MAJ-1-04 AS SUBMITTED AND CERTIFICATION IF MODIFIED

The Commission finds and declares as following for Amendment No. EUR-MAJ-1-00:

A. Background.

In 1992, the City of Eureka amended its certified Local Coastal Program (LCP) to modify the principally permitted uses in areas of the City designated and zoned as General (MG) and Limited (ML) Industrial to allow retail sales and service uses and wholesale stores over 40,000 square feet. Large wholesale and retail commercial stores housed in large warehouse-sized structures with large parking areas is a kind of use that has mainly developed since certification of the original LCP in 1984. The amendment was intended to provide appropriate areas within the City for retail and wholesale uses requiring large floor areas and parking requirements without necessitating the abandonment of major streets or the consolidation of smaller commercial properties. Most of the City's commercial districts such as those in the downtown area had been developed in a pattern of small blocks with small parcels and limited off-street parking that could not readily accommodate such businesses. On the other hand, there are many large parcels within the industrial districts that could accommodate such businesses. The large structures and acres of parking needed for these new commercial uses in many ways are more akin to the warehouses and industrial yards found in the industrial districts than to the small commercial establishments with limited parking found in the commercial districts of the City.

The Commission certified with suggested modifications LCP Amendment No. 2-92 in 1992. Any proposal to add commercial uses to industrial districts in waterfront cities such as Eureka raises issue of conformance with Coastal Act policies that give priority to coastal-dependent and coastal-related industrial and port uses over other kinds of uses on or near the shoreline. In certifying the LCP amendment with suggested modifications, however, the Commission found that the amendment as modified would not lead to the displacement of coastal dependent or coastal related industrial uses and was consistent with the priority use policies of the Coastal Act. The City has three separate zoning districts for industrial uses including the Limited Industrial (ML), General Industrial (MG) and Coastal-Dependent Industrial (MC) districts. The Coastal-Dependent Industrial district is the only one of the three that is specifically intended for industrial uses that are considered to be coastal-dependent or coastal-related. LCP Amendment No. 2-92 made no change to the allowable uses within the MC district, so land zoned as such continued to be fully available for coastal dependent or coastal-related industry and port uses. Furthermore, there was no identified need to expand the MC districts into the adjoining ML and MG industrial districts as the MC districts cover virtually all of the shoreline along the west side of the City and are largely underdeveloped and under-utilized, a condition that persists to this day. Thus, the Commission found that encouraging more development in the ML and MG industrial districts would not

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eliminate area needed for expansion or the coastal dependent and coastal-related industrial uses and found the amendment as modified consistent with the Coastal Act.

In its action on LCP Amendment No. 2-92, the Commission found that although the proposed amendments would be consistent with the priority use policies of the Coastal Act, the proposed changes to the principally permitted uses in the ML and MG zoning districts did not conform to the list of principally permitted uses in the corresponding Limited Industrial and General Industrial land use classifications of the certified Land Use Plan (LUP). Therefore, the Commission imposed suggested modifications which expanded the list of principally permitted uses in the ML and MG land use classifications to include "wholesale and retail sales establishments with large floor area requirements for single occupants," and thereby match the new uses proposed by the City in the proposed zoning ordinance amendments. The City accepted the suggested modifications and adopted resolutions and ordinances to implement the suggested modifications in November 1992.

The City has approved only one development under the provisions of 1992 LCP amendment. In April 1994, the City granted a coastal development permit approving the development of a large retail and wholesale Costco store at 1006 West Wabash Avenue in the City's MG district.

Concern about the allowance of large scale retail and wholesale developments as principally permitted uses within the City's industrial districts have surfaced in the years since certification of the 1992 LCP Amendment, particularly in relation to various proposals to develop a former rail yard property near the waterfront known as the "Balloon Track." Although the site remains designated and zoned as Public Facilities (P), the City had proposed in 1997 that the site be designated as General Industrial (MG) in the City's General Plan. As the development of principally permitted uses usually do not require Planning Commission or City Council review in the City of Eureka, several groups asked the City Council to initiate a change to the zoning regulations to remove retail and wholesale uses from the list of principally permitted uses in the MG amend ML zoning districts. The City council considered the proposed change and held a public workshop on the issue. The result is the current LCP amendment, which proposes to change retail, and wholesale commercial uses of 40,000 square feet or more from their current classification as principally permitted uses in the MG and ML zoning districts to become conditionally permitted uses in these districts. Additionally, the amendment proposes changes to the zoning ordinance to require additional review hearings, including one hearing before the Planning Commission and two public hearings before the City Council.

B. Amendment Description.

The City has applied to the Commission for certification of an amendment to the zoning text portions of its certified Implementation Plan (IP). The proposed amendment would

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amend Chapters 155 and 156 of the Eureka Municipal Code, including Sections 155.098, 155.099, 155.287, 156.077, and 156.078. The proposed amendment would change retail and wholesale commercial uses with single occupant floor areas of 40,000 square feet or greater from principally permitted uses to conditionally permitted uses in the ML Limited Industrial and MG General Industrial zoning districts. In addition, the proposed amendment would require additional review hearings, including one hearing before the Planning Commission and two public hearings before the City Council.

The ML Limited Industrial district is primarily intended for industries and certain other uses that can operate in close proximity to commercial uses with minimum adverse impact. The uses currently allowed in the in the ML district as principally permitted uses include such uses as light manufacturing processing plants, machine shops, storage yards, trucking terminals, automobile servicing and repair, warehousing, wholesaling, and as noted above, retail and wholesale commercial uses with single occupant floor areas of 40,000 square feet or greater. Conditional uses include professional and business offices, retail sales, oil and gas pipelines, gymnastics schools, and health clubs. The ML districts within the coastal zone are located in two areas. The first is west of "Old Town" in the area bounded by 1st Street, "B" Street, 4th street, and Broadway. The second is located a short distance to the south in the area generally between Broadway and Koster Street and between Washington and 14th Streets (see Exhibit 3).

The MG General Industrial district is primarily intended for general and heavy industrial uses. The uses currently allowed in the in the ML district as principally permitted uses include all of the principally permitted uses in the ML district, and such other uses as general manufacturing, boiler works, concrete mixing and batching, chemical products manufacture, breweries and distilleries, meat products processing and packaging, structural steel products manufacturing. Conditional uses include the processing of oil and gas, electrical generating and distribution facilities, and animal and fish reduction plants. The MG districts within the coastal zone are located in four areas. The first is located partially adjacent to one of the ML districts in an area between Broadway to the east, Waterfront Drive to the west, Washington Street to the north, and just to the south of Hawthorne Street to the south. The second area is further south in another area between Broadway and Waterfront Drive extending south from Truesdale. The last two areas are relatively small areas still further south, in locations between Broadway and the mouth of the Elk River where it enters Humboldt Bay (see Exhibit 3).

The specific changes proposed to the zoning ordinance are described below. The full text of the amendment is contained in Exhibit No. 2.

Section 155.098 lists principally permitted uses in various zoning districts. This section would be amended to delete "retail sales establishments with single occupant floor areas of 40,000 square feet or larger," and "wholesale stores with single occupant floor areas of 40,000 square feet or larger," from the list of permitted uses in the ML Limited Industrial district. The list of permitted uses in the MG General Industrial District in this same

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section includes all uses permitted in the ML Limited Industrial district. Thus, the proposed deletion of these uses from the ML Limited Industrial District has the effect of also deleting "retail sales establishments with single occupant floor areas of 40,000 square feet or larger," and "wholesale stores with single occupant floor areas of 40,000 square feet or larger," from the list of permitted uses in the MG General Industrial District.

Section 155.099 lists conditionally permitted uses in various zoning districts. This section would be amended to add "retail sales establishments with single occupant floor areas of 40,000 square feet or larger," and "wholesale stores with single occupant floor areas of 40,000 square feet or larger," to the list of conditionally permitted uses in the ML Limited Industrial district.

Section 155.287 provides for the appeal of Planning Commission actions on use permit applications for proposed conditional uses to the City Council and for the Council to independently seek review of such actions. The proposed zoning amendment would amend this section to provide for special council review of conditional use permits acted on by the Planning Commission for retail sales establishments or wholesale stores with single occupant floor areas of 40,000 square feet or larger. The amendment would require Council review of any such action by the Planning Commission, and would require that the Council hold at least two public hearings to consider the conditional use permit application. The second hearing would have to be held within 30 days of the first hearing.

Section 156.077 provides the standards that apply specifically to the ML Limited Industrial District. Among other things, the section lists the principally permitted and conditionally permitted uses within the ML district. Section 156.077 would be amended to delete "retail sales establishments with single occupant floor areas of 40,000 square feet or larger," and "wholesale stores with single occupant floor areas of 40,000 square feet or larger," from the list of permitted uses. In addition, Section 156.077 would be amended to add "retail sales establishments with single occupant floor areas of 40,000 square feet or larger," and "wholesale stores with single occupant floor areas of 40,000 square feet or larger," to the list of conditionally permitted uses in the ML Limited Industrial district.

Section 156.078 provides the standards that apply specifically to the MG General Industrial District. Among other things, the section lists the principally permitted and conditionally permitted uses within the MG district. Section 156.078 would be amended to add "retail sales establishments with single occupant floor areas of 40,000 square feet or larger," and "wholesale stores with single occupant floor areas of 40,000 square feet or larger," to the list of conditionally permitted uses in the MG General Industrial district. No amendment to Section 156.078 is needed to delete such retail and wholesale commercial uses as principally permitted uses. The list of permitted uses includes "all uses listed as permitted uses in the ML District." The deletion of "retail sales

establishments with single occupant floor areas of 40,000 square feet or larger,” and “wholesale stores with single occupant floor areas of 40,000 square feet or larger,” from Section 156.077 as described above would have the effect of eliminating such uses as principally permitted uses in the MG General Industrial District.

C. Consistency of Zoning Changes with the Policies of the LUP.

1. Consistency with Land Use Plan Land Use Classifications

The City’s Land Use Plan classifications are the same as the City’s zoning districts and the boundaries of the similarly designated and zoned areas are essentially coterminous. Thus, the same areas zoned as ML Limited Industrial and MG General Industrial are designated as ML Limited Industrial and MG General Industrial in the certified LUP. Therefore, the proposed zoning amendment is consistent with the LUP to the extent that the amendment would not change the list of principal and permitted uses in ML and MG zoned areas that are not designated for ML and MG in the LUP. However, the proposed listing of retail sales establishments and wholesale stores with single occupant floor areas of 40,000 square feet or larger as conditionally permitted uses in the MG zoning districts does not entirely match the listing of conditionally permitted uses in the companion land use classifications under the certified LUP.

Table B-1 of Appendix B of the updated LUP certified in September of 1998 lists the principal uses and conditional uses for each of the LUP land use classifications. For the ML land use classification, Table B-1 lists the following as principal uses and conditional uses:

ML Principal Uses

Light manufacturing processing plants, machine shops, storage yards, trucking terminals, automobile servicing and repair, warehousing, wholesaling, and existing offices.

ML Conditional Uses

Professional and business offices, retail sales, oil and gas pipelines” as conditional uses.

For the MG land use classification, Table B-1 lists the following as principal uses and conditional uses:

MG Principal Uses

General manufacturing, boiler works, concrete mixing and batching, chemical products manufacture, breweries and distilleries, meats products processing and packaging, structural steel products manufacturing.

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MG Conditional Uses

Processing oil and gas, electrical generating and distribution facilities, animal and fish reduction plants, oil and gas pipelines, offices.

The Commission notes that none of the principal and conditional uses listed for the Limited Industrial and General Industrial land use classifications specifically includes retail sales establishments with single occupant floor areas of 40,000 square feet or larger and wholesale stores with single occupant floor areas of 40,000 square feet or larger. These omissions occur despite the certification with suggested modifications by the Commission of LCP Amendment No. 2-92 in 1992. As discussed previously, one of the suggested modifications of that LCP amendment involved adding such commercial uses as principally permitted uses in both the Limited Industrial and General Industrial land use classifications. The City accepted the suggested modifications and adopted resolutions and ordinances to implement the suggested modifications in November 1992. After effective certification of the amendment, retail sales establishments and wholesale stores with single occupant floor areas of 40,000 square feet or larger became principally permitted uses in the ML and MG land use classifications of the certified LUP.

In 1997, however, the City completed work on a comprehensive update of the certified LUP that lead to the submittal of LCP Amendment No. 1-97, certified with suggested modifications by the Commission in September of 1998. A principal change of the update was to combine the LUP with the City's general plan. As stated on page B-2 of Appendix B of the amended LUP:

In updating its General Plan, the City of Eureka has determined that the most effective way to address the separate legal requirements of State General Plan law and the California Coastal Act is to combine the goals, policies, and programs addressing these requirements into a single, unified document."

As a result, a completely new general plan/LUP document was produced with an entirely new format. It appears that in the process of creating the new document, the changes to the principal permitted uses in the ML and MG land use classifications certified under LCP Amendment 2-92 were inadvertently deleted. The deletion of those uses went unnoticed until well after effective certification of LCP Amendment No. 1-97. The deletion of those uses was not specifically mentioned in any of the City and Commission staff reports prepared during the City's preparation an adoption of the updated plan and the Commission's certification of the LCP amendment.

Although the deletion of retail sales establishments and wholesale stores with single occupant floor areas of 40,000 square feet or larger as principally permitted uses in the ML and MG land use classifications may have been inadvertent, once the comprehensive update to the LUP was effectively certified, those uses were no longer principally permitted uses in the ML and MG land use classifications of the LUP. The Commission notes, however, that the uses remain as principally permitted uses in the certified zoning

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ordinance, as LCP Amendment No. 1-97 did not include any amendments to the City's certified Implementation Plan.

The conformance of the proposed amendment to the LUP must be reviewed in light of the currently certified version of the LUP. The conformance of each of the proposed changes to the zoning ordinances is reviewed below.

Section 155.098

As discussed in Finding B above, Section 155.098 of the zoning ordinance would be amended to delete "retail sales establishments with single occupant floor areas of 40,000 square feet or larger," and "wholesale stores with single occupant floor areas of 40,000 square feet or larger," from the list of permitted uses in the ML Limited Industrial district, and would have the effect of deleting these uses from the list of permitted uses in the MG General Industrial District. As the list of principally permitted uses in both the ML Limited Industrial and MG General Industrial land use classifications do not currently include retail sales establishments and wholesale stores with single occupant floor areas of 40,000 square feet or larger, the Commission finds that the proposed deletion of these same uses from list of principally permitted uses in both the ML Limited Industrial and MG General Industrial zoning districts would conform with and adequately carry out the certified LUP.

Section 155.099

As discussed in Finding B above, Section 155.099 would be amended to add "retail sales establishments with single occupant floor areas of 40,000 square feet or larger," and "wholesale stores with single occupant floor areas of 40,000 square feet or larger," to the list of conditionally permitted uses in the ML Limited Industrial district. Although retail sales establishments and wholesale store with single occupant floor areas of 40,000 square feet or larger are not specifically listed as conditional uses in the ML Limited Industrial land use classification of the LUP, retail sales is listed as a conditional use. As LUPs contain land use and other policies that are meant to be implemented by more specific standards of the zoning ordinance and other elements of an Implementation Plan, the lists of principal and conditional uses in LUPs are typically more general than the very specific lists usually found in zoning ordinances. Often, a number of more specific uses that might be proposed for a zoning district can be found to be consistent with the more general uses contained in a LUP. Thus, even though retail sales establishments and wholesale stores with single occupant floor areas of 40,000 square feet or larger are not specifically listed as conditional uses for the ML land use classification of the certified LUP, such uses are a kind of commercial sales use that can be considered consistent with the "retail sales" use listed as a conditional use in the ML land use classification of the LUP. As retail sales establishments generally have a greater environmental impact than wholesale sales establishments in that retail commercial uses generally draw more people and automobiles to a site than wholesale sales establishments while still generating significant truck traffic for the delivery of goods, the wholesale use proposed can also be considered consistent with the "retail sales" conditional use listed in the ML land use

classification of the LUP. Therefore, the Commission finds that the proposed listing of retail sales establishments and wholesale stores with single occupant floor areas of 40,000 square feet or larger as conditionally permitted uses in the ML zoning district conforms with the conditionally permitted uses in the ML land use classification of the LUP.

Section 155.287

As discussed in Finding B above, this section of the zoning ordinance would be amended to provide for special council review of conditional use permits acted on by the Planning Commission for retail sales establishments or wholesale stores with single occupant floor areas of 40,000 square feet or larger. The amendment would require Council review of any such action by the Planning Commission, and would require that the Council hold at least two public hearings to consider the conditional use permit application. The additional hearings for the review of conditional use permit applications for these large commercial uses would provide for greater public input and give the City the opportunity to better ensure that proposed large commercial uses would fully comply with the applicable LUP land use classification and other LUP policies. Therefore, the Commission finds that the proposed additional hearing procedures that would be required under the proposed amendment to Section 155.287 conforms with and adequately carries out the LUP.

Section 156.077

As discussed in Finding B above, Section 156.077 would be amended in a manner similar to Section 155.098 to delete "retail sales establishments with single occupant floor areas of 40,000 square feet or larger," and "wholesale stores with single occupant floor areas of 40,000 square feet or larger," from the list of permitted uses in the ML Limited Industrial zoning district. In addition, in a manner similar to Section 155.099, Section 156.077 would be amended to add "retail sales establishments with single occupant floor areas of 40,000 square feet or larger," and "wholesale stores with single occupant floor areas of 40,000 square feet or larger," to the list of conditionally permitted uses in the ML Limited Industrial district. For the reasons discussed above regarding the conformance of the proposed amendments to Sections 156.077 and 155.099 with the certified LUP, the Commission finds that the proposed amendments to Section 156.077 conform with and adequately carry out the standards of the ML Limited Industrial land use classification of the certified LUP.

Section 156.078.

As discussed in Finding B above, Section 156.078 would be amended to add "retail sales establishments with single occupant floor areas of 40,000 square feet or larger," and "wholesale stores with single occupant floor areas of 40,000 square feet or larger," to the list of conditionally permitted uses in the MG General Industrial district. However, the listing of retail sales establishments and wholesale stores with single occupant floor areas of 40,000 square feet or larger as conditionally permitted uses in the MG General Industrial zoning district would not conform with the conditionally permitted uses in the

MG General Industrial land use classification of the LUP. The conditional uses allowed in the MG land use classification include processing oil and gas, electrical generating and distribution facilities, animal and fish reduction plants, oil and gas pipelines, and offices. None of these listed conditionally permitted uses in the land use classification involve a commercial use. Thus, adding retail sales establishments with single occupant floor areas of 40,000 square feet or larger and wholesale stores with single occupant floor areas of 40,000 square feet or larger as conditionally permitted uses in the MG zoning district would conflict with the list of conditionally permitted uses in the companion LUP land use classification. Therefore, the amendment to the Implementation Plan as submitted would not conform with and carry out the certified LUP and must be denied.

However, the Commission finds that if modified to delete this particular proposed change to Section 156.078 to add large commercial uses as a conditional use in the MG zoning district, the overall LUP amendment could be found to conform with and adequately carry out the LUP. Therefore, the Commission attaches Suggested Modification No. 1.

SUGGESTED MODIFICATION NO. 1:

Delete the new language proposed by the City to be added to Section 156.078 – “GENERAL INDUSTRIAL DISTRICTS,” that would add retail sales establishments with single occupant floor areas of 40,000 square feet or larger and wholesale stores with single occupant floor areas of 40,000 square feet or larger as conditional uses in the General Industrial (MG) zoning district.

Suggested Modification No. 1 would ensure that conditional uses are not added to the MG zoning district that are not allowed under the companion LUP MG land use classification. As modified, the Commission finds that the IP amendment conforms with and adequately carries out the certified LUP with respect to large commercial uses in the areas of the city designated and zoned for Limited Industrial use and General Industrial use.

Adoption of the LUP amendment as modified would allow retail sales establishments with single occupant floor areas of 40,000 square feet or larger and wholesale stores with single occupant floor areas of 40,000 square feet or larger as conditional uses in the Limited Industrial (ML) zoning district, but would not allow such uses at all within the General Industrial (MG) zoning district. As discussed above, Suggested Modification No. 1 must be imposed to ensure conformance of the proposed IP amendment with the certified LUP. To be certified, a proposed IP amendment must be found to conform with and adequately carry out the LUP. As large commercial uses are not allowed as conditional uses in the General Industrial land use classification of the LUP, the Commission cannot certify the proposed IP amendment which proposes to allow large commercial uses as conditional uses in the General Industrial zoning district. However, the Commission notes that adding large commercial uses to the list of conditionally permitted uses in the General Industrial district would likely be certified if such an

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amendment were proposed as part of an LCP amendment that would also add large commercial uses to the list of conditionally permitted uses in the General Industrial land use classification. As discussed in Finding C(2) below, adding large commercial uses to the General Industrial land use classification would be consistent with priority use policies of the Coastal Act, as such an amendment would not usurp area needed for coastal dependent or coastal related industrial uses or other coastal dependent uses. Therefore, the City may wish to consider submitting a new LCP amendment to the Commission for certification that would add large commercial uses as conditional uses in General Industrial areas in the LUP and the IP simultaneously if the City wishes to allow for the development of large commercial uses in General Industrial areas.

2. Consistency with Coastal Dependent Development Policies

LUP Policy 1.A.5 states:

Within the coastal zone, the City shall ensure that coastal-dependent developments have priority over other developments on or near the shoreline. Except as provided elsewhere in this General Plan, coastal-dependent development shall not be sited in a wetland. Coastal-related developments shall generally be accommodated proximate to the coastal-dependent uses they support.

LUP Policy 1.M.7 states:

The City shall encourage coastal-dependent industrial facilities to locate or expand within existing sties. Non-coastal-dependent uses located along the waterfront shall, if feasible, be relocated to other more appropriate areas within the city.

LUP Policy 1.A.5 and 1.M.7 require that that coastal-dependent industrial facilities and other coastal-dependent developments have priority over other developments on or near the shoreline. These policies mirror the priority use policies of the Coastal Act that give priority to coastal-dependent and coastal-related industrial and port uses over other kinds of uses on or near the shoreline.

The City has three separate zoning districts for industrial uses including the Limited Industrial (ML), General Industrial (MG) and Coastal-Dependent Industrial (MC) districts. The Coastal-Dependent Industrial district is the only one of the three that is specifically intended for industrial uses that are considered to be coastal-dependent or coastal-related. The proposed LCP amendment makes no change to the allowable uses within the MC district, only to the Limited Industrial (ML) and General Industrial (MG) districts. Thus, land zoned as Coastal-Dependent Industrial (MC) will continue to be fully available for coastal dependent or coastal-related industry and port uses. Furthermore, there is no identified need to expand the MC districts into the adjoining ML

and MG industrial districts as the MC districts cover virtually all of the shoreline along the west side of the City and are largely underdeveloped and under-utilized. Thus, development of commercial uses within the Limited Industrial (ML) district will not eliminate area needed for expansion or the coastal dependent and coastal-related industrial uses.

Therefore, for the reasons stated above, the Commission finds that the proposed amendments to the IP as submitted would conform with and adequately carry out the policies of the LUP regarding the prioritization of coastal-dependent industrial facilities and other coastal-dependent developments on or near the shoreline.

D. Conclusion

The zoning code amendments as modified would conform with and be adequate to carry out the provisions of the County's Land Use Plan, particularly as they relate to allowing retail sales establishments with single occupant floor areas of 40,000 square feet or larger and wholesale stores with single occupant floor areas of 40,000 square feet or larger as conditional uses within the areas of the city designated and zoned for Limited Industrial use. Therefore, the Commission finds the City's Implementation Program as modified would conform with and be adequate to carry out the requirements of the certified Land Use Plan as amended consistent with Section 30513 of the Coastal Act.

PART THREE: CALIFORNIA ENVIRONMENTAL QUALITY ACT

In addition to making a finding that the amendment is in full compliance with the Coastal Act, the Commission must make a finding consistent with Section 21080.5 of the Public Resources Code. Section 21080.5(d)(2)(A) of the Public Resources Code requires that the Commission not approve or adopt an LCP:

...if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effects which the activity may have on the environment.

As discussed in the findings above, the amendment request as modified is consistent with the California Coastal Act and will not result in significant environmental effects within the meaning of the California Environmental Quality Act.

EXHIBITS:

1. City Resolution of Transmittal
2. Adopted Zoning Ordinance Amendment
3. Location of General Industrial (MG) and Limited Industrial (ML) Districts

RESOLUTION NO. 2000-44

Resolution of Submittal

EXHIBIT NO. 1

APPLICATION NO.

EUR-MAJ-1-00

EUREKA LCP

AMENDMENT

RESOLUTION OF

TRANSMITTAL (1 of 3)

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EUREKA
MOVING "RETAIL AND WHOLESALE COMMERCIAL USES OF 40,000 SQUARE FEET
OR GREATER" FROM "PRINCIPALLY PERMITTED USES" TO "CONDITIONALLY
PERMITTED USES" IN THE MG AND ML ZONING DESIGNATIONS, AND REQUIRING
SUPPLEMENTARY APPROVAL PROCESSES
(TA-2-00)**

On September 5, 2000 the City Council of the City of Eureka considered the matter referenced above and resolved as follows:

WHEREAS, At their May 2, 2000 meeting, the Eureka City Council directed City staff to bring back to the Council an amendment to the City's zoning ordinance to move retail and wholesale commercial uses of 40,000 square feet or more, from this current classification as "Principally Permitted Uses" in the MG and ML zoning districts to become "Conditionally Permitted Uses" in the MG and ML zoning districts; and

WHEREAS, On May 2, 2000 the City Council also directed City staff to include in the ordinance additional processes for approval of a conditional use permit for a retail or wholesale commercial uses of 40,000 square feet or more in an MG or ML zoning district to include one mandatory public hearing before the Planning Commission and two public hearings before the City Council; and

WHEREAS, the Local Coastal Program Amendment may be approved if it can be found that (1) the Amendment is consistent with the objectives outlined in Sections 155.002 and 155.354 of the Eureka Municipal Code; (2) the Amendment is in conformance with the City's Local Coastal Program; and (3) the Amendment is consistent with the policies of Chapter 3 of the Coastal Act; and

WHEREAS, the Community Development Department has prepared and published a notice in a newspaper of general circulation and mailed notices to the required list of interested parties of the pending application and of the availability of the Draft Local Coastal Program Amendment; and

WHEREAS, the Community Development Department has prepared and filed with the City Council reports containing evidence, findings and conclusions showing that evidence does exist in support of making the required findings for granting the Local Coastal Amendment; and

WHEREAS, the Secretary for the State Department of Resources has determined that the State Coastal Commission is responsible for the environmental documentation required by the California Environmental Quality Act; and

WHEREAS, the City Council has reviewed and considered said reports and other written evidence and testimony presented; and

WHEREAS, the City Council held a public hearing to consider the requested Local Coastal Program Amendment and to receive other evidence and public testimony;

NOW, THEREFORE BE IT RESOLVED BY THE EUREKA CITY COUNCIL that the following findings are hereby made:

1. The proposed Local Coastal Program Amendment is consistent with the objectives stated in Sections 155.002 and 155.354 of the Eureka Municipal Code for reasons explained in the staff report.
2. The proposed amendment is consistent with the City's Local Coastal Program.
3. The proposed Amendment to the City's Local Coastal Program is consistent with State Law including but not limited to policies of the Eureka LCP and of Chapter 3 of the Coastal Act for reasons explained in the staff report.

BE IT FURTHER RESOLVED that the City Council approves the Local Coastal Program Amendment.

BE IT FURTHER RESOLVED by the City Council the following actions will be taken:

1. City staff will forward the Resolution to the California Coastal Commission as a Resolution of Submittal for certification of the revisions to Eureka's Local Coastal Program; and
2. The City will carry out the proposed Amendment in a manner consistent with the Coastal Act and the implementing Local Coastal Program; and

AND FURTHER BE IT RESOLVED the City Council:

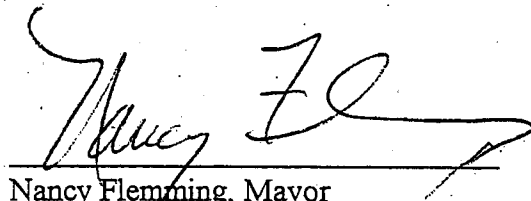
1. Does not support recommended or suggested modifications to the Local Coastal Program Amendment by the California Coastal Commission without first obtaining the consent of the City Council in the form of a supplemental resolution; and
2. Directs that the Local Coastal Program Amendment shall take effect after action by the California Coastal Commission to approve the Amendment as submitted by the City and action by the City to adopt the Zoning Text Changes implementing the Amendment.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka, County of Humboldt, State of California, on the Fifth day of September, 2000 by the following vote:

AYES: COUNCILMEMBERS Hunter Meeks, Gupton, McKellar, Miller, Arkley.
NOES: COUNCILMEMBERS None.

ABSENT: COUNCILMEMBERS None.

ABSTAIN: COUNCILMEMBERS None.



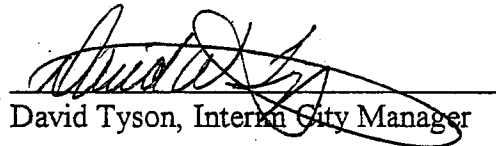
Nancy Flemming, Mayor
City of Eureka

ATTEST:



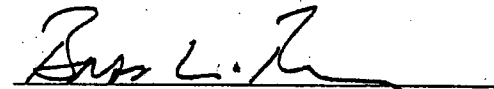
Kathleen DeVita, City Clerk

APPROVED AS TO ADMINISTRATION:



David Tyson, Interim City Manager

APPROVED AS TO FORM:



Brad L. Fuller, City Attorney

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EUREKA
AMENDING TITLE XV, CHAPTER 155 AND CHAPTER 156 OF THE
EUREKA MUNICIPAL CODE PERTAINING TO ALLOWED USES IN THE
ML (LIMITED INDUSTRIAL) AND MG (GENERAL INDUSTRIAL) DISTRICTS**

Be it ordained by the Council of the City of Eureka as follows:

Title XV, Chapter 155, of the Eureka Municipal Code is hereby amended to read as follows:

Section 1:

The following sections of Title XV, Chapter 155 are hereby amended to read as follows;

§ 155.098 PERMITTED USES.

The following uses shall be permitted:

(A) ML Limited Industrial Districts.

(1) Light industrial and related uses, including only:

(a) Manufacturing, assembling, compounding, packaging, and processing of articles or merchandise from the following previously prepared materials: asbestos, bone, canvas, cellophane, cellulose, cloth, cork, feathers, felt, fiber, and synthetic fiber, fur, glass, hair, ink, horn, leather, paint (not employing a boiling process), paper, plastics, precious or semiprecious metals or stones, rubber, shells, straw, textiles, tobacco, and wood (not including a planing mill or a sawmill);

(b) Manufacturing, assembling, compounding, packaging, and processing cosmetics, drugs, pharmaceuticals, perfumes, perfumed toilet soap (not including refining or rendering of fats or oils), and toiletries;

(c) Manufacture of ceramic products, such as pottery, figurines, and small glazed tile; utilizing only previously pulverized clay, provided that kilns are fired only by electricity or gas;

(d) Manufacture and maintenance of electric and neon signs, commercial advertising structures, and light sheet metal products, including heating and ventilating ducts and equipment, cornices, eaves, and the like;

(e) Manufacture of scientific, medical, dental, and drafting instruments, orthopedic and medical appliances, optical goods, watches and clocks, electronics equipment, precision instruments, musical instruments, and cameras and photographic equipment, except film;

(f) Assembly of small electric appliances, such as lighting fixtures, irons, fans, toasters, and electric toys, but not including refrigerators, washing machines, dryers, dishwashers, and similar home appliances;

(g) Assembly of electrical equipment, such as radio and television receivers, phonographs, and home motion picture equipment, but not including electrical machinery;

(h) Manufacture and assembly of electrical supplies, such as coils, condensers, crystal holders, insulation, lamps, switches, and wire and cable assembly, provided no noxious or offensive fumes or odors are produced;

(i) Manufacture of cutlery, hardware, and hand tools, die and pattern making, metal stamping, and extrusion of small products, such as costume jewelry, pins and needles, razor blades, bottle caps, buttons, and kitchen utensils;

(j) Manufacturing, canning, and packing of food products, including fruits and vegetables, but not including meat products, pickles, sauerkraut, vinegar, or yeast, dehydrating of garlic or onions, or refining or rendering of fats or oils;

(k) Processing, packing, and canning of seafood for human consumption, not including processing seafood for fish oils;

(l) Bakeries;

(m) Blacksmith shops;

(n) Boat building;

(o) Bottling works;

(p) Building material storage yards;

(q) Bus depots;

(r) Cold storage plants;

(s) Contractors' equipment yards;

- (t) Dairy products plants;
- (u) Freight forwarding terminals;
- (v) Furniture manufacture;
- (w) Ice manufacture;
- (x) Janitorial services and supplies;
- (y) Kennels;
- (z) Laboratories;
- (aa) Laundry and cleaning plants;
- (bb) Lumber yards, not including planing mills or sawmills;
- (cc) Machine shops not involving the use of drop hammers, automatic screw machines, or punch presses with a rated capacity of over 20 tons;
- (dd) Mattress manufacture;
- (ee) Metal finishing and plating;
- (ff) Offices, not including medical or dental offices;
- (gg) Printing, lithographing, and engraving;
- (hh) Public utility and public service pumping stations, equipment buildings and installations, service yards, power stations, drainage ways and structures, storage tanks, and transmission lines;
- (ii) Railroad stations;
- (jj) Repair shops, including electrical, glass, and automotive;
- (kk) Sheet metal shops;
- (ll) Storage yards for commercial vehicles;
- (mm) Textile, knitting, and hosiery mills;

(nn) Trucking terminals;

(oo) Warehouses, except for the storage of fuel or flammable liquids;

(pp) Veterinarians' offices and small animal hospitals;

(qq) Welding shops;

(rr) Woodworking shops and cabinet shops; and,

(ss) Pickup truck camper and canopy assembly; and,

(2) Any other use which is determined by the Planning Commission, as provided in §§ 155.265 through 155.270 of this chapter to be similar to the uses listed in subsection (1) of this division;

~~(3) Retail sales establishments with single occupant floor areas of 40,000 square feet or larger;~~

~~(4)(3) Wholesale stores with single occupant floor areas of 40,000 square feet or larger and~~ Public utility buildings and uses;

~~(5)(4)~~ Parking lots improved in conformity with the standards prescribed for required parking facilities in § 155.118 of this chapter; and,

~~(6)(5)~~ Accessory structures and uses located on the same site as a permitted use.

(B) MG General Industrial Districts.

(1) All uses permitted in division (A) of this section;

(2) Heavy industrial and related uses, including only:

(a) Aircraft and aircraft accessories and parts manufacture;

(b) Automobile, truck, and trailer accessories and parts manufacture;

(c) Automobile, truck, and trailer assembly;

(d) Bag cleaning;

(e) Battery manufacture;

- (f) Boiler works;
- (g) Box factories and cooperages;
- (h) Breweries and distilleries;
- (i) Building materials manufacture and assembly, including composition wallboards, partitions, panels, and prefabricated structures;
- (j) Business machines manufacture, including accounting machines, calculators, cardcounting equipment, and typewriters;
- (k) Can and metal container manufacture;
- (l) Candle manufacture, not including rendering;
- (m) Carpet and rug manufacture;
- (n) Cement products manufacture, including concrete mixing and batching;
- (o) Chemical products manufacture provided no hazard of fire or explosion is created, including adhesives, bleaching products, bluing, calcimine, dyestuffs (except aniline dyes), essential oils, soda and soda compounds, and vegetable gelatin, glue, and size;
- (p) Clay products manufacture, including brick, fire brick, tile, and pipe;
- (q) Cork manufacture;
- (r) Cotton ginning and cotton wadding and linter manufacture;
- (s) Firearms manufacture;
- (t) Flour, feed, and grain mills;
- (u) Food products manufacture, including such processes as cooking, dehydrating, roasting, refining, pasteurization, and extraction involved in the preparation of such products as casein, cereal, chocolate and cocoa products; cider and vinegar, coffee, glucose, mild and dairy products, molasses and syrups, oleomargarine, pickles, rice, sauerkraut, sugar, vegetable oils, and yeast;
- (v) Glass and glass products manufacture;
- (w) Graphite and graphite products manufacture;

- (x) Gravel, rock, and cement yards;
- (y) Hair, felt, and feathers processing;
- (z) Insecticides, fungicides, disinfectants, and similar industrial and household chemical compounds manufacture;
- (aa) Jute, hemp, sisal, and oakum products manufacture;
- (bb) Leather and fur finishing and dyeing; not including tanning and curing;
- (cc) Machinery manufacture, including heavy electrical, agricultural, construction, and mining machinery, and light machinery and equipment, such as air conditioning, commercial motion picture equipment, dishwashers, dryers, furnaces, heaters, refrigerators, ranges, stoves, ovens, and washing machines;
- (dd) Machine tools manufacture, including metal lathes, metal presses, metal stamping machines, and wood working machines;
- (ee) Match manufacture;
- (ff) Meat products processing and packaging not including slaughtering and glue and size manufacture;
- (gg) Metal alloys and foil manufacture, including solder, pewter, brass, bronze, and tin, lead, and gold foil;
- (hh) Metal casting and foundries, not including magnesium foundries;
- (ii) Motor and generator manufacture;
- (jj) Motor testing of internal combustion motors;
- (kk) Painting, enameling, and lacquering shops;
- (ll) Paper products manufacture, including shipping containers, pulp goods, carbon paper, and coated paper stencils;
- (mm) Paraffin products manufacture;
- (nn) Plastics manufacture;
- (oo) Porcelain products manufacture, including bathroom and kitchen fixtures and

equipment;

(pp) Precious metals reduction, smelting, and refining;

(qq) Railroad equipment manufacture, including railroad car and locomotive manufacture;

(rr) Railroad freight stations, repair shops, and yards;

(ss) Rubber products manufacture, including tires and tubes;

(tt) Sandblasting;

(uu) Shoe polish manufacture;

(vv) Starch and dextrine manufacture;

(ww) Steel products manufacture and assembly, including steel cabinets, lockers, doors, fencing, and furniture;

(xx) Stone products manufacture and stone processing, including abrasives, asbestos, stone screening, and sand and lime products;

(yy) Structural steel products manufacture, including bars, girders, rails, and wire rope;

(zz) Textile bleaching;

(aaa) Wire and cable manufacture;

(bbb) Wood and lumber processing and woodworking, including planing mills, saw mills, excelsior, plywood, veneer, and wood-preserving treatment; and,

(ccc) Wool scouring and pulling; and,

(2) Any other use which is determined by the Planning Commission, as provided in §§ 155.265 through 155.270 of this chapter, to be similar to theses listed in subdivision (1) and (2) of this division.

§ 155.099 CONDITIONAL USES.

The following conditional uses shall be permitted upon the granting of a use permit in accord with the provisions of §§ 155.280 through 155.299 of this chapter, and the Planning

Commission may require the submission of reports by technical consultants or other evidence in addition to the data prescribed in § 155.281 of this chapter:

(A) ML Limited Industrial Districts.

(1) Any of these uses listed in § 155.098 (B)(2) of this subchapter provided that, on the basis of the use permit application and the evidence submitted, that Planning Commission makes the following findings, in addition to the findings prescribed in § 155.285 of this chapter:

(a) That consideration of all determinable characteristics of the use that is the subject of the application indicates that the use has the same essential characteristics as the uses listed in § 155.098(A)(1) of this subchapter with respect to the method of operation, type of process, materials, equipment, structures, storage, and appearance;

(b) That the use will conform with each of the required conditions prescribed for uses in the ML District in § 155.097 of this subchapter; and,

(c) That the use will not create significantly more vehicular or rail traffic than the volumes normally created by the permitted uses listed in § 155.098(A)(1) of this subchapter;

(2) Storage of fuel or flammable liquids;

(3) Storage of logs or wood chips;

(4) Recreational vehicle parks in accordance with the provisions of §§ 155.230 through 155.232 of this chapter;

(5) Accessory structures and uses located on the same site as a conditional use;

(6) Motor vehicle wrecking yards and scrap metal yards;

(7) Gymnastics schools, and health clubs; ~~and,~~

(8) Retail sales establishments with single occupant floor areas of 40,000 square feet or larger;

(9) Wholesale stores with single occupant floor areas of 40,000 square feet or larger. and;

(10) Live-work uses, only where the combining zone, LW has been applied to the Limited Industrial Zoning District.

(B) MG General Industrial Districts.

(1) The following uses and other uses which involve nuisances, dangers of fire or explosion, or other hazards to health and safety provided the Planning Commission shall make a specific finding that the use will conform with each of the required conditions prescribed for uses in the MG District in § 155.097 of this subchapter in addition to the findings prescribed in § 155.285 of this chapter:

- (a) Airports and heliports;
- (b) Asphalt and asphalt products manufacture;
- (c) Cement, lime, gypsum, and plaster of paris manufacture;
- (d) Charcoal, lampblack, and fuel briquettes manufacture;
- (e) Chemical products manufacture, including acetylene, aniline dyes, ammonia, carbide, caustic soda, cellulose, chlorine, cleaning and polishing preparations, creosote, exterminating agents, hydrogen and oxygen, industrial alcohol, nitrating of cotton or other materials, nitrates of an explosive nature, potash, pyroxylin, rayon yarn, and carbolic, hydrochloric, picric, and sulfuric acids;
- (f) Coal, cake, and tar products manufacture;
- (g) Drop forges;
- (h) Dumps and slag piles;
- (i) Explosives manufacture and storage;
- (j) Fertilizer manufacture;
- (k) Film manufacture;
- (l) Fireworks manufacture and storage;
- (m) Fish products processing and packaging;
- (n) Garbage dumps;
- (o) Gas manufacture or storage;
- (p) Gas and oil wells;
- (q) Gelatine, glue, and size manufacture from animal or fish refuse;

- (r) Incineration or reduction of garbage, offal, and dead animals;
- (s) Junk yards;
- (t) Lard manufacture;
- (u) Linoleum and oil cloth manufacture;
- (v) Magnesium foundries;
- (w) Manure, peat, and topsoil processing and storage;
- (x) Metal and metal ores reduction, refining, smelting, and alloying;
- (y) Motor vehicle wrecking yards;
- (z) Paint manufacture, including enamel, lacquer, shellac, turpentine, and varnish;
- (aa) Paper mills;
- (bb) Petroleum and petroleum products refining, including gasoline, kerosene, naphtha, and oil;
- (cc) Petroleum and petroleum products storage;
- (dd) Pulp mills;
- (ee) Quarries, gravel pits, mines, and stone mills;
- (ff) Rifle ranges;
- (gg) Rolling mills;
- (hh) Rubber manufacture or processing, including natural or synthetic rubber and gutta-percha;
- (ii) Soap manufacture, including fat rendering;
- (jj) Steam plants;
- (kk) Stockyards and slaughterhouses;
- (ll) Storage of inflammable liquids;

- (mm) Storage of used building materials;
 - (nn) Tallow manufacture;
 - (oo) Tanneries and curing and storage of rawhides;
 - (pp) Wood and bones distillation; and,
 - (qq) Wood pulp and fiber reduction and processing; and,
 - (rr) Storage of logs or wood chips; and,
- (2) Accessory structures and uses located on the same site as a conditional use.

Section 2:

The following sections of Title XV, Chapter 155 are hereby amended to read as follows:

§ 155.287 APPEALS TO COUNCIL; COUNCIL REVIEW; SPECIAL COUNCIL REVIEW

(A) *Appeals to Council.* Within 10 days following the date of a decision of the Planning Commission on a use permit application, the decision may be appealed to the Council by the applicant or by any other person. An appeal shall be made on a form prescribed by the Commission and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record.

(B) *Council review.* Within 10 days following the decision of the Planning Commission on a use permit application, or at the next meeting of the Council, whichever is later, the Council may elect to review such action. If the Council elects to review the Commission's action and declines to affirm the Commission decision, a public hearing shall be held as prescribed in § 155.289 of this subchapter.

(C) *Special Council Review.* Within 45 days following the decision of the Planning Commission, or as soon thereafter as is practicable, the Council shall review any decision by the Planning Commission regarding an application for a Conditional Use Permit for a retail sales establishment with single occupant floor area of 40,000 square feet or larger or for a wholesale store with single occupant floor area of 40,000 square feet or larger. On such review, at least two public hearings to consider the conditional use permit application shall be held by the Council, the first of which shall be held as prescribed in §155.289 of this subchapter and the second of which shall be held within 30 days thereafter in the same

manner as set forth in §155.289 of this subchapter.

Section 3:

The following section of Title XV, Chapter 156 are hereby amended to read as follows:

§ 156.077 ML — LIMITED INDUSTRIAL DISTRICTS

(A) *Purposes.* In addition to the objectives prescribed in § 156.002 of this chapter, the ML Limited Industrial Districts are included in the zoning regulations to achieve the following purposes:

- (1) To reserve appropriately located areas for industrial plants and related activities;
- (2) To protect areas appropriate for industrial uses from intrusion by dwellings and other inharmonious uses;
- (3) To protect residential and commercial properties and to protect nuisance-free, nonhazardous industrial uses from noise, odor, insect nuisance, dust, dirt, smoke, vibration, heat and cold, blare, truck and rail traffic, and other objectionable influences, and from fire, explosion, noxious fumes, radiation, and other hazards incidental to certain industrial uses;
- (4) To provide opportunities for certain types of industrial plants to concentrate in mutually beneficial relationship with each other;
- (5) To provide adequate space to meet the needs of modern industrial developments, including off-street parking and truck loading areas and landscaping;
- (6) To provide sufficient open space around industrial structures to protect them from the hazard of fire and to minimize the impact of industrial plants on nearby residential and agricultural districts;
- (7) To minimize traffic congestion and to avoid the overloading of utilities by preventing the construction of buildings of excessive size in relation to the amount of land around them;
- (8) To provide locations for industries that can operate in close proximity to commercial and residential uses with minimum mutual adverse impacts; and,
- (9) To protect light industrial and related uses from nuisances associated with heavy industrial uses.

(B) *Required conditions.*

(1) All uses shall comply with the regulations prescribed in §§ 155.025 through 155.036 of this title.

(2) All uses shall comply with the policies established by the land use plan;

(3) In an ML District, no use shall be permitted which emits any air pollutant detectable by the human senses without the aid of instruments beyond the boundaries of the site;

(4) No use shall be permitted which creates any emission which endangers human health, can cause damage to animals, vegetation, or other property, or which can cause soiling at any point beyond the boundaries of the site;

(5) In an ML District, no use shall emit visible gray smoke of a shade equal to or darker than No. 3 on a standard Ringlemann Chart issued by the United States Bureau of Mines or smoke of equivalent opacity, except that smoke of a shade equal to No. 3 on a Ringlemann Chart or smoke of equivalent opacity may be emitted for four minutes in an 30-minute period;

(6) In an ML District, no use, except a temporary construction operation, shall be permitted which creates, at any point beyond the boundaries of the site, noise of a maximum sound pressure level greater than the values given in the following table:

<i>Octave Band (Cycles per Second)</i>	<i>Maximum Permitted Sound Pressure Level (Decibels)</i>
Below 75	72
75 - 149	67
150 - 299	59
300 - 599	52
600 - 1,199	46
1,200 - 2,399	40
2,400 - 4,799	34
4,800 and above	32

(7) No use shall be permitted which creates annoying odor in such quantities as to be readily detectable beyond the boundaries of the M District when diluted in the ratio of one volume of odorous air to four volumes of clean air;

(8) No use, except a temporary construction operation, shall be permitted which

creates vibration, changes in temperature, direct or sky reflected glare, or electrical disturbances detectable by the human senses without the aid of instruments beyond the boundaries of the site. No use shall be permitted which creates electrical disturbances that affect the operation of any equipment beyond the boundaries of the site;

(9) No use shall be permitted which emits dangerous radio-activity;

(10) No use shall be permitted which creates insect nuisance beyond the boundaries of the site

(C) Permitted uses.

(1) Manufacturing, assembling, compounding, packaging, and processing of articles or merchandise from the following previously prepared materials: asbestos, bone, canvas, cellophane, cellulose, cloth, cork, feathers, felt, fiber, and synthetic fiber, fur, glass, hair, ink, horn, leather, paint (not employing a boiling process), paper, plastics, precious or semi-precious metals or stones, rubber and synthetic rubber, shells, straw, textiles, tobacco, and wood (not including a planing mill or saw mill);

(2) Manufacturing, assembling, compounding, packaging, and processing cosmetics, drugs, pharmaceuticals, perfumes, perfumed toilet soap (not including refining or rendering of fats or oils), and toiletries;

(3) Manufacture of ceramic products, such as pottery, figurines, and small glazed tile utilizing only previously pulverized slag, providing that kilns are fired only by electricity or gas;

(4) Manufacture and maintenance of electric and neon signs, commercial advertising structures, and light sheet metal products, including heating, and ventilating ducts and equipment, cornices, eaves, and the like;

(5) Manufacture of scientific, medical, dental, and drafting instruments, orthopedic and medical appliances, optical goods, watches and clocks, electronics equipment, precision instruments, musical instruments, and cameras and photographic equipment, except film;

(6) Assembly of small electric appliances, such as lighting fixtures, irons, fans, toasters, and electric toys, but not including refrigerators, washing machines, dryers, dishwashers, and similar home appliances;

(7) Assembly of electrical equipment, such as radio and television receivers, phonographs, and home motion picture equipment, but not including electrical machinery;

(8) Manufacture and assembly of electrical supplies, such as coils, condensers, crystal holders, insulation, lamps, switches, and wire and cable assembly, provided no noxious or

offensive fumes or odors are produced;

(9) Manufacture of cutlery, hardware, and hand tools, die and pattern making, metal stamping, and extrusion of small products, such as costume jewelry, pins and needles, razor blades, bottle caps, buttons, and kitchen utensils;

(10) Manufacturing, canning, and packing of food products, including fruits and vegetables, but not including meat products, pickles, sauerkraut, vinegar, or yeast, dehydrating of garlic or onions, or refining or rendering of fats and oils;

(11) Processing, packing, and canning of seafood for human consumption, not including processing seafood for fish oils;

(12) Bakeries;

(13) Blacksmith shops;

(14) Boat buildings;

(15) Bottling works;

(16) Building material storage yards;

(17) Bus depots;

(18) Cold storage plants;

(19) Contractors' equipment yards;

(20) Dairy products plants;

(21) Freight forwarding terminals;

(22) Furniture manufacture;

(23) Ice manufacture;

(24) Janitorial services and supplies;

(25) Kennels;

(26) Laboratories;

- (27) Laundry and cleaning plants;
- (28) Lumber yards, not including planing mills or saw mills;
- (29) Machine shops not involving the use of drop hammers, automatic screw machines, or punch presses with a rated capacity of over 20 tons;
- (30) Mattress manufacture;
- (31) Metal finishing and plating;
- (32) Offices, not including medical or dental offices;
- (33) Printing, lithographing, and engraving;
- (34) Public utility and public service pumping stations, equipment buildings and installations, service yards, power stations, drainage ways and structures, storage tanks, and transmission lines;
- (35) Railroad stations;
- (36) Repair shops, including electrical, glass and automotive;
- (37) Sheet metal shops;
- (38) Storage yards for commercial vehicles;
- (39) Textile, knitting and hosiery mills;
- (40) Trucking terminals;
- (41) Veterinarians' offices and small animal hospitals;
- (42) Warehouses, except for the storage of fuel or flammable liquids;
- (43) Welding shops;
- (44) Wood working shops and cabinet shops;
- (45) Pickup truck camper and canopy assembly;
- ~~(46) Retail sales establishments with single occupant floor areas of 40,000 square feet or larger;~~

~~(47)(46) Wholesale stores with single occupant floor areas of 40,000 square feet or larger and~~ Public utility buildings, and uses;

~~(47)(48)~~ Parking lots;

~~(49)(48)~~ Accessory structures and uses located on the same site as a permitted use.

(D) *Conditional uses.*

(1) The following conditional uses shall be permitted upon the granting of a use permit in accord with the provisions of §§ 155.280 through 155.299 of this title:

(a) Accessory structures and uses located on the same site as a conditional use;

(b) Motor vehicle wrecking yards and scrap metal yards;

(c) Oil and gas pipelines;

(d) Recreational vehicle parks in accordance with the regulations prescribed in §§ 155.230 through 155.232 of this title.

(e) Storage of fuel and flammable liquids;

(f) Storage of logs or wood chips;

(g) Gymnastics schools and health clubs.

(2) Retail sales establishments with single occupant floor areas of 40,000 square feet or larger;

(3) Wholesale stores with single occupant floor areas of 40,000 square feet or larger;

(4) Any of these uses listed as permitted uses in the MG District provided that, on the basis of the use permit application and evidence submitted, the Planning Commission makes the following findings.

(a) The consideration of all determinable characteristics of the use that is the subject of the application indicates that the use has the same essential characteristics as the uses listed as permitted uses in the ML District with respect to the method of operations, type of process, materials equipment, structures, storage, and appearance;

(b) That the use will conform with each of the principles and standards prescribed

for uses in the ML District;

(c) That the use will not create significantly, more vehicular or rail traffic than the volumes normally created by the permitted uses of the ML District.

(E) *Off-street parking.* Off-street parking facilities shall be provided for each use as prescribed in §§ 155.115 through 155.123 of this title.

(F) *Off-street loading.* Off-street loading facilities shall be provided for each use as prescribed in §§ 155.135 through 155.141 of this title.

(G) *Signs.* No sign, outdoor advertising structure, or display of any character shall be permitted except as prescribed in §§ 155.155 through 155.168 of this title.

(H) *Site plan review and architectural review.* All permitted uses shall be subject to site plan review as prescribed in §§ 155.180 through 155.187 of this title, Conditional uses shall be subject to architectural review.

§ 156.078 MG — GENERAL INDUSTRIAL DISTRICTS.

(A) *Purposes.* In addition to the objectives prescribed in § 156.002 of this chapter, the MG General Industrial Districts are included in the zoning regulations to achieve the following purposes:

- (1) To reserve appropriately located areas for industrial plants and related activities;
- (2) To protect areas appropriate for industrial uses from intrusion by dwellings and other inharmonious uses;
- (3) To protect residential and commercial properties and to protect nuisance-free, nonhazardous industrial uses from noise, odor, insect nuisance, dust, dirt, smoke, vibration, heat and cold, glare, truck and rail traffic, and other objectionable influences and from fire, explosion, noxious fumes, radiation, and other hazards incidental to certain industrial uses;
- (4) To provide opportunities for certain types of industrial plants to concentrate in mutually beneficial relationships with each other;
- (5) To provide adequate space to meet the needs of modern industrial developments, including off-street parking and truck loading areas and landscaping;
- (6) To provide sufficient open space around industrial structures to protect them from the hazards of fire and to minimize the impact of industrial plants on nearby residential and

agricultural districts;

(7) To minimize traffic congestion and to avoid the overloading of utilities by preventing the construction of buildings of excessive size in relation to the amount of land around them;

(8) To provide locations where industries that are incompatible with most other land uses can operate with minimum restriction and with minimum adverse effect on other uses

(B) Required conditions.

(1) All uses shall comply with the regulations prescribed in §§ 155.025 through 155.036 of this title.

(2) No use shall be permitted which creates any emission which endangers human health, can cause damage to animals, vegetation, or other property, or which can cause soiling at any point beyond the boundaries of the site. In an MG District, no use, except a temporary construction operation, shall be permitted which creates, at any R District boundary, noise of a maximum sound pressure level greater than the values given in the following table:

<i>Octave Band (Cycles per Second)</i>	<i>Maximum Permitted Sound Pressure Level (Decibels)</i>
Below 75	72
75 - 149	67
150 - 299	59
300 - 599	52
600 - 1,199	46
1,200 - 2,399	40
2,400 - 4,799	34
4,800 and above	32

(3) No use shall be permitted which creates annoying odor in such quantities as to be readily detectable beyond the boundaries of the M District when diluted in the ratio of one volume of odorous air to four volumes of clean air;

(4) No use, except a temporary construction operation, shall be permitted which creates vibration, changes in temperature, direct or sky reflected glare, or electrical disturbances detectable by the human senses without the aid of instruments beyond the boundaries of the site.

No use shall be permitted which creates electrical disturbances that affect the operation of any equipment beyond the boundaries of the site;

(5) No use shall be permitted which emits dangerous radioactivity;

(6) No use shall be permitted which creates insect nuisance beyond the boundaries of the site.

(C) *Permitted uses.* The following uses, shall be permitted:

(1) All uses listed as permitted uses in the ML District;

(2) Aircraft and aircraft accessories and parts manufacture;

(3) Automobile, trucks, and trailer accessories and parts manufacture;

(4) Automobile, truck, and trailer assembly;

(5) Bag cleaning;

(6) Boiler works;

(7) Box factories and cooperages;

(8) Breweries and distilleries;

(9) Building materials manufacture and assembly, including composition wall boards, partitions, panels, and prefabricated structures;

(10) Business machines manufacture, including accounting machines, calculators, cardcounting equipment, and typewriters;

(11) Can an metal container manufacture;

(12) Candle manufacture, not including rendering;

(13) Carpet and rug manufacture;

(14) Cement products manufacture, including concrete mixing and batching;

(15) Chemical products manufacture provided no hazard of fire or explosion is created, including adhesives, bleaching products, bluing, calcimine, dyestuffs (except aniline dyes), essential oils, soda and soda compounds, and vegetable gelatin, glue, and size;

- (16) Clay products manufacture, including brick, fire brick, tile, and pipe;
- (17) Cork manufacture;
- (18) Electronics manufacturing;
- (19) Firearms manufacture;
- (20) Flour, feed and grain mills;
- (21) Food products manufacture, including such processes as cooking, dehydrating, roasting, refining, pasteurization, and extraction involved in the preparation of such products as casein, cereal, chocolate and cocoa products, cider and vinegar, coffee, glucose, milk and dairy products, molasses and syrups, oleomargarine, pickles, rice, sauerkraut, sugar, vegetable oils, and yeast;
- (22) Glass and glass products manufacture;
- (23) Gravel, rock, and cement yards;
- (24) Hair, felt, and feathers processing;
- (25) Insecticides, fungicides, disinfectants, and similar industrial and household chemical compounds manufacture;
- (26) Jute, hemp, sisal, and oakum products manufacture;
- (27) Leather and fur furnishing and dyeing, not including tanning and curing;
- (28) Machinery manufacture, including heavy electrical, agricultural, construction, and mining machinery, and light machinery and equipment, such as air conditioning, commercial motion picture equipment, dishwashers, dryers, furnaces, heaters, refrigerators, ranges, stoves, ovens, and washing machines;
- (29) Machine tools manufacture, including metal lathes, metal presses, metal stamping machines, and woodworking machines;
- (30) Match manufacture;
- (31) Meat products processing and packaging, not including slaughtering and glue and size manufacture;
- (31) Metal alloys and foil manufacture, including solder, pewter, brass, bronze, and

tin, lead, and gold foil;

- (33) Metal casting and foundaries, not including magnesium foundaries;
- (34) Motor and generator manufacture;
- (35) Motor testing of internal combustion motors;
- (36) Painting, enameling, and lacquering shops;
- (37) Paper products manufacture, including shipping containers, pulp goods, carbon paper, and coated paper stencils;
- (38) Paraffin products manufacture;
- (39) Plastics manufacture;
- (40) Porcelain products manufacture, including bathroom and kitchen fixtures and equipment;
- (41) Railroad equipment stations manufacture, including railroad car and locomotive manufacture;
- (42) Rail road freight stations, repair shops, and yards;
- (43) Rubber products manufacture, including tires and tubes;
- (44) Sandblasting;
- (45) Shoe polish manufacture;
- (46) Starch and dextrine manufacture;
- (47) Steel products manufacture and assembly, including steel cabinets, lockers, doors, fencing and furniture;
- (48) Stone products manufacture and stone processing, including abrasives, asbestos, stone screening and sand and lime products;
- (49) Structural steel products manufacture, including bars, girders, rails and wire rope;
- (50) Textile bleaching;

(51) Wire and cable manufacture;

(52) Wood and lumber processing and woodworking, including planing mills, saw mills, excelsior, plywood, veneer, and wood-preserving treatment;

(53) Wood scouring and pulling.

(D) *Conditional uses.* The following conditional uses shall be permitted upon the granting of a use permit in accord with the provisions of §§ 155.280 through 155.299 of this title:

(1) Airports and heliports;

(2) Asphalt and asphalt products manufacture;

(3) Cement, lime, gypsum, and plaster of paris manufacture;

(4) Charcoal, lampblack, and fuel briquettes manufacture;

(5) Chemical products manufacture, including acetylene, aniline dyes, ammonia, carbide, caustic, soda, cellulose, chlorine, cleaning and polishing preparations, creosote, exterminating agents, hydrogen and oxygen, industrial alcohol, nitrating of cotton or other materials, nitrates of an explosive nature, potash, pyroxylin, rayon yarn, and carbolic, hydrochloric, picric, and sulfuric acids.

(6) Coal, coke, and tar products manufacture;

(7) Drop forges;

(8) Dumps and slag piles;

(9) Fertilizer manufacture;

(10) Film manufacture;

(11) Fireworks manufacture and storage;

(12) Fish products processing and packaging;

(13) Garbage dumps;

(14) Gas manufacture or storage;

(15) Gas and oil wells;

(16) Gelatine, glue, and size manufacture from animal or fish refuse;

(17) Incineration or reduction of garbage, offal, and dead animals;

(18) Junk yards;

(19) Lard manufacture;

(20) Linoleum and oil cloth manufacture;

(21) Magnesium foundries;

(22) Manure, peat, and topsoil processing and storage;

(23) Metal and metal ores reduction, refining, smelting, and alloying;

(25) Motor vehicle wrecking yards;

(25) Oil and gas pipelines;

(26) Paint manufacture, including enamel, lacquer, shellac, turpentine, and varnish;

(27) Paper mills;

(28) Petroleum and petroleum products storage;

(29) Pulp mills;

(30) Retail sales establishments with single occupant floor areas of 40,000 square feet or larger;

(31) Wholesale stores with single occupant floor areas of 40,000 square feet or larger;

(~~30~~32) Rifle ranges;

(~~31~~33) Rolling mills;

(~~32~~34) Rubber manufacture or processing, including natural or synthetic rubber and gutta-percha;

(~~33~~35) Soap manufacture, including fat rendering;

(~~3436~~) Steam plants;

(~~3537~~) Stockyards and slaughterhouses;

(~~3638~~) Storage of inflammable liquids;

(~~3739~~) Storage of used building materials;

(~~3840~~) Tallow manufacture;

(~~4041~~) Tanneries and curing and storage of rawhides;

(~~4142~~) Wood and bones distillation;

(~~4243~~) Wood pulp and fiber reduction and processing;

(~~4344~~) Storage of logs or wood chips;

(~~4445~~) Accessory structures and uses located on the same site as a conditional use.

(E) *Off-street parking.* Off-street parking facilities shall be provided for each use as prescribed in §§ 155.115 through 155.123 of this title.

(F) *Off-street loading.* Off-street loading facilities shall be provided for each use as prescribed in §§ 155.135 through 155.141. of this title.

(G) *Signs.* No sign, outdoor advertising structure, or display of any character shall be permitted except as prescribed in §§ 155.155 through 155.168 of this title.

(H) *Site plan review and architectural review.* All permitted uses shall be subject to site plan review as prescribed in §§ 155.180 through 155.187 of this title. Conditional uses shall be subject to architectural review.

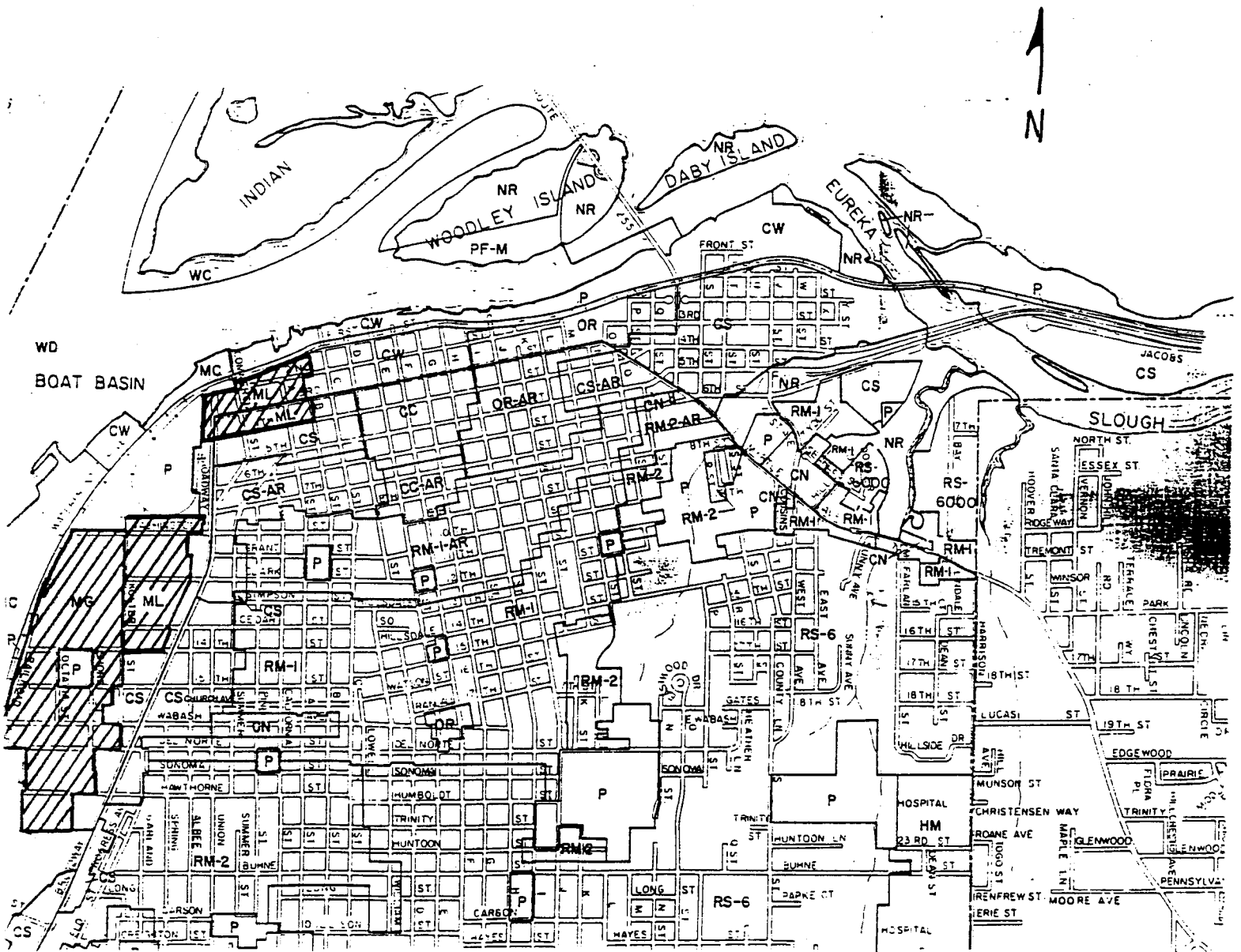


EXHIBIT NO. 3
APPLICATION NO.
 EUR-MAJ-1-00
 EUREKA LCP
 AMENDMENT
 MG & ML ZONING
 DISTRICTS (1 of 2)

FAIRHAVEN

HUMBOLDT BAY

WD
BUCKSPORT

BAYVIEW

PINE HILL

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