

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
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F11a

ADDENDUM

DATE: July 11, 2012

TO: Commissioners and Interested Parties

FROM: Charles Lester, Executive Director
Alison Dettmer, Deputy Director
Robert S. Merrill, North Coast District Manager
James R. Baskin AICP, Coastal Planner

SUBJECT: **Addendum to Item F11a, City of Eureka Local Coastal Amendment No. EUR-MAJ-1-05** for Public Hearing and Commission Action at the July 13, 2012 Meeting in Chula Vista

1. CHANGES TO STAFF REPORT

Commission staff is making a change to the findings of the written staff recommendation for City of Eureka LCP Amendment No. EUR-MAJ-1-05. The change is meant to clarify that although the LCP amendment is project driven, Commission certification of the LCP Amendment does not constitute a determination on the approvability of the specific project contemplated by the owner or any other alternate proposal. Any specific development proposal will require future review and consideration by the City and can only be approved if found to be consistent with all of the requirements of the certified LCP. Language to be added to the findings is shown in ***bold, underlined, Italicized font*** and language to be deleted is shown in **~~*bold-strikethrough-Italicized-text*~~**.

- a. On page 11, revise the last paragraph of Finding III.A.2, "Amendment Description," to read as follows:

The subject LCP amendment is project driven and a scenario site plan of the proposed development has been submitted with the LCP Amendment application (see Exhibit No. 4). The proposed site plan would involve the construction of 24,954-square-foot, two story commercial building and a second, future 15,680-square-foot, one-story commercial structure, with a 72-space at-grade off-street parking lot, situated approximately five-feet from the to-be-restored wetlands.

Although the LCP amendment would allow for other uses and any number of alternate development proposals other than the one currently contemplated, the submitted plan is an indication of how the owner could **propose to** develop the site if the LCP amendment is approved. **However, approval of this LCP amendment makes no determination on the approvability of the specific proposal now contemplated by the property owner or any other of the alternate proposals that could be proposed after the LCP amendment is approved. Any future proposal, including the proposal now contemplated, can only be approved if consistent with all of the requirements of the certified LCP.**

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F11a

DATE: June 28, 2012

TO: Commissioners and Interested Parties

FROM: Charles Lester, Executive Director
Alison Dettmer, Deputy Director
Robert S. Merrill, North Coast District Manager
James R. Baskin AICP, Coastal Planner

SUBJECT: **City of Eureka LCP Amendment No. EUR-MAJ-1-05** for Public Hearing and Commission Action at the July 13, 2012 Meeting in Chula Vista

DESCRIPTION OF SUBMITTAL

The City of Eureka is requesting an amendment to the City's certified Land Use Plan (LUP) and Implementation Plan (IP) to re-designate the land use and zoning designations of an approximately 2.4-acre portion of two parcels from manufacturing to commercial classifications. The specific change to the LUP land use designation for the affected portions of the two parcels is from Light Industrial (LI) to General Service Commercial (GSC). The specific change to the IP zoning designation for the area is from Limited Industrial (ML) to Service Commercial (CS), respectively.

SUMMARY OF STAFF RECOMMENDATION

Commission staff recommends that the Commission **approve as submitted** the proposed City of Eureka LCP Amendment EUR-MAJ-1-05.

Staff believes certification of the LUP amendment to reclassify the land use designations from light industrial to general commercial designations over a 2.4-acre area would be consistent with the policies of Chapter 3 policies of the Coastal Act for the following reasons:

- The site is not currently designated for priority uses and the inland location of the site nearly one-half-mile from the bay shoreline is not suited for coastal dependent development or other priority uses;

- The LCP amendment application demonstrates the site's potential capability for future development that would not result in significant adverse impacts to environmentally sensitive habitat areas, including wetlands. Adequate area exist on the subject property where commercial development could be sited and designed to protect adjoining wetlands from impacts which would significantly degrade those areas and be compatible with the continuance of those habitat areas.
- The property to be redesignated is located within an area where street, sewer, and water infrastructure is adequate to accommodate the proposed change to general service commercial land uses; and
- The subject property is situated in a location where, with the use of water quality protection measures, commercial development that would be facilitated by the proposed changes to the LUP and zoning designations would not have significant adverse effects on coastal water quality either directly or cumulatively.

Moreover, while the proposed change in LUP designation would decrease the area for potential industrial development, an adequate supply of industrial land for light manufacturing would continue to exist within the adjoining Westside Industrial Area such that the present and future needs of Eureka to maintain its economic vitality would be maintained.

Staff also believes that the proposed revisions to the parcels' zoning designations would conform with and adequately carry out the Land Use Plan (LUP) as amended. The principal permitted and conditional uses of the proposed Service Commercial zoning district conform to the allowable uses of the General Services Commercial Land Use Plan designation. In addition, staff believes that the Service Commercial designation would conform with and carry out the LUP policies regarding: (a) the designation of general commercial use areas in a manner that would avoid adverse effects on the economic vitality of the Old Town "Core Area;" (b) reserving the City's waterfront for coastal-dependent and other priority uses; and (c) developing adequate sites with sufficient off-street parking and convenient circulation systems for such uses.

The motion to certify the proposed LCP amendment as submitted is found on **Page 4** of this staff report.

ADDITIONAL INFORMATION

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

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I. MOTIONS, RESOLUTIONS, & RECOMMENDATIONS

A. APPROVAL OF LAND USE PLAN AMENDMENT AS SUBMITTED

Motion:

I move that the Commission certify Land Use Plan Amendment No. EUR-MAJ-1-05 as submitted by the City of Eureka.

Staff recommends a **YES** vote on the foregoing motion. Passage of the motion will result in certification of the land use plan amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

Resolution:

The Commission hereby certifies the Land Use Plan Amendment No EUR-MAJ-1-05 as submitted by the City of Eureka and adopts the findings set forth below on the grounds that the amendment conforms with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment 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 which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

B. APPROVAL OF IMPLEMENTATION PLAN AMENDMENT AS SUBMITTED

Motion:

I move that the Commission reject Implementation Program Amendment No. EUR-MAJ-1-05 for the City of Eureka as submitted.

Staff recommends a **NO** vote. Failure of this motion, by voting “NO” as recommended by staff, will result in certification of the Implementation Program Amendment as submitted 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:

The Commission hereby certifies the Implementation Program Amendment No. EUR-MAJ-1-05 for the City of Eureka as submitted and adopts the findings set forth below on grounds that the Implementation Program as amended, conforms with and is adequate to carry out the provisions of the Land Use Plan, as amended and certified, and certification of the Implementation Program

Amendment will meet the requirements of 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 or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program Amendment.

II. PROCEDURAL ISSUES

A. STANDARD OF REVIEW

The relationship between the Coastal Act and a local government's Local Coastal Program can be described as a three-tiered hierarchy with the Coastal Act setting generally broad statewide policies. The Land Use Plan (LUP) portion of the LCP incorporates and refines Coastal Act policies for the local jurisdiction, giving guidance as to the kinds, locations, and intensities of coastal development. The Implementation Program (IP) of an LCP typically sets forth zone districts and site development regulations through legally enforceable ordinances which specify how coastal development is to precede on a particular parcel. The LUP must be consistent with the Coastal Act. The IP must conform with, and be adequate to carry out the policies of the LUP. Subsequent development that might be proposed will require a coastal development permit and will need to be reviewed by the City for conformance to the certified LCP, as amended.

B. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in preparation, approval, certification, and amendment of any LCP. The City held public hearings on the subject amendment request on June 13, 2005, July 7, 2005, and on February 7, 2006. The hearings were noticed to the public consistent with Sections 13551 and 13552 of Title 14 of the California Code of Regulations. Notice of the subject amendment has been distributed to all known interested parties.

C. PROCEDURAL REQUIREMENTS

Section 30510, 30512, 30513, and 30514 of the Coastal Act requires the Commission to act on Implementation Plan (IP) amendments within 60 days, and on Land Use Plan (LUP) amendments and combined LUP/IP amendments within 90 days of the date when a determination has been made that materials sufficient for a thorough and complete review have been submitted and the application for the amendment is deemed "filed." Coastal Act Section 30517 states that the Commission may extend, for good cause, the 90-day time limit for a period not to exceed one year.

On June 14, 2012, the Executive Director determined that the City's LCP amendment transmittal was in proper order and the application was deemed submitted. This proposed LCP amendment would amend the Land Use Plan and the Implementation Plan and thus, the 90-day requirement applies. The 90th day after the date this LCP Amendment Application was deemed submitted is September 12, 2012. Therefore, unless the Commission extends the deadline, the Commission

will need to complete its action on the LCP amendment at or prior to the first day of the Commission's September 12-14, 2012 hearings.

Pursuant to Section 13551 (b) of Title 14 of the California Code of Regulations, the City resolution for submittal may specify that a Local Coastal Program Amendment will either require formal local government adoption after the Commission approval, or is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30519. The City's Resolutions of Transmittal Nos. 2006-07 and 2006-13, adopted by the City Council on February 7, 2006 and February 26, 2006, respectively, states that the amendment will take effect upon Commission certification. If the Commission approves the LCP Amendment, as submitted, no further action is required by either the Commission or the City.

The Coastal Act authorizes the Commission to provide the local government with "suggested modifications" to a LCP amendment which as submitted does not meet the requirements of and is not in conformity with the Chapter 3 policies of the Coastal Act, but if so modified, could be certified. Alternately, Coastal Act Sections 30512(b) and 30513 allow the local government to request that the Commission not recommend or suggest such modifications to the requested LUP and IP amendments, respectively. In the latter case, the Commission will either certify the proposed amendment as submitted or deny certification based on either the LUP amendment's inconsistency with the Act's Chapter 3 policies, and/or the amended IP not being in conformity with or inadequate for carrying out the policies of the LUP, as may be concurrently proposed to be amended. Sections 7 of Resolutions of Transmittal Nos. 2006-07 and 2006-13 specifically request the Commission to refrain from providing suggested modifications should an issue of the amendment's Coastal Act and LCP consistency be identified. Accordingly, the Commission will either certify the proposed LCP amendment as submitted or deny the amendment because it does not meet the requirements of the Coastal Act.

III. FINDINGS FOR APPROVAL OF LCP AMENDMENT AS SUBMITTED

A. SITE CHARACTERISTICS AND AMENDMENT DESCRIPTION

1. Site Characteristics

The City of Eureka's LCP amendment is proposed at the behest of Reggie Crossan, owner of a 3.4-acre area comprised of two parcels located along the northern side of Cedar Street west of its intersection with State Highway 101 (Broadway) situated on the periphery of the heavily urbanized Westside Industrial Area (see Exhibit Nos. 1 through 3). The proposed amendments to change the property's land use and zoning designations from light industrial to general commercial categories was initially submitted in July 2005. The amendment application was filed as complete for processing on June 15, 2012, upon the receipt of requested technical information necessary for an analysis of wetlands on the site.

The subject site proposed for the LCP amendment consists of a trapezoidal 2.4-acre area comprised of portions of two parcels situated along the northern side of Cedar Street west of its intersection with State Highway 101 (Broadway) situated on the periphery of the heavily

urbanized Westside Industrial Area (see Exhibit Nos. 1 through 3). The subject parcels are currently split-designated/zoned General Service Commercial | Service Commercial along a 130-foot-wide band of frontage with State Route 101 / Broadway that would not be directly affected by the amendment.

The property is situated on the low coastal plain along the eastern side of the middle reach of Humboldt Bay, between the Clark Slough and Cooper Gulch drainages, at an elevation of approximately 12 feet above mean sea level and has flat topography. APN 003-131-05 had previously been developed with a commercial office building along its Broadway Street frontage. That structure was razed as part of the site grading that occurred in mid-2006. The parcel is currently unimproved except for an asphalt-concrete surface. Adjoining 3.05-acre APN 003-131-16, slated for a future commercial development, is currently unimproved except for a shuttered small sales office associated with a former watercraft sales yard, and a compacted gravel surface.

The subject site lies along the eastern fringes of “Westside Industrial Area” and is subject to the “Commercial Development” and “Industrial Development” specific land use category area policies of the LCP. The subject property is designated in the Land Use Plan as Light Industrial (LI), as certified by the Commission on December 14, 1981. The property is zoned Limited Industrial (ML), certified by the Commission on October 12, 1983 (see Exhibit Nos. and 5). Immediately adjoining properties to the north, south, and west are similarly zoned ML, while properties to the west along State Route 101 (Broadway) have a General Service Commercial (GSC) land use plan designation as implemented by Service Commercial (CS) zoning designation (see Appendices Nos. 3 and 4). Properties further to the west transition from general industrial to coastal dependent industrial upon closer proximity to the bay shoreline situated approximately ½ mile from the project site.

The subject property is not within any viewpoint, view corridor, or highly scenic area as designated in the LCP’s Land Use Plan. Due to the property’s inland location, low relief, and the presence of intervening commercial-industrial development, public views to and along the ocean across the property are non-existent.

Vegetation cover on the unimproved portions of the properties is comprised of ruderal grasses and forbs, primarily sweet vernal grass (*Anthoxanthum odoratum*), field mustard (*Brassica rapa*), slender wild oats (*Avena barbata*), rip-gut brome (*Bromus diandrus*), cut-leaf geranium (*Geranium dissectum*), wild fennel (*Foeniculum vulgare*), and rat-tailed fescue (*Vulpia myuros* var. *myuros*). Existing wetlands on the site are limited to an existing drainage ditch area on the northern side of APN 003-131-016 (see Exhibit No. 7).

Prior to disturbance of the area by man, the subject property had been part of the tidelands along the margins of Humboldt Bay. Most of the subject site and much of the adjoining tidelands in the Westside area were incrementally reclaimed and filled for industrial uses in the Westside area during the late 1800s to mid-1900s, leaving only relatively small remnant wetlands on the subject property surrounded by filled area. In 1982, the Commission approved Coastal Development Permit No. 1-82-46 (See Exhibit No. 7 and Appendix A) which authorized the filling of approximately 35,000 square feet of “pocket wetlands” on the subject property. The

authorization of wetlands fill was associated with concurrent approval of the subdivision of the 4.3-acre parcel into two lots of 1.24 and 3.05 acres, and construction of a 14,770-square-foot sheet metal shop, showroom and office on the 1.24 acre parcel.

The development of the land division and sheet metal commercial development site improvements was undertaken in 1984. Approximately 4/5 of the 35,000-square-foot area of Pocket Marsh No. 4 were filled under CDP No. 1-82-46, leaving an approximately 700-square-foot area of the subject property unfilled.

On May 11, 2006, the City issued Grading Permit No. B080347 that authorized 4,500 cubic yards of grading, installation of a grease/oil/water separator, demolition of a small structure located in the southeast corner of 1210 Broadway along Cedar Street, and the installation of the box 380 lineal feet of 12-inch-diameter culvert at the project site. In addition to the owner completing the filling authorized by CDP No. 1-82-46, the City also determined that other fill activities conducted by the owner on the subject property in 2006-2007 were excluded from coastal development permit requirements under City of Eureka Categorical Exclusion Order E-88-2.

Upon being informed that filling had occurred, Commission staff contacted City staff to inform them that the Executive Director found the grading and filling of wetlands did not qualify for an exclusion to coastal development permit requirements under the terms and conditions of the Categorical Exclusion Order. City staff were advised that Commission staff viewed the filling as unpermitted development and urged the City to take appropriate action to resolve the violation.

To this end, the owner/applicant agreed to provide a forensic wetlands evaluation of the wetlands as had been in existence on the site at the time of the LCP amendment request's submittal in July 2005. The investigation was subsequently prepared during summer-fall 2011, and submitted to the Commission staff in February 2012 (see Exhibit 6). The initial submittal was subsequently reviewed by staff biologist John Dixon PhD. Dr. Dixon requested further clarification of, and elaboration on, certain statements within the investigation. The requested responses were provided in a report addendum submitted on June 15, 2012 (see Exhibit No. 6, pp. 27-31). Upon receipt of these materials and their further vetting, Dr. Dixon concurred with the findings in the forensic wetlands investigation and letter-report, and concluded the following with respect to the past and current presence of wetlands on the site:

- No CCC defined wetlands are currently present at the site.
- A drainage ditch existed along the northern property boundary until at least December 30, 2005 and was replaced by a "concrete pipe/ditch system" between December 30, 2005 and April 2, 2007. It is the professional opinion of the wetlands delineator/investigator that this ditch likely contained hydric soils. A band of willows existed along the central and western portion of the northern property border in the vicinity of the northern ditch until at least December 2005, but were subsequently removed.

- A second ditch was present along the edge of a roadway in the south central portion of the property in December 2005, but was subsequently filled. It is the professional opinion of the delineator that this ditch contained hydric soils. A few willows were present at the north end of the ditch in December 2005 but were removed sometime before April 2, 2007.
- The willows were probably growing as phreatophytes and were not growing in areas that had wetland hydrology. Those willows should not be considered as ESHA in an ecological landscape context.
- The site received foreign fill materials on at least two occasions: In the 1980s, most of the site was filled under the Commission approved Coastal Development Permit. The site was graded and filled without the benefit of a coastal development permit more recently, likely sometime between June 2006 and August 2007.
- Approximately 2,900 sq. ft. of wetland near the midpoint of the northerly boundary of the property, outside the boundaries of wetlands authorized for filling under Coastal Development Permit No. 1-82-046, were subsequently filled during the estimated 2006-07 period.
- Given their size and location relative to the surrounding built environment improvements, and their physical and functional separation both hydrologically and biologically from the wetlands in the vicinity, namely the two “pocket marshes” and the surface waters of Clark Slough, situated approximately 650, 550, and 1,000 feet to the south-southwest, southwest, and northwest, respectively, it is unlikely that the wetlands on the project site would develop wetland characteristics that would cause the area to require protective ESHA buffers and setbacks of such significance that would preclude development allowed under the proposed land use and zoning designations on other portions of the 3.42-acre property, including the 2.4-acre area proposed for commercial redesignation.

An approximately 2,900 square-feet of wetland area was filled without the benefit of a coastal development permit, comprising the area near the midpoint of the northerly boundary of the property, and including the approximately 380-square-foot area filled for the culvert. In its review of LCP Amendment No. EUR-MAJ-1-05, the Commission must consider these areas of former wetlands to be subject to the wetland protection policies of the Coastal Act and the certified LCP.

On February 15, 2012, the City submitted a preliminary wetlands restoration proposal of a 3,239-square-foot area of the project site as part of a site development scenario plan developed by the owner/petitioner (see Exhibit No. 4). Under the proposal, the approximately 2,900-square-foot area of filled wetlands beyond the bounds of the 1982 CDP authorization would be restored. However, an approximately 380-square-foot drainage culvert placed during the unpermitted 2006-2007 filling episode is proposed to be retained to meet City drainage retention

requirements. An additional 789 square feet of upland area beyond the bounds of the unpermitted fill area is proposed to be excavated as compensatory wetlands replacement at a 1:1.75 mitigation ratio for the culvert.

On June 14, 2012, Commission staff received correspondence from the City stating their intent to resolve the unpermitted wetlands filling violation as part of the processing of the pending coastal development permit for the site (see Exhibit No. 8). The City indicated that they had subsequently determined that the wetland fill authorized in 2006 was, indeed, impermissible as being inconsistent with the LCP and would need to be removed. The City also indicated that any proposal to retain the drainage culvert would be reviewed as part of the pending permit application for commercial development at the site. If retention of the culvert is subsequently found not to be permissible (e.g., as wetland filling for “incidental public service [drainage] purposes”), City staff relayed that the owner/petitioner had indicated that in such an instance, the culvert would be removed and the restoration plan revised to redact the 789-square-foot compensatory replacement mitigation component, and focus solely on removal of the 2,900 square-feet of unpermitted fill.

2. Amendment Description

The City has applied to the Commission for certification of an amendment to both the Land Use Plan (LUP) and Implementation Program (IP) portions of its certified Local Coastal Program (LCP). The amendment to the LUP involves a change in the property’s land use designation from Light Industrial (LI) to General Service Commercial (GSC). The proposed IP amendment would revise the zoning designation of the subject 2.4-acre area from Limited Industrial (IL) to Service Commercial (CS). The specific land use plan map revision to the City’s LCP proposed for amendment is attached as Exhibit No. 11.

As summarized in Table 1 below, and detailed in Exhibit No. 5, the proposed change in plan designation changes on the property would alter the development potential of site in the following ways: (a) extinguishing numerous currently recognized principal and conditionally permissible potential light manufacturing uses; (b) introducing numerous new recognized principal and conditionally permissible commercial uses primarily of a general retail sales and service, end consumer/client nature; and (c) introducing the potential development of residential uses, provided their collocation with commercial development otherwise allowed under the plan and zone designations would not result in a use found to be objectionable to persons residing or working in the vicinity or injurious to property located in the vicinity by reason of odor, insect, nuisance, fumes, dust, smoke, cinders, dirt, refuse, water-carried wastes, noise, vibration, illumination, glare, unsightliness, or heavy truck traffic, or to involve any hazard of fire or explosion.

Table One: Changes in Potential Development Intensity on APNs 003-131-005 & -016

PRESCRIPTIVE STANDARD CATEGORY	CURRENT LI ML REQUIREMENTS		PROPOSED GSC CS REQUIREMENTS	
	STANDARD	EXISTING	STANDARD	RESULTING
<i>Principal Permitted Uses</i>	<i>Light manufacturing processing plants, machine shops,</i>	<i>Property is currently vacant and undeveloped</i>	<i>Principal Uses: Retail stores, service establishments, amusement</i>	<i>TBA</i>

PRESCRIPTIVE STANDARD CATEGORY	CURRENT LI ML REQUIREMENTS		PROPOSED GSC CS REQUIREMENTS	
	STANDARD	EXISTING	STANDARD	RESULTING
	<i>storage yards, trucking terminals, automobile servicing and repair, warehousing, wholesaling, and existing offices</i>		<i>establishments, wholesale businesses, restaurants and soda fountains (not including drive-in establishments) and offices</i>	
<i>Conditionally Permitted Uses</i>	<i>Professional and business offices, retail sales, oil and gas pipelines</i>	<i>Property currently vacant and undeveloped</i>	<i>Drive-in theaters, drive-in restaurants, mobilehome and trailer parks</i>	<i>TBA</i>
<i>Residential Density</i>	<i>Dwellings not permitted</i>	<i>N/A</i>	<i>TBA (as set forth in the City's Building and Housing Codes)</i>	<i>6,000 per 4 dwelling units plus 1,000 per additional dwelling unit</i>

The subject LCP amendment is project driven and a scenario site plan of the proposed development has been submitted with the LCP Amendment application (see Exhibit No. 4). The proposed site plan would involve the construction of 24,954-square-foot, two story commercial building and a second, future 15,680-square-foot, one-story commercial structure, with a 72-space at-grade off-street parking lot, situated approximately five-feet from the to-be-restored wetlands. Although the LCP amendment would allow for other uses and any number of alternate development proposals other than the one currently contemplated, the submitted plan is an indication of how the owner could develop the site if the LCP amendment is approved.

B. PROTECTION OF PRIORITY COASTAL USES

Section 30213 of the Coastal Act states, in applicable part:

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

Coast Act Section 30222 states:

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 directs that:

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

Finally, Section 30255 states, in applicable part:

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.

With respect to LUP Policies addressing priority coastal uses, the City of Eureka General Plan provides as follows:

- 1.A.2. 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.
- 1.D.5. The City shall expand and enhance opportunities for recreational and visitor-serving uses and activities along the waterfront, including visitor accommodations, boating facilities, water transportation, fishing, and other similar attractions.
- 1.E.1. The City shall actively encourage, support, and provide incentives, where feasible, for locating visitor-serving development, particularly hotels and bed and breakfast inns, in the Core Area. Visitor-serving development should be concentrated primarily along the waterfront, 2nd Street, and the north end of F Street.
- 1.E.2. The City shall promote the development and expansion of such tourist activities as boat tours and carriage rides in the Core Area.
- 1.E.3. Where recreation or visitor-serving uses are integrated with coastal-dependent uses, the City shall ensure that the recreation or visitor-serving uses are secondary to and compatible with the coastal-dependent uses. To the extent feasible and permitted pursuant to other applicable law, fish processing facilities should incorporate educational and tourist activities and facilities such as tours, fish markets or shops, restaurants and other attractions that support the fishing industry.
- 1.M.7. The City shall encourage coastal-dependent industrial facilities to locate or expand within existing sites. Non-coastal-dependent uses located along the waterfront shall, if feasible, be relocated to other more appropriate areas within the city.

The Coastal Act identifies a variety of uses that are to be given priority in siting determinations. These uses include, in no particular order of precedence:

- Agriculture;

- Coastal-dependent uses;
- Coastal related development needed to support associated nearby coastal-dependent uses.
- Lower-cost visitor and recreational facilities;
- On private lands, visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation over private residential, general industrial, or general commercial development; and
- Necessary upland support facilities for coastal recreational uses.

The property proposed for redesignation is currently designated as Light Industrial under the LUP. This designation is intended for manufacturing of a more general type as contrasted with industrial processes which functionally require a waterfront location. Accordingly, the site is not earmarked for the coastal dependent industrial priority use as numerous sites along the immediate bay shoreline have been reserved for coastal dependent industrial development. The LI designation provides for a variety of uses including, Light manufacturing processing plants, machine shops, storage yards, trucking terminals, automobile servicing and repair, warehousing, wholesaling, and existing offices, which are dependent upon a shoreline location or otherwise identified as a priority use in the Coastal Act.

However, development of several types of seemingly priority coastal-related industrial uses, in the form of boat building, ice manufacture, and cold storage facilities is currently allowed under the Light Industrial designation. These uses would no longer be permissible at the project site. Conversely, development of several other classes of priority coastal recreational and visitor-serving uses would be allowed under the proposed commercial designations, including hotels and motels, recreational vehicle parks, restaurants, and visitor information services.

Several Coastal Act priority uses are not appropriate for the subject property proposed for redesignation. For example, given the small size of the property, the qualities of its underlying soils, and the urbanized nature of its setting and surroundings, economically viable intensive agricultural operations on the property would likely be infeasible. Similarly, with a location nearly ½-mile inland from any ocean or bayfront site, it is unnecessary to reserve the site for certain “coastal-dependent uses,” those requiring siting on an immediate shoreline location, or alternately, upland support and/or “coastal-related” development requiring siting in close proximity to the coastal-dependent and coastal recreational uses they would serve.

Given its highway frontage and town entry corridor location, the subject property would appear to be suitable for several of the other priority uses, notably: (1) low-cost visitor-serving facilities, including transient overnight accommodations such as motels, hostels, and recreational vehicle parks; and (2) retail sales and service businesses purveying to a coastal visitor customer base; or (3) support services for water-oriented recreational facilities, such as boating sales and repair. Such visitor serving uses are primarily accommodated under another LUP designation, Waterfront Commercial (WFC). Large areas of the City’s coastal zone are designated WFC, and

such uses can be accommodate in more suitable locations along, and/or in closer proximity to, the City's bay frontage. Therefore, reservation of the site for these visitor serving LUP designations is also unnecessary. Nonetheless, these uses would be recognized as permissible uses under the proposed GSC|CS designations.

Therefore, the Commission finds that the proposed amendment to change the land use designation of the subject site from Limited Industrial (LI) to General Service Commercial (CSC) will not adversely impact the development of higher priority uses identified in the Coastal Act within the City of Eureka because: (a) the site is not currently reserved for priority uses; (b) its distant inland location does not necessitate that the site be reserved for coastal-dependent and/or coastal-related and/or recreational uses; (c) sufficient areas of the Eureka coastal zone are designated for priority visitor serving facilities to accommodate the need for such facilities; and (d) the proposed GSC designation would nonetheless allow for development of visitor-serving priority uses. that would be fostered by the proposed land use designation. Therefore, the Commission finds: (a) the proposed amendment to the Land Use Plan consistent with Sections 30213, 30222, 30223, 30255 of the Coastal Act.

C. LOCATION OF NEW DEVELOPMENT

Section 30250(a) reads, in applicable part, as follows:

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... [Emphases added.]

With respect to related LUP policies regarding the location of new development, the *City of Eureka General Plan* provides, as follows:

- 1.A.1. The City shall encourage infilling of vacant urban land and reuse of underutilized urban land within the Planning Area as its first priority of accommodating demand for growth.
- 1.L.1. The City shall discourage new commercial development within the city that will adversely affect the economic vitality of the Core Area. This City shall also encourage Humboldt County to discourage such development in adjacent unincorporated areas.
- 1.L.2. The City shall promote high quality design, visual attractiveness, proper location, adequate sites, sufficient off-street parking, and a convenient circulation system for commercially-designated areas of the city.
- 1.M.1. The City shall protect industrially-designated land from preemption by residential, commercial, and other unrelated and incompatible uses.

- 1.M.8. The City shall require that new industrial and heavy commercial development projects have convenient and safe access to major transportation facilities (highways, railroads, waterfront facilities) to minimize unnecessary and disruptive traffic through residential and other sensitive sections of the city.
- 1.M.9. The City shall prohibit new residential uses within or directly adjacent to industrial areas so as to avoid conflicts and the provision of unnecessary services and facilities.
- 4.A.2. The City shall direct growth to those areas already served by public infrastructure and utilities.
- 4.A.3. The City shall require that all land designated for urban development be served by adequate water and other utilities necessary for health, safety, and welfare of citizens and property. Conversely, the City shall not provide urban utilities to areas that are not designated for urban development, particularly agricultural areas, wetland areas, forest lands, and areas with unsuitable topography.
- 4.B.2. The City shall require proponents of new development to demonstrate the availability of a long-term, reliable water supply and adequate water supply infrastructure. The City shall require all new development within the city to connect to the City's water system. New development shall be responsible for constructing or financing any water system upgrades necessary to serve the development.
- 4.C.5. The City shall require all new development within the city limits to connect to the City wastewater treatment system.
- 4.G.4. City shall require new development to develop or fund fire protection facilities, personnel, and operations and maintenance that, at a minimum, maintains the above service level standards.

The Westside Industrial Area and Broadway commercial corridor is considered “urban,” as they are within the limits of, and served by, the City of Eureka municipal water, wastewater treatment, and fire protection districts, and are within the Urban Services Boundary as shown on the Land Use Map for the City. The City provides water to users purchased from the Humboldt Bay Municipal Water District, which obtains its supply from the Mad River. The City also provides police protection and contracted vendor solid waste collection and recycling services.

Cedar Street which serves the properties subject to the LCP amendment, consists of a two-way, 60-foot-wide, paved surfaced, City-maintained local roadway, and provides ingress/egress to and from State Route 101 (Broadway). Electrical and natural gas public utilities are provided to the project area by Pacific Gas and Electric Company.

The proposed amendment to the land use and zoning designations would allow for the development of a wide assortment of commercial land uses. However, when compared to the energy, water, and traffic intensive industrial uses currently allowed under the existing certified LI designation, a net reduction in the demand for services would likely result from the change from high-intensity, heavily resource consumptive, albeit “light” industrial to commercial land uses. Furthermore, based upon information provided by the City, adequate reserve capacity exists within the municipal water supply and wastewater treatment systems to support the future commercial uses at the site that could be pursued under the proposed GSC|CS standards (see Exhibit No. 8). In addition, based upon a circulation evaluation prepared by the petitioner's engineering consultant, the street network of the surrounding area, including the intersections of Cedar Street with Broadway and Koster Street, has adequate reserve capacity and operates at acceptable levels of service, respectively, to accommodate the additional traffic generated from development under the proposed plan and zoning designations.

Therefore, the new commercial uses that would be facilitated by the proposed redesignation from LI|ML to GSC|CS designations would be located in an area capable of accommodating the water and wastewater service demands the new commercial uses would engender with no significant adverse effects on coastal resources, either individually or cumulatively. Therefore the Commission finds that: (a) the proposed amendment to the LUP land use map is consistent with Section 30250(a) of the Coastal Act.

D. ENVIRONMENTALLY SENSITIVE HABITAT AREAS AND PERMISSIBLE DEVELOPMENT IN WETLANDS

Section 30240 of the Coastal Act states:

- (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.*

Coastal Act Section 30107.5 defined an “environmentally sensitive area” as:

...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 30233(a) of the Coastal Act states, in part:

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 on 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.*

With respect to Land Use Plan policies which address the protection of environmentally sensitive habitat areas and permissible development within wetlands, the *City of Eureka General Plan* provides as follows:

6.A.6. *The City declares the following to be environmentally sensitive habitat areas within the Coastal Zone:*

- a. Rivers, creeks, sloughs, gulches and associated riparian habitats, including, but not limited to Eureka Slough, Fay Slough, Cut Off Slough, Freshwater Slough, Cooper Slough, Second Slough, Third Slough, Martin Slough, Ryan Slough, Swain Slough, and Elk River.
- b. ***Wetlands*** and estuaries, including that portion of Humboldt Bay within the City's jurisdiction, riparian areas, and vegetated dunes.
- c. Indian Island, Daby Island, and the Woodley Island wildlife area.
- d. Other unique habitat areas, such as waterbird rookeries, and habitat for all rare or endangered species on state or federal lists.
- e. Grazed or farmed wetlands (i.e., diked former tidelands).
[***Emphasis*** added.]

6.A.7. Within the Coastal Zone, the City shall ensure that environmentally sensitive habitat areas are protected against any significant disruption of habitat values, and that only uses dependent on such resources shall be allowed within such areas. The City shall require that development in areas adjacent to environmentally sensitive habitat areas be sited and designed to prevent impacts which would significantly degrade such areas, and be compatible with the continuance of such habitat areas.

6.A.9. The City shall permit the diking, filling, or dredging of open coastal waters, wetlands, or estuaries only under the following conditions:

- a. The diking, filling or dredging is for a permitted use in that resource area;
- b. There is no feasible, less environmentally damaging alternative;
- c. Feasible mitigation measures have been provided to minimize adverse environmental effects;
- d. The functional capacity of the resource area is maintained or enhanced.

6.A.11. The City shall require that diking, filling or dredging of a wetland or estuary maintain or enhance the functional capacity of these resources. Functional capacity means the ability of the IIP wetland or estuary to be self-sustaining and to maintain natural species diversity. In order to establish that the functional capacity is being maintained, all of the following must be demonstrated.

- a. Presently-occurring plant and animal populations in the ecosystem will not be altered in a manner that would impair the long-term stability of the ecosystem, i.e., natural species diversity, abundance and composition are essentially unchanged as the result of the project;
- b. A species that is rare, threatened, or endangered will not be significantly adversely affected; and
- c. Consumptive (e.g., fishing, aquaculture and hunting) or nonconsumptive (e.g., water quality and research opportunity) values of the wetland or estuary ecosystem will not be significantly reduced.

6.A.12. The City shall require that dredging, when consistent with the provisions of this General Plan or other adopted City regulations and where necessary for the maintenance of the tidal flow and continued viability of the wetland habitat or for flood control purposes, shall be subject to the following conditions:

- a. Dredging shall be prohibited in breeding and nursery areas and during periods of fish migration and spawning.
- b. Dredging shall be limited to the smallest area feasible.
- c. Designs for dredging and excavation projects shall include protective measures such as silt curtains, weirs, etc., to protect water quality in adjacent areas during construction by preventing the discharge of refuse, petroleum spills, and unnecessary dispersal of silt materials.

6.A.13. The City shall require that diking or filling of a wetland that is otherwise in accordance with the policies of General Plan, shall, at a minimum, require the following mitigation measures:

- a. A detailed restoration plan shall be required as part of the project application for each specific restoration site. The restoration plan shall include provisions for purchase, if required, and restoration of an equivalent area of equal or greater biological productivity, and dedication of the land to a public agency or other method which permanently restricts the use of the site to habitat and open space purposes. The restoration site shall be purchased or otherwise made available prior to any permitted diking or filling;
- b. Areas adequate to maintain functional capacity shall be opened to tidal action or other sources of surface water shall be provided. This provision shall apply to diked or filled areas which themselves are not environmentally sensitive habitat areas, but would become so if, as part of a restoration program, they are opened to tidal action or provided with other sources of surface water. All of the provisions for restoration, purchase (if necessary), and dedication described under item a. of this policy shall apply to any program or activity performed pursuant to this policy.
- c. Mitigation shall, to the maximum extent feasible, be of the same type as the wetland to be filled (i.e., freshwater marsh for freshwater marsh, saltwater marsh for saltwater marsh, etc.).
- d. Where no suitable private or public restoration or enhancement sites are available, an in-lieu fee may be required to be paid to an appropriate public agency for use in the restoration or enhancement of an area of equivalent productive value or surface area.

6.A.14. Consistent with all other applicable policies of this General Plan, the City shall limit development or uses within wetlands that are neither farmed nor grazed, or within estuaries, to the following:

- a. Port facilities.
- b. Energy facilities.
- c. Coastal-dependent industrial facilities, including commercial fishing facilities.
- d. Maintenance of existing or restoration of previously dredged depths in navigation channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.
- e. Incidental public service purposes which temporarily impact the resources of the area, such as burying cables or pipes, inspection of piers, and maintenance of existing intake and outfall lines.
- f. Restoration projects.
- g. Nature study, aquaculture, or similar resource-dependent activities.

- h. New or expanded boating facilities in estuaries, consistent with the demand for such facilities.
- i. Placement of structural piling for public recreational piers that provide public access and recreational opportunities.

6.A.19. The City shall require establishment of a buffer for permitted development adjacent to all environmentally sensitive areas. The minimum width of a buffer shall be 100 feet, unless the applicant for the development demonstrates on the basis of site specific information, the type and size of the proposed development, and/or proposed mitigation (such as planting of vegetation) that will achieve the purposes(s) of the buffer, that a smaller buffer will protect the resources of the habitat area. As necessary to protect the environmentally sensitive area, the City may require a buffer greater than 100 feet. The buffer shall be measured horizontally from the edge of the environmental sensitive area nearest the proposed development to the edge of the development nearest to the environmentally sensitive area. Maps and supplemental information submitted as part of the application shall be used to specifically define these boundaries.

The proposed amendment involves the reclassification of a 2.4-acre area from light industrial to general commercial land use categories. These changes would allow for the introduction of a host of new uses other than those currently allowed under the property's existing light industrial land use and zoning designations. Accordingly, it is necessary to analyze whether these changes would instigate any potential increase in the density or intensity of use of land which could have direct, indirect, or cumulative impacts on coastal resources, including environmentally sensitive habitat areas. Further it is necessary to determine whether the changes to enumerated principal and conditional uses would conflict with the limitations on permissible filling, dredging, and diking of wetlands, as established under both the Coastal Act and the LUP.

As discussed further in the Site Characteristics sub-section of Findings Section III.C above, an approximately 2,900-square-foot area of wetlands existed along the mid-point of the northern property line of APN 003-131-016 at the time of application for the subject LCP amendment in July 2005. This area was subsequently filled without benefit of a coastal development permit during the timeframe of June 2006 to August 2007. This unpermitted development is being addresses by the City through its code enforcement processes. The City has given assurances that the violation will be resolved prior to the issuance of any certificate of occupancy for any use developed on the property (see Exhibit No. 8). In addition, as part of the scenario development plan for the site under the requested amended land use and zoning designations, the owner-petitioner's engineer has submitted a proposal to either: (a) restore the 2,900 square feet of wetlands filled under color of the 2006 grading permit; or (b) if the 380 lineal-foot one-foot diameter culvert installed in 2006 is allowed to be retained, establish a total of 3,239 square-feet of wetland area, inclusive of compensatory replacement for the culvert fill at a 1:1.75 mitigation ratio (see Exhibit No. 4).

Notwithstanding their current filled condition, or the stated intention of the City to resolve the unpermitted development, these wetlands must be assessed as if they were presently in existence with respect to the Commission's review of the LUP amendment. Therefore, limitations on the filling, diking, and dredging of wetlands by Coastal Act section 30233 and restated in LUP Policies 6.A.9., 6.A.11., 6.A.12., 6.A.13., and 6.A.14. would apply to any such proposed development. The City of Eureka LUP at Policies 6.A.6. and 6.A.7. recognize *all* wetlands within the City as environmentally sensitive habitat areas that must be protected such that development is limited and/or sited and designed to prevent significant degradation to sensitive environmental habitats.

Any future development proposal under the proposed amended plan and zoning designations, including any project proposing a less than 100-foot-wide buffer, would need to include as assessment of:

- Biological significance of adjacent lands;
- Sensitivity of species to disturbance;
- Susceptibility of parcel to erosion;
- Use of natural topographic features to locate development;
- Use of existing cultural features to locate buffer zones;
- Lot configuration and location of existing development; and
- Type and scale of development proposed.

The Commission also observes that, although numerous new commercial land use types could be potentially developed at the site, many of these uses would likely have less impact on environmentally sensitive resources in terms of light, noise, emissions, and discharges, as compared to those associated with the currently recognized light industrial uses (see Exhibit No. 5). Notwithstanding a change from the currently certified industrial plan and zoning categorization of the property to the proposed commercial designations, the policies of the Coastal Act and the LUP regarding the protection of ESHA, and qualifications on permissible development within wetlands would remain applicable to any development proposed at the site. Any subsequent commercial or residential development at the site affected by the proposed LCP amendment would be required to demonstrate that any development within or in the proximity to the ESHA will be protected from the effects of that development consistent with the provisions of Coastal Act Section 30240 by: (1) restricting the development to permissible uses; and (2) siting and designing development to prevent impacts which would significantly degrade those areas, and ensure compatibility with the continuance of those habitat areas. Similarly, only development for the uses entailing the filling, dredging, or diking of wetlands as identified as permissible in LUP Policy 6.A.14 could be authorized in the wetland areas on the parcel under the new commercial designations. The Commission therefore finds that the proposed LCP amendment would accommodate uses which could be sited and designed to prevent significant

degradation to ESHA and wetlands, consistent with Sections 30240 and 30233 of the Coastal Act and similar policies within the certified City of Eureka LUP.

E. COASTAL WATER QUALITY

Section 30231 of the Coastal Act states:

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.

Coastal Act Section 30232 directs that:

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.

With respect to LUP Policies addressing the protection of coastal water quality, the *City of Eureka General Plan* provides as follows:

- 6.A.3. The City shall maintain and, where feasible, restore biological productivity and the quality of coastal waters, streams, wetlands, and estuaries appropriate to maintain optimum populations of aquatic organisms and for the protection of human health through, among other means, minimizing adverse effects of wastewater and stormwater discharges and entrainment, controlling the quantity and quality of runoff, preventing depletion of groundwater supplies and substantial interference with surface water flow, encouraging wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.
- 7.E.1. The City shall ensure that the use and disposal of hazardous materials in the Eureka area complies with local, state, and federal safety standards.
- 7.E.6. The City shall require that applications for discretionary development projects that will generate hazardous wastes or utilize hazardous materials include detailed information on hazardous waste reduction, recycling, and storage.
- 7.E.7. The City shall require that any business that handles a hazardous material prepare a plan for emergency response to a release or threatened release of a hazardous material.

The reclassification of the 2.4-acre area from light industrial to general commercial land use would facilitate potential increases in the density or intensity of use of land which could have direct, indirect, or cumulative impacts on coastal water resources.

Notwithstanding the change from light industrial to general commercial land uses, the requirements of the Coastal Act and the LUP regarding the protection of coastal water quality would remain in full force and effect. For example, LUP Policy 6.A.3, which mirrors Section 30231 of the Coastal Act, will continue to provide a basis for the City to require erosion control and stormwater pollution prevention measures and other best management practices to control water pollution. In addition, LUP Policies 7.E.1, 7.E.6, and 7.E.7 will remain as a basis for requiring effective containment and cleanup measures for spills of petroleum products or other hazardous materials, consistent with Section 30232 of the Coastal Act. Furthermore, as is required under the current industrial classification, any future development at the site under the proposed commercial designations would also be subject to requirements of state and federal water quality law regarding within the North Coast Basin Plan, County health and safety regulations, and the City's grading, building, and stormwater management ordinances, as administered by the North Coast Water Quality Control Board, The County of Humboldt Public Health Department, and the City of Eureka, respectively. These requirements include, but are not limited to, incorporation of the following features in the approved design of any new development:

- Incorporation of construction phase & permanent erosion control and stormwater pollution prevention best management practices;
- Commercial pre-treatment of certain special constituent wastewater discharges, such as grease and oils; and
- Hazardous materials storage, handling and spill prevention & cleanup contingency "business plans."

Therefore, based upon information provided with the LCP amendment request, the Commission finds that the LUP amendment, as submitted, is consistent with Coastal Act Section 30231, in that development that is permissible under the land use designation change must still meet the requirements of Policy 6.A.3 of the LUP to provide quantitative, goal-based water quality protection through the application of best management practices. Additionally, the Commission finds that the LUP Amendment, as submitted, is consistent with Coastal Act Section 30232 regarding the prevention of, and protection of coastal resources from releases of hazardous materials, insofar as the modifications to the LCP would not obviate or reduce the existing protections afforded to coastal resources.

IV. FINDINGS FOR APPROVAL OF IP AMENDMENT AS SUBMITTED

A. AMENDMENT DESCRIPTION

The City has concurrently applied to the Commission for certification of an amendment to Implementation Program (IP) portions of its certified Local Coastal Program (LCP). The amendment to the IP involves a change in the property's zoning designation from Limited Industrial (IL) to Service Commercial (CS) corresponding to the amendment of the subject 2.4-acre area's land use plan designation from Light Industrial (LI) to General Service Commercial (GSC). The specific zoning map revision to the City's LCP proposed for amendment is attached as Exhibit No. 12.

As summarized in Table 2 below, and detailed in Exhibit No. 5, the change in zoning designation on the property would alter the development potential of site in the following ways: (a) extinguishing numerous currently recognized principal and conditionally permissible potential light manufacturing uses; (b) introducing numerous new recognized principal and conditionally permissible commercial uses primarily of a general retail sales and service, end consumer/client nature; (c) introducing the potential development of residential uses, provided their collocation with commercial development otherwise allowed under the plan and zone designations would not result in a use found to be objectionable to persons residing or working in the vicinity or injurious to property located in the vicinity by reason of odor, insect, nuisance, fumes, dust, smoke, cinders, dirt, refuse, water-carried wastes, noise, vibration, illumination, glare, unsightliness, or heavy truck traffic, or to involve any hazard of fire or explosion; and (d) enlarging the potentially developable area by 3,840 square-feet through altering the minimum front yard development standard from 10 feet to 0 feet.

Table Two: Changes in Potential Development Intensity on APNs 003-131-005 & -016

PRESCRIPTIVE STANDARD CATEGORY	CURRENT ML REQUIREMENTS		PROPOSED CS REQUIREMENTS	
	STANDARD	EXISTING	STANDARD	RESULTING
Minimum Lot Size	6,000 sq.ft.	1 –.37-acre parcel 1 – 3.05-acre parcel	6,000 sq.ft.	1 –.37-acre parcel 1 – 3.05-acre parcel
Minimum Lot Width	60 feet	<i>1 – 130-ft.-deep parcel</i> <i>1 – 269-ft.-deep parcel</i>	60 feet	<i>1 – 130-ft.-deep parcel</i> <i>1 – 269-ft.-deep parcel</i>
<i>Minimum Lot Depth</i>	<i>0 feet</i>	<i>1 – 130-ft.-wide parcel</i> <i>1 – 284-ft.-wide parcel</i>	<i>100 feet</i>	<i>1 – 130-ft.-wide parcel</i> <i>1 – 284-ft.-wide parcel</i>
Maximum Land Division Potential	10 potential parcels of ≥6,000 sq. ft lot size, ≥60-ft.-width, and ≥100-ft. depth		10 potential parcels of ≥6,000 sq. ft lot size, ≥60-ft.-width, and ≥100-ft. depth	
<i>Minimum Front Yard Setback</i>	<i>10 feet</i>	<i>3,840 square-feet encumbered</i>	<i>0 feet</i>	<i>0 square-feet encumbered</i>
Minimum Side Yard Setback	0 feet	0 square-feet encumbered	0 feet	0 square-feet encumbered
Minimum Rear Yard Setback	0 feet	0 square-feet encumbered	0 feet	0 square-feet encumbered
Maximum Building Height	35 feet	Site is currently razed of structures	35 feet	TBA
Maximum Lot Coverage	.50 FAR	TBA	.50 FAR	TBA

B. CONFORMANCE WITH LAND USE PLAN AS AMENDED

As the range of principally permitted and conditional uses allowed under the Service Commercial (CS) zoning designation matches the range of allowable uses under the General Service Commercial (GSC) land use designation resulting from the proposed LUP amendment, the Commission finds that proposed IP Amendment No. EUR-MAJ-1-05 conforms with and is adequate to carry out the Land Use Plan, as amended.

Therefore, the Commission finds that the zoning amendment submitted 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.

V. CALIFORNIA ENVIRONMENTAL QUALITY ACT

On June 13, 2005, the City of Eureka Planning Commission adopted Mitigated Negative Declaration No. SCH 2005042107, finding that, with the inclusion of four mitigation measures the proposed changes in plan and zoning designations from light industrial to general commercial categories would have not significant adverse environmental effects. These mitigation measures entail requirements that future development at the site:

- Design and site all exterior parking lot lighting in a manner so as not to allow light or glare to extend beyond the property bounds or impact to joining roadways;
- Stormwater runoff from the site be treated prior to its discharge and that such flows be retained onsite such that no more than one cubic-foot-per-second volume for a ten-year storm event is released, subject to approved maintenance plans for the facilities;
- Future development at the site is limited to the scenario development proposed at the time of the plan and zoning amendment request to the City, namely to facilitate expansion of the then existing retail trailer and boat sales/repair use, and that and new or expanded uses that generate traffic at greater volumes than those reviewed in the traffic study for the scenario development must be reviewed under an updated traffic study for effects on the transportation system, subject to the imposition of new mitigation measures, as may be required to reduce any potential impacts to less than significant levels; and
- Three of the four encroachments onto State Highway 101/Broadway be closed to reduce potential turning movement conflicts with traffic along the arterial street.

Notwithstanding preparation and adoption of this environmental documentation, Section 21080.9 of the California Public Resources Code, within the California Environmental Quality Act (“CEQA”), exempts local governments from the requirement to prepare an analysis of environmental impacts in connection with their activities and approvals necessary for the preparation and adoption of a local coastal program (“LCP”). Instead, the CEQA responsibilities are assigned to the Coastal Commission. The Secretary of Resources, in turn, has determined that

the Commission's program of reviewing and certifying LCPs is functionally equivalent to the EIR process.

However, the Commission does have to satisfy certain CEQA-related requirements in conjunction with its approval of an LCP amendment. Specifically, the Commission must make a finding that there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact that the activity may have on the environment (see 14 C.C.R. §§ 13542(a), 13540(f), and 13555(b)). These provisions of the Commission's regulations and Section 21080.5(d)(2)(A) of CEQA require that the Commission not approve or adopt a LCP, "...if there are feasible alternative or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment."

As discussed in detail above, the proposed amendment of the Land Use Plan Map is consistent with the policies of Chapter 3 of the Coastal Act. Similarly, the proposed IP amendment of the Zoning Map conforms with, and is adequate for carrying out, the policies of the certified Land Use Plan, as amended. There are no alternatives or mitigation measures available that would substantially lessen any significant adverse impact. Therefore, the Commission finds that the LCP amendment is consistent with Section 21080.5(d)(2)(A) of the Public Resources Code.

APPENDIX A:

BACKGROUND INFORMATION COASTAL DEVELOPMENT PERMIT NO. 1-82-46

In 1982, the Commission approved Coastal Development Permit No. 1-82-46 which authorized the filling of approximately 35,000 square feet of remnant “pocket wetlands” on the subject property (see Exhibit No. 7). The project for which the wetlands filling was authorized entailed a land division of a ± 4.3 -acre parcel into two lots of 1.24 and 3.05 acres, and construction of a 14,770-square-foot sheet metal shop and office on the 1.24 acre parcel. The permit had been issued under the auspices of the “Broadway Wetlands Restoration Plan,” a program established initially in 1980 by the Commission and the State Coastal Conservancy, in coordination with the California Department of Fish and Game, to address whether the wetland remnants in the Westside area should be identified for intact preservation, restoration, or filling for specified allowable uses within the City’s LCP being reviewed for certification at that time.

The value of these wetlands, referred to as “pocket marshes,” was determined to be very low, relative to equivalent areas of marshland located within a large, contiguous wetland complex. Water flow to and from the pocket marshes had been impaired by the development of the surrounding land, reducing marsh productivity and also decreasing the ability of the marshes to store and cleanse runoff water. Water entering the marshes was contaminated with oil and other materials from the surrounding industrial development. Due to water pollution and stagnation and the poor connections between these marshes and larger bodies of water, the number and the variety of fish and aquatic invertebrates was determined to be very low, with wildlife use of the marshes effectively nonexistent. This degraded state was due in part to the aquatic productivity of the marshes being too impacted to provide appreciable forage and cover for wildlife, but primarily because of the absence of other habitat nearby and disturbances created by the surrounding industrial activity, birds in particular being easily disturbed by noise and the movement of people and equipment.

The plan concluded that, based on the degraded conditions within the marshes, as well as the development pattern of the area, short of substantive changes to the surroundings, restoration of the marshes to a condition of high habitat value would be infeasible. Such changes, to be successful, would need to include the relocation and removal of existing buildings, roads, the establishment of buffer areas planted with screening vegetation and the development of an entirely new drainage system connecting the pocket marshes to the bay, and with the runoff currently entering the marshes being diverted or treated. While at some sites it might be possible for limited development to occur without harm to the wetland portion of the site, at others, however, any development would require filling of the wetland areas. Although Coastal Act Section 30231 directs that “...the biological productivity and the quality of coastal...wetlands appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored,” it was not clear in the case of the Westside wetlands that it was feasible to maintain and enhance wetland productivity and quality.

At the time, the consensus among biologists working at the State and Regional Commissions, and those contacted at the Coastal Conservancy and at the Department of Fish and Game was that these type of isolated wetlands of less than one acre were too small to function independently as wildlife habitat within a developed industrial area, and furthermore that such

APPENDIX A: CHRONOLOGY OF COMMISSION ACTIONS ON CDP 1-82-46

marshes likely could not be restored to a high level of biological productivity, due to their size, location, and drainage characteristics. According to these biologists, creating equivalent areas of wetland located contiguous to a larger wetland would have far greater biological value than in-place conservation of the pocket marshes.

Thus, reflecting this judgment, the Broadway Wetlands Restoration Plan identified seven potential restoration sites, of which two, the upland areas adjacent to the intertidal marshes at the north end of X Street near the Eureka Slough, and the Bracut Lumber site adjoining Arcata Bay north of the City, would be feasible locations for offsite mitigation. Moreover, the plan indicated that it was appropriate to develop such a restoration measure by permitting development of all of the pocket marshes in the area bounded by Del Norte on the South, Washington Street on the north, Broadway on the east, and the Northwest Pacific Railroad corridor on the west, which encompassed the CDP 1-82-46 project site, as all of the wetlands in this area were similarly impaired by intensive development, and so separated from the bay and from other wetlands as to make onsite restoration infeasible. An in-lieu fee mechanism was subsequently established to assure that the wetlands creation would be implemented.

On, January 4, 1983, the in-lieu fee of \$ 26,250, based on an estimated land acquisition and construction cost of \$.75 per square-foot of constructed replacement wetlands, was forwarded to the Coastal Conservancy from the City Redevelopment Department to reimburse the Conservancy for costs associated with establishing the replacement compensatory wetlands at the Bracut mitigation site for the subdivision/commercial-industrial development.

The basis of the authorization for wetland fill under CDP No. 1-82-46 was effectively extinguished by subsequent adjudication of the intent and scope of Coastal Act sections 30240 and 30233. See *Bolsa Chica Land Trust v. Superior Court of San Diego County* (1999) 71 Cal.App.4th, 493). On June 13, 2000, the Commission rescinded the Section IV.C. of the 1978 Statewide Interpretive Guidelines for Wetlands and Other Environmentally Sensitive Habitat Areas which had identified the filling of small, degraded “pocket” wetlands for uses other than those enumerated in section 30233(a).

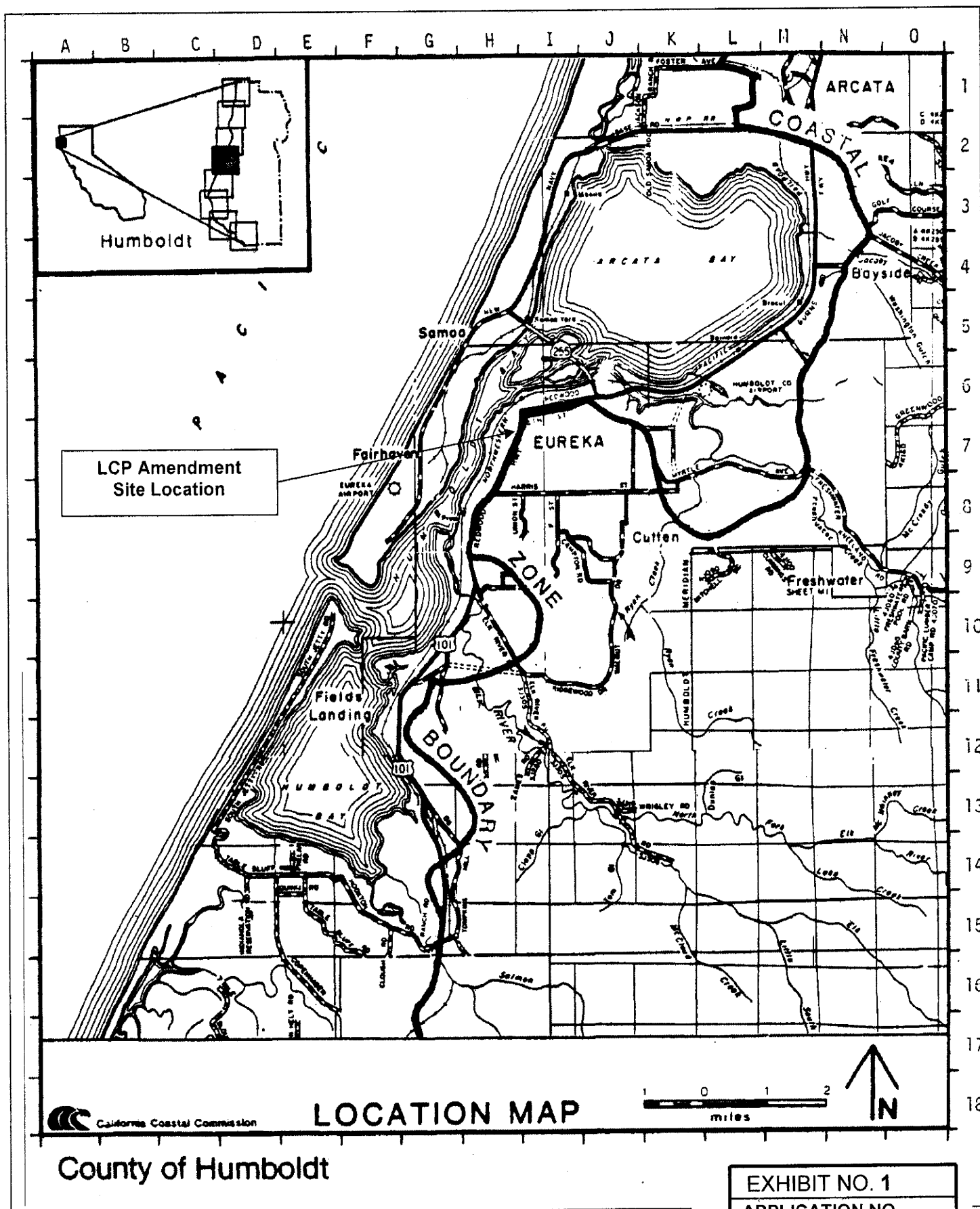


EXHIBIT NO. 2

APPLICATION NO.

EUR-MAJ-1-05

EUREKA LCP AMENDMENT

VINICITY MAP

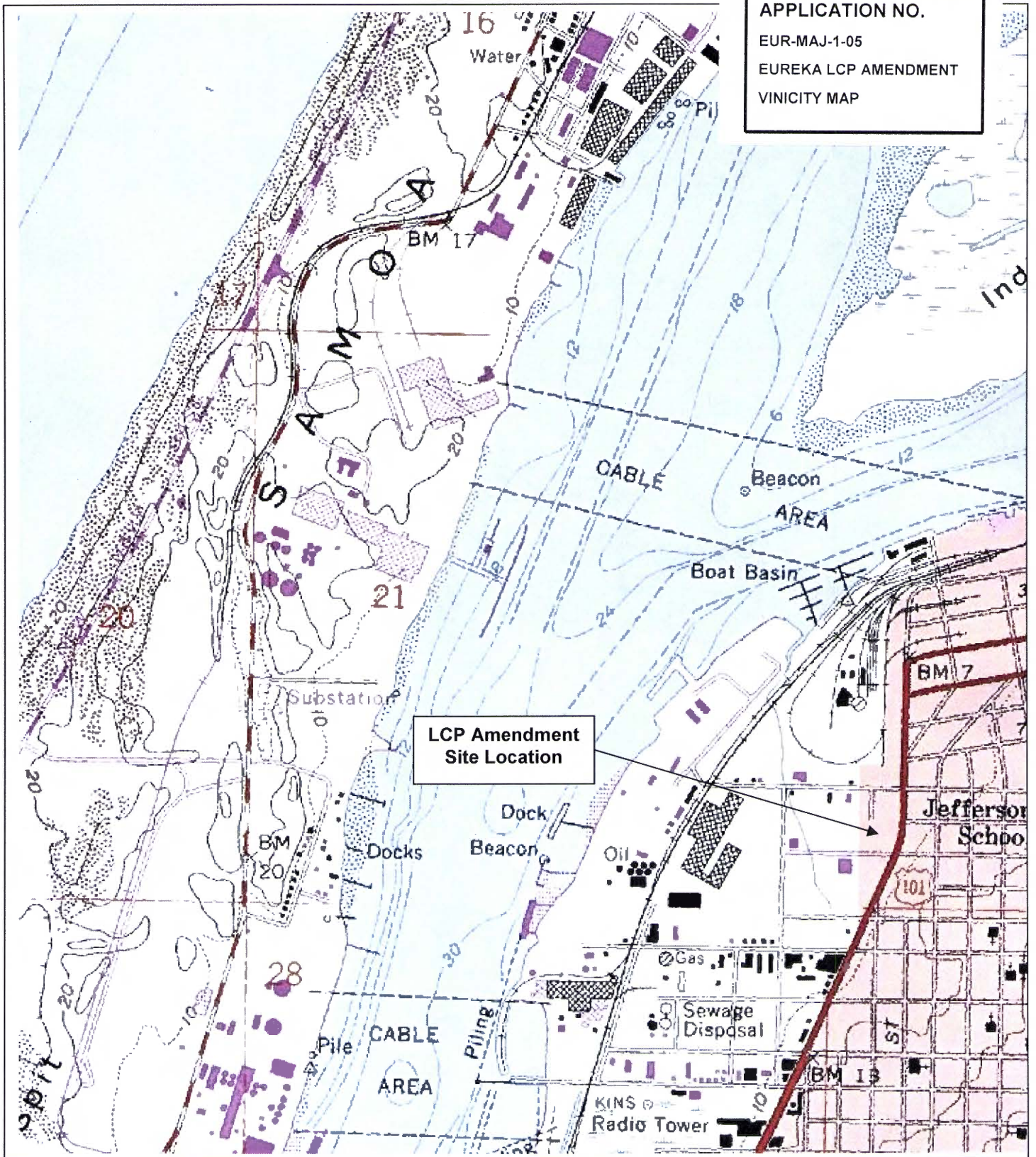


EXHIBIT NO. 3

APPLICATION NO.

EUR-MAJ-1-05

EUREKA LCP AMENDMENT

SITE AERIAL

Railroad St

Short St

Koster St

101

W Del Norte St

W Wabash Ave

W Church St

W 15th

W 14th St

W Cedar

W Simps

W Clark St

W Washington St

Marina Way

Commercial St

W 4th St

LCP Amendment
Site Location

Coastal Zone Boundary



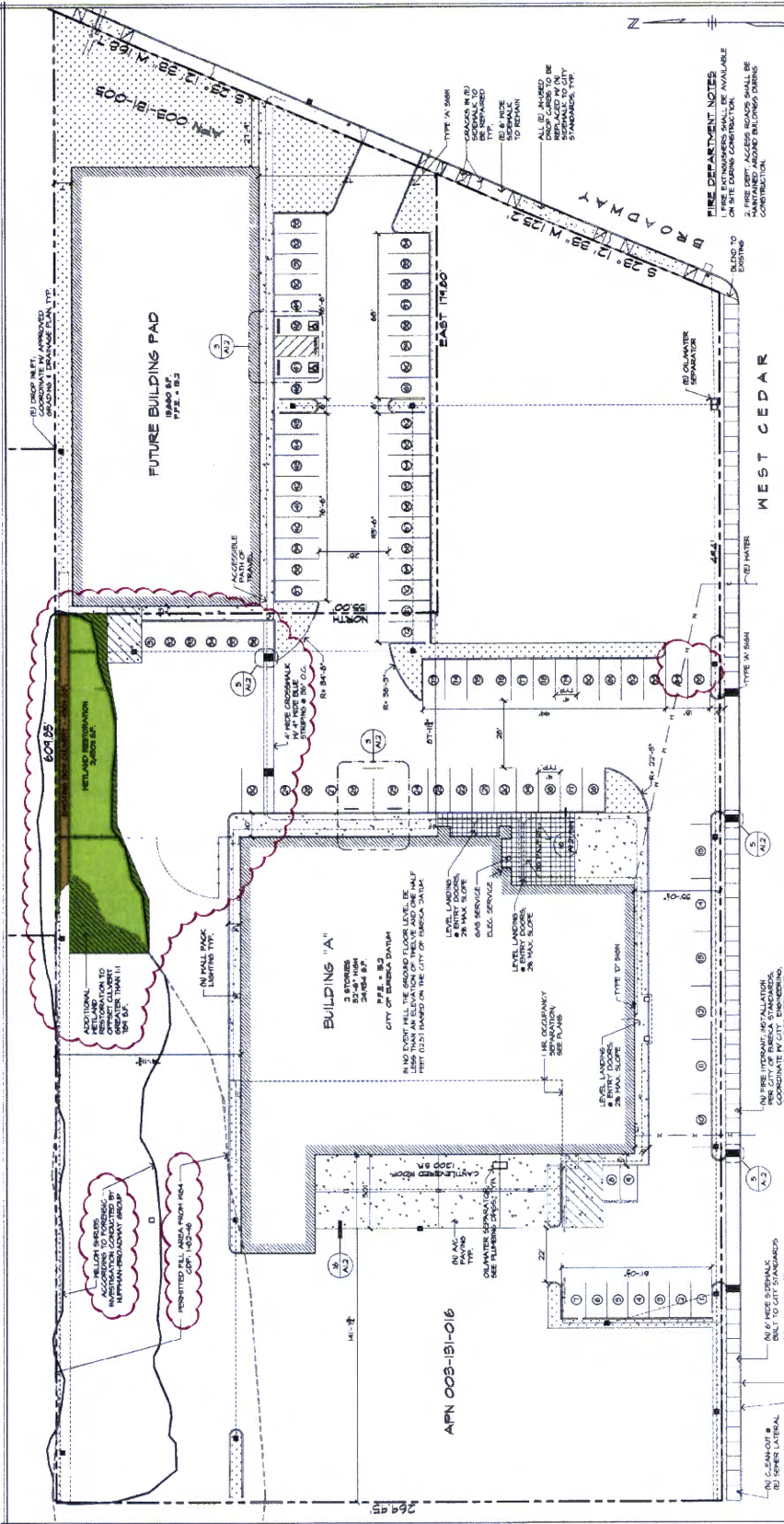
EXHIBIT NO. 4
APPLICATION NO.
EUR-MAJ-1-05
EUREKA LCP AMENDMENT
SCENARIO DEVELOPMENT
SITE MAP

REDWOOD MARINE
1210 & 1240 BROADWAY
EUREKA, CA 95501
APN 003-131-016 & 005

DESIGNED BY:
K.H. MCKENNY
CONSTRUCTION
1000 1/2 STREET
EUREKA, CA 95501



REVISIONS	DATE	BY	DESCRIPTION
1	01/10/05	EH	PRELIMINARY
2	02/03/05	EH	REVISIONS
3	03/03/05	EH	REVISIONS
4	03/03/05	EH	REVISIONS
5	03/03/05	EH	REVISIONS
6	03/03/05	EH	REVISIONS
7	03/03/05	EH	REVISIONS
8	03/03/05	EH	REVISIONS
9	03/03/05	EH	REVISIONS
10	03/03/05	EH	REVISIONS



SITE PLAN

PARKING CALCULATIONS		AREA SEPARATION NOTES		ALLOWABLE AREA CALC		LANDSCAPING CALCULATIONS		BUILDING CALCULATIONS		PROJECT DATA	
BUILDING 'A'	10,000	10,000	10,000	BUILDING 'A' (FULLY SHOWN)	10,000	BUILDING 'A' (FULLY SHOWN)	10,000	BUILDING 'A' (FULLY SHOWN)	10,000	BUILDING 'A' (FULLY SHOWN)	BUILDING 'A' (FULLY SHOWN)
OFFICE	10,000	10,000	10,000	OFFICE	10,000	OFFICE	10,000	OFFICE	10,000	OFFICE	OFFICE
RETAIL (LARGE)	10,000	10,000	10,000	RETAIL (LARGE)	10,000	RETAIL (LARGE)	10,000	RETAIL (LARGE)	10,000	RETAIL (LARGE)	RETAIL (LARGE)
RETAIL (SMALL)	10,000	10,000	10,000	RETAIL (SMALL)	10,000	RETAIL (SMALL)	10,000	RETAIL (SMALL)	10,000	RETAIL (SMALL)	RETAIL (SMALL)
WAREHOUSE	10,000	10,000	10,000	WAREHOUSE	10,000	WAREHOUSE	10,000	WAREHOUSE	10,000	WAREHOUSE	WAREHOUSE
BLDG. 'B' PARKING REQ'D	10,000	10,000	10,000	BLDG. 'B' PARKING REQ'D	10,000	BLDG. 'B' PARKING REQ'D	10,000	BLDG. 'B' PARKING REQ'D	10,000	BLDG. 'B' PARKING REQ'D	BLDG. 'B' PARKING REQ'D
STANDARD	10,000	10,000	10,000	STANDARD	10,000	STANDARD	10,000	STANDARD	10,000	STANDARD	STANDARD
MINIMUM	10,000	10,000	10,000	MINIMUM	10,000	MINIMUM	10,000	MINIMUM	10,000	MINIMUM	MINIMUM
MAXIMUM	10,000	10,000	10,000	MAXIMUM	10,000	MAXIMUM	10,000	MAXIMUM	10,000	MAXIMUM	MAXIMUM
TOTAL	10,000	10,000	10,000	TOTAL	10,000	TOTAL	10,000	TOTAL	10,000	TOTAL	TOTAL

1. ANY EXISTING UNSEEN DRAIN PIPES SHALL BE EXPOSED AND REPAIRED OR REPLACED. ALL NEW DRAIN PIPES SHALL BE 18" DIA. UNLESS OTHERWISE NOTED. ALL NEW DRAIN PIPES SHALL BE 18" DIA. UNLESS OTHERWISE NOTED. ALL NEW DRAIN PIPES SHALL BE 18" DIA. UNLESS OTHERWISE NOTED.

EXHIBIT NO. 5

APPLICATION NO.

EUR-MAJ-1-05

EUREKA LCP AMENDMENT

EXCERPTS, CERTIFIED LAND

USE PLAN & COASTAL

ZONING REGULATIONS (1 of 10)

Existing Certified Land Use and Zoning Designations	Proposed Amended Land Use and Zoning Designations
City of Eureka	General Plan
<p>Description: Light Industrial (LI) The LI designation provides for lower-intensity industrial development that has minimal effects on nearby commercial and residential uses. These uses include light manufacturing, warehouses, industrial parks, existing offices, and research and development operations. The maximum FAR for buildings in areas designated LI is 0.50.</p>	<p>Description: General Service Commercial (GSC) The GSC designation provides for land-extensive retail uses, warehouses, and wholesale commercial uses. The maximum FAR for buildings in areas designated GSC is 0.50.</p>
<p>Purpose: To provide sites for industries that can operate in close proximity to commercial uses with minimum adverse impact.</p>	<p>Purpose: To provide appropriately located areas for retail and wholesale commercial establishments that offer commodities and services required by residents of the city and its surrounding market area.</p>
<p>Principal Uses: Light manufacturing processing plants, machine shops, storage yards, trucking terminals, automobile servicing and repair, warehousing, wholesaling, and existing offices.</p>	<p>Principal Uses: Retail stores, service establishments, amusement establishments, wholesale businesses, restaurants and soda fountains (not including drive-in establishments) and offices.</p>
<p>Conditional Uses: Professional and business offices, retail sales, oil and gas pipelines.</p>	<p>Conditional Uses: Drive-in theaters, drive-in restaurants, mobilehome and trailer parks.</p>
City of Eureka General Plan Appendix B – Table B-1: GENERAL PLAN-1984 LCP LAND USE DESIGNATION CORRESPONDENCE	General Service Commercial (GSC) ↔ Service Commercial (CS)
Light Industrial (LI) ↔ Limited Industrial (ML)	General Service Commercial (GSC) ↔ Service Commercial (CS)
Zoning Regulations of the City for the Coastal Zone	Part 13 CS – SERVICE COMMERCIAL DISTRICT.
<p>Part 16 ML – LIMITED INDUSTRIAL DISTRICTS.</p> <p>Sec. 10-5.29160. Purposes. In addition to the objectives set forth in Section 10-5.2902 of Article 1 of this chapter (Objectives), the ML Limited Industrial Districts are included in the zoning regulations to achieve the following purposes:</p> <ul style="list-style-type: none"> (a) To reserve appropriately located areas for industrial plants and related activities; (b) To protect areas appropriate for industrial uses from intrusion by dwellings and other inharmonious uses; (c) 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; (d) To provide opportunities for certain types of industrial plants to concentrate in mutually beneficial relationship with each other; (e) To provide adequate space to meet the needs of modern industrial developments, including off-street parking and truck loading areas and landscaping; (f) 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; 	<p>Sec. 10-5.29130. Purposes. In addition to the objectives set forth in Section 10-5.102 of Article 1 of this chapter (Objectives), the CS Service Commercial Districts are included in the zoning regulations to achieve the following purposes:</p> <ul style="list-style-type: none"> (a) To provide appropriately located areas for retail stores, offices, service establishments, amusement establishments, and wholesale businesses offering commodities and services required by residents of the city and its surrounding market area; (b) To provide opportunities for retail stores, offices, service establishments, amusement establishments, and wholesale businesses to concentrate for the convenience of the public and in a mutually beneficial relationship to each other; (c) To provide space for community facilities and institutions that appropriately may be located in commercial areas; (d) To provide adequate space to meet the needs of modern commercial development, including off-street parking and truck loading areas; (e) 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; (f) To protect commercial properties from fire, explosion, noxious fumes, and other hazards;

- (g) 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;
- (h) To provide locations for industries that can operate in close proximity to commercial and residential uses with minimum mutual adverse impacts; and,
- (i) To protect light industrial and related uses from nuisances associated with heavy industrial uses.

Sec. 10-5.29161. Required conditions.

- (a) All uses shall comply with the regulations prescribed in Article 2 of this chapter (Site, Yard, Bulk, Usable Open Space, and Screening and Landscaping Regulations).
- (b) All uses shall comply with the policies established by the Land Use Plan;

- (c) 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;
- (d) 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;

- (e) In an ML District, no use shall emit visible gray smoke of a shade equal to or darker than No. 2 on a standard Ringlemann Chart issued by the United States Bureau of Mines or smoke of an 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 (4) minutes in any 30-minute period;
- (f) 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:

Octave Band (Cycles per Second)	Maximum Permitted Sound Pressure Level (Decibels)
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

- (g) 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 (4) volumes of

- (g) To provide appropriately located areas for commercial uses having features that are incompatible with the purposes of the other commercial districts;
- (h) To permit additional development in mixed commercial areas containing both retail stores and commercial services; and
- (i) To allow a wider choice of location for certain industrial uses that do not have an adverse impact on commercial services.

Sec. 10-5.29131. Required conditions.

- (a) All uses shall comply with the regulations prescribed in Article 2 of this chapter (Site, Yard, Bulk, Usable Open Space, and Screening and Landscaping Regulations).
- (b) All uses shall comply with the policies established by the Land Use Plan;

- (c) No use shall be permitted, and no process, equipment, or material shall be employed which is found by the Planning Commission to be objectionable to persons residing or working in the vicinity or injurious to property located in the vicinity by reason of odor, insect, nuisance, fumes, dust, smoke, cinders, dirt, refuse, water-carried wastes, noise, vibration, illumination, glare, unsightliness, or heavy truck traffic, or to involve any hazard of fire or explosion.

<p>clean air;</p> <p>(h) 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;</p> <p>(i) No use shall be permitted which emits dangerous radio-activity;</p> <p>(j) No use shall be permitted which creates insect nuisance beyond the boundaries of the site.</p>	
<p>Sec. 10-5.29162. Permitted uses.</p> <p>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);</p> <p>Manufacturing, assembling, compounding, packaging, and processing cosmetics, drugs, pharmaceuticals, perfumes, perfumed toilet soap (not including refining or rendering of fats or oils), and toiletries;</p> <p>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;</p> <p>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;</p> <p>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;</p> <p>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;</p> <p>Assembly of electrical equipment, such as radio and television receivers, phonographs, and home motion picture equipment, but not including electrical machinery;</p> <p>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;</p> <p>Manufacture of cutlery, hardware, and hand tools, die and pattern</p>	<p>10-5.29132. Permitted uses.</p> <p>The following uses shall be permitted:</p> <p>Accessory uses and structures located on the same site as a permitted use;</p> <p>Accessory uses and structures located on the same site as conditional use;</p> <p>Addressograph services;</p> <p>Administrative, business, and professional offices, except medical and dental offices;</p> <p>Art and artists' supply stores;</p> <p>Art galleries and stores selling objects of art;</p> <p>Arts and crafts schools and colleges;</p> <p>Auction rooms;</p> <p>Auction establishments, including outdoor displays;</p> <p>Ambulance services;</p> <p>Art and artists' supply stores;</p> <p>Art galleries and stores selling objects of art;</p> <p>Arts and crafts schools and colleges;</p> <p>Auction rooms;</p> <p>Auction establishments, including outdoor displays;</p> <p>Automobile rental agencies;</p> <p>Automobile repairing, overhauling, rebuilding, and painting;</p> <p>Automobile (new car) sales and services, including used car sales incidental to new car sales;</p> <p>Automobile (used car) sales;</p> <p>Automobile supply stores;</p> <p>Automobile upholstery and top shops;</p> <p>Automobile washing, including the use of mechanical conveyors, blowers, and steam cleaners;</p> <p>Bail bonds;</p> <p>Bakeries;</p> <p>Bakeries, including baking for sale on the premises only;</p> <p>Banks;</p> <p>Banquet rooms;</p>

<p>making, metal stamping, and extrusion of small products, such as costume jewelry, pins and needles, razor blades, bottle caps, buttons, and kitchen utensils;</p> <p>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;</p> <p>Processing, packing, and canning of seafood for human consumption, not including processing seafood for fish oils;</p> <p>Bakeries;</p> <p>Blacksmith shops;</p> <p>Boat buildings;</p> <p>Bottling works;</p> <p>Building material storage yards;</p> <p>Bus depots;</p> <p>Cold storage plants;</p> <p>Contractors' equipment yards;</p> <p>Dairy products plants;</p> <p>Freight forwarding terminals;</p> <p>Furniture manufacture;</p> <p>Ice manufacture;</p> <p>Janitorial services and supplies;</p> <p>Kennels;</p> <p>Laboratories;</p> <p>Laundry and cleaning plants;</p> <p>Lumber yards, not including planing mills or saw mills;</p> <p>Machine shops not involving the use of drop hammers, automatic screw machines, or punch presses with a rated capacity of over twenty (20) tons;</p> <p>Mattress manufacture;</p> <p>Metal finishing and plating;</p> <p>Offices, not including medical or dental offices;</p> <p>Printing, lithographing, and engraving;</p> <p>Public utility and public service pumping stations, equipment buildings and installations, service yards, power stations, drainage ways and structures, storage tanks, and transmission lines;</p> <p>Railroad stations;</p> <p>Repair shops, including electrical, glass and automotive;</p> <p>Sheet metal shops;</p> <p>Storage yards for commercial vehicles;</p> <p>Textile, knitting and hosiery mills;</p> <p>Trucking terminals;</p> <p>Veterinarians' offices and small animal hospitals;</p> <p>Warehouses, except for the storage of fuel or flammable liquids;</p>	<p>Barber shops and beauty shops;</p> <p>Bars;</p> <p>Beverage distributors;</p> <p>Bicycle shops;</p> <p>Blacksmith shops not less than three hundred (300') feet from an R or OR District;</p> <p>Blueprint and photostat shops;</p> <p>Boat sales, services, and repairs;</p> <p>Book stores and rental libraries;</p> <p>Bookbinding;</p> <p>Bottling works;</p> <p>Bowling alleys;</p> <p>Building materials' yards and other than gravel, rock, or cement yards not less than three hundred (300') feet from an R or OR District;</p> <p>Bus depots, provided buses shall not be stored on the site and no repair work or servicing of vehicles shall be conducted on the site;</p> <p>Business, professional, and trade schools and colleges;</p> <p>Cabinet shops;</p> <p>Candy shops;</p> <p>Carpenter shops;</p> <p>Carpet and rug cleaning and dyeing;</p> <p>Catering establishments;</p> <p>Christmas tree sales lots;</p> <p>Cigar stores;</p> <p>Cleaning and dyeing;</p> <p>Cleaning and dyeing, including the use of one synthetic dry cleaning machine using nonexplosive solvents and having a capacity of not more than forty (40) pounds per cycle only;</p> <p>Cleaning, coin-operated;</p> <p>Clothing and costume rental establishments;</p> <p>Clothing stores;</p> <p>Cold storage plants;</p> <p>Columbariums and crematories not less than three hundred (300') feet from an R or OR District;</p> <p>Contractors' equipment rental or storage yards not less than three hundred (300') feet from an R or OR District;</p> <p>Dairy products plants;</p> <p>Dairy products manufacturing for retail sales on the premises only;</p> <p>Dance halls;</p> <p>Delicatessen stores;</p> <p>Department stores;</p> <p>Diaper supply services;</p> <p>Drugstores;</p> <p>Dry goods stores;</p>
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Welding shops;
 Woodworking shops and cabinet shops;
 Pickup truck camper and canopy assembly;
 Retail sales establishments with single occupant floor areas of forty thousand (40,000) square feet or larger;
 Wholesale stores with single occupant floor areas of forty thousand (40,000) square feet or larger and public utility building, and uses;
 Parking lots;
 Accessory structures and uses located on the same site as a permitted use.

Diaper supply services;
 Drugstores;
 Dry goods stores;
 Electrical appliance sales and repair stores, provided repair services shall be incidental to retail stores;
 Electrical repair shops;
 Employment agencies;
 Feed and fuel stores;
 Finance companies;
 Florists;
 Food lockers;
 Food stores and supermarkets;
 Freight forwarding terminals;
 Frozen food distributors;
 Fur shops;
 Furniture stores;
 Garden shops;
 Gift shops;
 Glass replacement and repair shops;
 Golf driving ranges;
 Gunsmiths;
 Gymnasiums;
 Hardware stores;
 Heating and ventilating shops;
 Hobby shops;
 Hospital equipment;
 Hotels and motels;
 Household appliance stores;
 Household repair shops;
 Ice storage houses;
 Ice vending stations;
 Interior decorating shops;
 Janitorial services and supplies;
 Jewelry stores;
 Laboratories;
 Laundry plants;
 Laundries, self-service type;
 Leather goods and luggage stores;
 Linen supply services;
 Liquor stores;
 Live storage, killing, or dressing of poultry or rabbits for retail sale on premises not less than three hundred (300') feet from an R or OR District;
 Locksmiths;

Lumberyards, not including planing mills or saw mills, not less than three hundred (300') feet from an R or OR District;
 Machinery sales and rentals;
 Massage and physical culture studios;
 Mattress repair shops;
 Marine sales, services, and repairs;
 Medical and orthopedic appliance stores;
 Meeting halls;
 Mens' furnishing stores;
 Millinery shops;
 Motorcycle sales and services;
 Mortuaries;
 Motels and hotels;
 Music and dance studios;
 Music stores;
 Musical instrument repair shops;
 Newsstands;
 Nurseries and garden supply stores;
 Nurseries and garden supply stores provided all equipment, supplies, and merchandise other than plants shall be kept within a completely enclosed building, and fertilizer of any type shall be stored and sold in packaged form only;
 Office and business machine stores;
 Offices and office buildings;
 Optician and optometrical shops;
 Packing and crating;
 Paint, glass, and wallpaper shops;
 Parcel delivery services, including garage facilities for trucks but excluding repair shop facilities and repair shop facilities;
 Parking facilities, including fee parking facilities improved in conformity with the standards prescribed for required off-street parking facilities in Section 10-5.1504 of Article 15 of this chapter;
 Passenger railroad stations;
 Pet and bird stores;
 Phonograph record stores;
 Photographic supply stores and studios;
 Pickup truck camper, and canopy assembly, sales, and service;
 Picture framing shops;
 Plumbing, heating, and ventilating equipment showrooms with storage for floor samples only;
 Plumbing shops;
 Pool halls;
 Post offices;
 Prescription pharmacies and dental and optical laboratories;

Pressing establishments;
 Printing, including lithographing and engraving;
 Printing shops;
 Private clubs and lodges;
 Public utility and public service pumping stations, power stations, equipment buildings and installations, drainage ways and structures, storage tanks, and transmission lines;
 Radio and television broadcasting studios;
 Realtors and real estate offices;
 Refrigeration equipment;
 Rental and tools, garden tools, power tools, trailers, and other similar equipment;
 Residential uses permitted under permitted uses in RM Districts shall be permitted in a CS District provided the minimum size of such dwelling units shall be not less than as set forth in the Building Code and Housing Code of the city;
 Riding Stables;
 Saving and loan offices;
 Safe and vault repairing;
 Scientific instrument, shops;
 Secondhand stores and pawn shops;
 Self-service laundries and self-service dry cleaning establishments;
 Septic tank and cesspool installation and service;
 Service stations, including automobile, truck, and trailer rentals as accessory uses only;
 Sheet metal shops;
 Shoe repair shops;
 Shoe stores;
 Shooting galleries within buildings;
 Sign painting shops;
 Skating rinks;
 Skating rinks within buildings;
 Small animal boarding not less than three hundred (300') feet from an R or OR District;
 Sporting goods stores;
 Sports arenas within buildings;
 Stamp and coin stores;
 Stationery stores;
 Stenographic services;
 Stone and monument yards not less than three hundred (300') feet from an R or OR District;
 Storage buildings for household goods;
 Storage yards for commercial vehicles;
 Swimming pool sales and services;

<p>Tailor and dressmaking shops; Taxidermist; Taxicab stands; Telegraph offices; Television and radio sales and repair stores; Theaters and auditoriums within buildings; Ticket agencies; Tire sales and service, not including retreading and recapping, or mounting of heavy truck tires; Tire sales and service, including retreading and recapping; Tool and cutlery sharpening or grinding; Toy stores; Travel agencies and bureaus; Travelers' aid societies; Truck and trailer rentals, sales and services; Truck sales; Trucking terminals not less than one hundred fifty (150') feet from an R or OR District; Umbrella repair shops; Variety stores; Vending machine services; Veterinarians' offices and small animal hospitals, including short-term boarding of animals and incidental care, such as bathing and trimming, provided all operations are conducted entirely within a completely enclosed building which complies with the specifications of soundproof construction by the Building Inspector; Warehouses except for the storage of fuel or flammable liquids; Watch and clock repair shops; Welding shops not less than three hundred (300') feet from an R or OR District; Wholesale establishments; and Women's apparel accessory stores.</p>	
<p>Sec. 10-5.29133. Conditional uses. The following conditional uses shall be permitted upon the granting of a use permit in accord with the provisions of Article 24 of this chapter (Conditional Uses): Accessory uses and structure located on the same site as a conditional use; Amusement parks; Automobile and motorcycle racing stadiums and drag strips; Charitable institutions; Churches, parsonages, parish houses and other religious institutions; Circuses, carnivals, and other transient amusement enterprises; Drive-in theaters;</p>	<p>Sec 10-5.29163. Conditional uses. The following conditional uses shall be permitted upon the granting of a use permit in accord with the provisions of Article 24 of this chapter (Conditional Uses): Accessory structures and uses located on the same site as a conditional use; Motor vehicle wrecking yards and scrap metal yards; Oil and gas pipelines; Recreational vehicle parks in accordance with the regulations prescribed in Article 21 of this chapter (Manufactured Homes, Mobilehomes, Commercial Coaches, Mobilehome Parks and Recreational Vehicle Parks).</p>

<p>Storage of fuel and flammable liquids; Storage of logs or wood chips; and Gymnastics schools and health clubs. 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:</p> <p>(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;</p> <p>(b) That the use will conform with each of the principles and standards prescribed for uses in the ML District;</p> <p>(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.</p>	<p>Kennels not less than three hundred (300') feet from an R or OR District; Light industrial uses permitted in the ML Limited Industrial District; Mobile home parks in accordance with the regulations prescribed in Article 21 of this chapter (Manufactured Homes, Mobilehomes, Commercial Coaches, Mobilehome Parks and Recreational Vehicle Parks); Oil and gas pipelines; Pony riding rings; Prefabricated structures sales; Racetracks; Recreational vehicle parks in accordance with the regulations prescribed in Article 21 of this chapter (Manufactured Homes, Mobilehomes, Commercial Coaches, Mobilehome Parks and Recreational Vehicle Parks); Restaurants and soda fountains, including drive-in establishments; Riding stables; Sports areas or stadium; Storage yards for fuel or flammable liquids; and Veterinarians' offices and small animal hospitals, including operations not conducted within a completely enclosed building, not less than three hundred (300') feet from an R or OD District.</p>
<p>Sec. 10-5.29164. Off-street parking. Off-street parking facilities shall be provided for each use as prescribed in Article 15 of this chapter (Off-Street Parking Facilities).</p>	<p>Sec. 10-5.29134. Off-street parking. Off-street parking facilities shall be provided for each use as prescribed in Article 15 of this chapter (Off-Street Parking Facilities).</p>
<p>Sec. 10-5.29165. Off-street loading. Off-street loading facilities shall be provided for each use as prescribed in Article 16 of this chapter (Off-Street Loading Facilities).</p>	<p>Sec. 10-5.29135. Off-street loading. Off-street loading facilities shall be provided for each use as prescribed in Article 16 of this chapter (Off-Street Loading Facilities).</p>
<p>Sec. 10-5.29166. Signs. No sign, outdoor advertising structure, or display of any character shall be permitted except as prescribed in Article 17 of this chapter (Signs).</p>	<p>Sec. 10-5.29136. Signs. No sign, outdoor advertising structure, or display of any character shall be permitted except as prescribed in Article 17 of this chapter (Signs).</p>
<p>Sec. 10-5.29167. Site Plan and architectural review. All permitted uses shall be subject to site plan review as set forth in Article 18 of this chapter (Site Plan Review and Architectural Review). All conditional uses shall be subject to architectural review.</p>	<p>Sec. 10-5.29137. Site Plan and architectural review. All permitted uses shall be subject to site plan review as set forth in Article 18 of this chapter (Site Plan Review and Architectural Review). All conditional uses shall be subject to architectural review.</p>