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DATE: November 28, 2017

TO: Commissioners and Interested Parties

FROM: Alison Dettmer, Deputy Director
Robert S. Merrill, North Coast District Manager
Cristin Kenyon, Supervising Analyst

SUBJECT: **City of Eureka LCP Amendment No. LCP-1-EUR-17-0063-2 (Cannabis)** For the Commission meeting of December 13, 2017 in Dana Point

SUMMARY OF STAFF RECOMMENDATION

Commission staff recommends that the Commission **approve** the proposed City of Eureka LCP Amendment No. LCP-1-EUR-17-0063-2 as submitted. No modifications are necessary because the proposed amendment to the Implementation Plan (IP), as submitted, conforms with and is adequate to carry out the provisions of the certified Land Use Plan (LUP). The motions to accomplish this recommendation are found on [Page 4](#) of this staff report.

LCP Amendment No. LCP-1-EUR-17-0063-2 would amend the City's certified IP to add regulations specific to commercial and recreational cannabis activities. More specifically, the proposed amendment would add a new Article 30 (Cannabis) to establish standards for cannabis cultivation and processing for personal use, as well as regulations and licensing requirements for commercial cannabis manufacturing, testing, research and development, distribution, retail, indoor cultivation, and microbusiness facilities. The amendment would also amend Article 29 of the certified IP (Coastal Development Permit Procedures) to add these commercial cannabis facility use types as either permitted or conditional uses in a variety of zoning districts, including the Office and Multi-Family Residential (OR), Waterfront Commercial (CW), Neighborhood Commercial (CN), Service Commercial (CS), Limited Industrial (ML) and General Industrial (MG) Districts. Under the proposed amendment, commercial cannabis activities would only be allowed at commercial cannabis facilities and would not be covered by other more generic use types listed in the City's certified IP.

The proposed amendment would introduce cannabis uses of a type, character, and intensity similar to existing allowable uses in applicable zoning districts, consistent with the purpose and intent of the corresponding land use designations. The proposed amendment would also maintain consistency with and carry out the coastal resource protection policies of the certified LUP as the proposed amendment would not affect existing coastal development permitting requirements, development standards, and coastal resource protections in the certified IP, and would add cannabis-specific development standards to ensure potential impacts engendered by this unique

land use will be appropriately addressed and mitigated. The proposed amendment would also maintain consistency with and carry out the priority use provisions of the certified LUP by only permitting commercial cannabis facilities in general commercial and industrial zoning districts and above the ground floor of the City's visitor-serving Waterfront Commercial District, thereby ensuring that cannabis facilities will not be located on either ground floor areas of the CW District reserved for visitor serving uses or on lands reserved for natural resources, agriculture, coastal-dependent industry, commercial fishing, and recreational boating.

Therefore, staff recommends that the Commission **approve** LCP-1-EUR-17-0063-2 **as submitted**.

DEADLINE FOR COMMISSION ACTION

The City submitted LCP-1-EUR-17-0063-2 to the Commission on October 27, 2017. The amendment proposal was deemed complete on November 6, 2017. The deadline for Commission action on the proposed IP amendment application is January 5, 2018.

ADDITIONAL INFORMATION

For further information, please contact Cristin Kenyon at the Commission's North Coast District Office in Arcata at (707) 826-8950. The proposed amendment to Eureka's Implementation Plan is available for review at the Arcata Office upon request.

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EXHIBITS

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[Exhibit 2 – City of Eureka’s Coastal Zone](#)

[Exhibit 3 – Zoning Map of Eureka](#)

[Exhibit 4 – Resolution of Transmittal of IP Amendment](#)

[Exhibit 5 – Ordinances of Adoption of IP Amendment](#)

[Exhibit 6 – Excerpts from Article 29 with Changes from Proposed Amendment](#)

I. MOTION, RECOMMENDATION, & RESOLUTION

A. APPROVAL OF IMPLEMENTATION PLAN AMENDMENT AS SUBMITTED

Motion:

I move that the Commission reject Implementation Plan Amendment No. 1-LCP-EUR-17-0063-2 as submitted by the City of Eureka.

Staff recommends a **NO** vote on the foregoing motion. Failure of this motion will result in certification of the Implementation Plan Amendment No. LCP-1-EUR-17-0063-2 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 to certify the implementation plan amendment as submitted:

The Commission hereby certifies the City of Eureka Implementation Plan Amendment LCP-1-EUR-17-0063-2 as submitted and adopts the findings set forth below on grounds that the Implementation Plan amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan 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 Plan amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

II. PROCEDURAL ISSUES

A. STANDARD OF REVIEW

The Coastal Act provides:

The local government shall submit to the Commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions that are required pursuant to this chapter...

...The Commission may only reject ordinances, zoning district maps, or other implementing action on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the Commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection, specifying the provisions of the land use plan with which the rejected zoning ordinances do not conform, or which it finds will not be adequately carried out, together with its reasons for the action taken. (Section 30513)

The Commission may suggest modifications... (Section 30513)

The standard of review for the proposed amendment to the Implementation Plan (Zoning Ordinance) of the City of Eureka certified Local Coastal Program (LCP), pursuant to Section 30513 and 30514 (regarding amendments) of the Coastal Act, is whether the implementation plan (IP) as amended would be in conformance with, and adequate to carry out, the provisions of the certified land use plan (LUP).

B. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in preparation, approval, certification and amendment of any LCP. Eureka’s Planning Commission held public hearings on the proposed amendment on September 11 and 27, 2017. The City Council held a public hearing on the proposed amendment on October 3, 2017, and adopted the ordinance on the amendment on October 17, 2017. All 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

Pursuant to Section 13551(b) of Title 14 of the California Code of Regulations, the City resolution for submittal may specify that a LCP Amendment will either require formal local government adoption after the Commission approval, or that it is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30519. In this case, the City’s resolution of transmittal of the LCP amendment to the Commission for certification (Resolution No. 2017-62) states that it will take effect immediately. Therefore, if the Commission certifies the LCP amendment as submitted, no further City Council action will be necessary. Should the Commission certify the LCP amendment subject to suggested modifications that change the nature of the amendment, final approval by the Eureka City Council and a determination by the Executive Director of compliance with Section 13544 of the Commission’s regulations will be required in order for the amendment to take effect. Should the Commission deny the LCP Amendment as submitted without suggested modifications, no further action is required by either the Commission or the City, and the proposed LCP amendment will not become effective.

III. FINDINGS FOR APPROVAL OF THE IMPLEMENTATION PLAN AMENDMENT AS SUBMITTED

The following findings support the Commission’s approval of the proposed Implementation Plan Amendment as submitted. The Commission hereby finds and declares as follows:

A. AMENDMENT DESCRIPTION

LCP Amendment Application No. LCP-1-EUR-17-0063-2 would amend the IP portion of the City of Eureka’s certified LCP to establish regulations for cannabis indoor cultivation, manufacturing, testing, research and development, distribution, retail, and microbusiness facilities; and to allow these uses in certain zoning districts. As discussed further below, the amendment would add a new Article 30 to Title 10, Chapter 5 of Eureka’s Coastal Zoning Code entitled “Cannabis” that includes regulations for cultivation and processing for personal use, as well as regulations and

licensing requirements for commercial cannabis facilities (See Exhibit 5, starting on pg. 13). As also discussed in more detail below, the amendment would amend Article 29 (Coastal Development Permit Procedures) of Title 10, Chapter 5 of Eureka's Coastal Zoning Code to add twelve commercial cannabis use types as either permitted or conditional uses in a variety of zoning districts (See Exhibit 6).

The twelve types of commercial cannabis facilities to be allowed in the City include: retail facilities; testing facilities; distribution facilities with cannabis on site; distribution facilities with no cannabis on site (transportation only); two indoor cultivation facility types (not more than 10,000 square feet of cultivation area, and not more than 5,000 square feet); and four manufacturing facility types (non-volatile, more than 5,000 square feet of floor area; non-volatile, 5,000 square feet or less; volatile, large; and volatile, small). In addition, the City is adding cannabis "microbusiness" and "research and development" use types which allow for combinations of other facility types.

A cannabis microbusiness facility is defined in proposed Article 30 as a facility where one licensee may conduct two or more of the following cannabis activities: distribution, non-volatile manufacturing, retail sales, and indoor cultivation. Pursuant to the proposed regulations, a cannabis microbusiness facility would only be allowed in zoning districts where all proposed underlying facility types are allowed. Manufacturing and cultivation areas may not exceed the maximum allowed in the zoning district. For example, a microbusiness for distribution and retail would be allowed in any zoning district in which both distribution and retail facilities are allowed.

A cannabis research and development facility is defined in proposed Article 30 as including systematic activities intended to create new products, processes, or patents; scientific assessment of the safety and efficacy of cannabis and cannabis compounds for research and product development purposes; and/or work directed toward the innovation, introduction and improvement of production, processes, and/or products. Cultivation and manufacturing, including the use of volatile solvents, would be allowed for the purpose of conducting the research and development, as long as the corresponding type of cultivation and/or manufacturing facilities are allowed in the subject zoning district and the research and development facility adheres to the same size limitations prescribed for the corresponding type of facility.

1. Amendments to Article 29

Under the proposed amendment, Article 29 of the certified IP would be amended to allow commercial cannabis use types as either permitted or conditional uses in the Office and Multi-Family Residential (OR), Waterfront Commercial (CW), Neighborhood Commercial (CN), Service Commercial (CS), Limited Industrial (ML) and General Industrial (MG) Districts. Of the conditional uses added, some would require a regular use permit "C," while others would require a minor use permit ("MC"). Table 1 indicates which new cannabis-related uses would be added to the different coastal zoning districts, and specifies whether the new uses would be principally permitted or would require a use permit or minor use permit.

Cannabis microbusiness and research and development facilities are principally permitted, except when located in a zone where one or more of the underlying facility types are conditionally permitted. If one or more of the underlying facility types are conditionally

permitted, the research and development facility or microbusiness would require a use permit (if any of the underlying uses require a use permit) or a minor use permit.

Generally, the City has added cannabis uses to zoning districts where a generic version of those uses or similar uses are already allowed. The three new use types proposed in the CW District would only be allowed above the ground floor of commercial structures.

Table 1. Proposed Cannabis Facility Types by District

(P = permitted use; C = conditional use requiring a use permit; and MC = conditional use requiring a minor use permit)

Type of Facility	Coastal Zoning District					
	CN Neighborhood Commercial	CS Service Commercial	CW Commercial Waterfront	MG General Industrial	ML Limited Industrial	OR Office & Multi-Family Residential
Cultivation, indoor, not more than 10,000 square feet of cultivation area				MC	MC	
Cultivation, indoor, not more than 5,000 square feet of cultivation area		C		P	P	
Distribution, cannabis on site, with or without transportation		P		P	P	
Distribution, transportation only, no cannabis on-site	MC	P	MC ^o	P	P	P
Manufacturing, non-volatile, more than 5,000 square feet of floor area		C		P	P	
Manufacturing, non-volatile, 5,000 square feet or less of floor area		MC		P	P	
Manufacturing, volatile, large				C		
Manufacturing, volatile, small				C	C	
Microbusiness ^x	X	X		X	X	
Retail	C	C		C	C	
Research and Development ^x		X	X [†]	X	X	
Testing, where no commercial cultivation, processing, manufacturing, wholesale, retail or distribution of cannabis occurs		P	C*	P	P	C

^o Cannabis distribution facilities that only transport cannabis, and where no cannabis is located on site shall only be allowed above the ground floor of structures in the Waterfront Commercial (CW) Zoning District.

^x The microbusiness and research and development facility types may encompass other facility types such as cultivation, manufacturing, or retail. The “X” signifies that this facility type is principally permitted unless any of the underlying facility types are conditionally permitted. For use combinations where one of the underlying facilities requires a use permit and another requires a minor use permit, the facility shall obtain a conditional use permit.

[†] Cannabis research and development facilities where no plants or manufacturing processes occur may be allowed above the ground floor of commercial structures with a minor use permit.

* Cannabis testing facilities shall only be allowed above the ground floor of structures in the CW Zoning District.

2. New Article 30

In addition to adding new cannabis use types to Article 29, the proposed amendment adds a new Article 30 with development standards specific to cannabis uses to ensure potential impacts engendered by this unique land use will be appropriately addressed and mitigated. Article 30 includes separate standards for personal use cultivation and processing and commercial cannabis facilities.

In terms of personal use, under proposed Article 30, a qualified patient and any person 21 years of age or over would be allowed to cultivate and process cannabis at their residence for their own personal use [§10-5.3005(a)]. However, the cultivation and processing would be required to occur within the residence or a self-contained accessory building that is secured, locked, and fully enclosed, and the residence would be required to remain a residence with cannabis cultivation and processing as a secondary use [§10-5.3005(a)(i),(ii)]. Cultivation could not exceed 50 square feet per residence, although an annually-renewed exception could be made for up to 100 square feet of cultivation area for medical cannabis [§10-5.3005(a); §10-5.3005.1.1]. The proposed personal use regulations also incorporate a variety of health and safety measures, including limitations on lighting and the use of gas products, and standards for electrical equipment and ventilation.

Regarding commercial cannabis facilities, Article 30 outlines requirements and standards for cannabis-related businesses and covers fees, fines, permits, licensing, enforcement, and inspections. Under Article 30, all commercial cannabis facilities require a business license and a local cannabis license that must be annually renewed, in addition to licensure by the State. Operators of cannabis facilities must also maintain active enrollment and participation in a track and trace program approved by the City, whereby unique identifiers are issued for a cannabis batch or lot that link cannabis products to their point of origin [§10-5.3010(i)]. The proposed regulations also (1) allow the City Council to set by resolution a limit on the total number of dispensing facilities in the City; and (2) outline a process for selecting those dispensing facilities (§10-5.3008).

3. Relationship of cannabis activities to existing zoning use types

While the City's certified IP currently does not specifically allow for commercial cannabis uses, certain existing use categories could be interpreted to encompass commercial cannabis uses. For example, laboratories are currently principally permitted in the CS, ML, and MG districts, and cannabis testing facilities could be considered a type of laboratory. A cannabis testing facility could also be considered a type of office, and offices are already a permitted use in OR, CN, CS, CP, P, ML, and MG Districts and a conditional use in the CW district. Other existing zoning district uses that could be interpreted to incorporate cannabis uses include bakeries, pharmacies, drugstores, cigar stores, candy stores, food products manufacturing, nursery and garden supply, greenhouses, chemical products manufacture, warehouses, parcel delivery services, wholesale establishments, trucking terminals, retail sales establishments, and drug manufacturing.

Proposed Article 30 defines commercial cannabis activities as the commercial cultivation, possession, manufacture, processing, storing, laboratory testing, research and development, labeling, transportation, distribution, or sale of cannabis or cannabis products [§10.5.3003.2(b)]; and specifies that commercial cannabis activities shall only be allowed at cannabis facilities

(§10.5.3007). By adding separate cannabis-specific use types to various zoning districts and specifying that commercial cannabis activities are only allowed at commercial cannabis facilities, the proposed amendment expressly distinguishes these cannabis-specific uses from the more general allowable use types included in the certified IP, and the more general allowable use types will not encompass cannabis activities.¹ If, for example, a bakery in the CS District wanted to sell cannabis products, the bakery would first need to obtain a cannabis license and use permit to become a cannabis retail facility as well as a bakery.

In regards to personal use, cultivation and processing of cannabis at a residence will not be considered an accessory structure or use or a home occupation. Although the One Family Residential (RS) District allows as permitted uses (1) accessory structures located on the same site with a permitted use and (2) home occupations,² proposed Article 30 expressly states that cannabis cultivation and processing are not considered residential accessory uses and are prohibited as home occupations [§§ 10-5.3005.1.2 and 10-5.3005.2(b)]. Thus, the proposed amendment would ensure that cannabis cultivation and processing for personal use are regulated separately under proposed Article 30, and existing allowable use types are not construed to encompass these activities.

B. BACKGROUND

1. Setting and Local Coastal Program

The City of Eureka is located on the north coast of California in Humboldt County, approximately 300 miles north of San Francisco and 100 miles south of the Oregon border (Exhibit 1). The City sits on the eastern shore of Humboldt Bay, one of California's larger coastal estuaries and the only deep water port between San Francisco and Coos Bay, Oregon. The City has an estimated population of approximately 27,000 and occupies approximately 10,500 acres.³

The City's LCP was certified by the Commission on July 26, 1984, and a comprehensive update of the LUP was effectively certified on April 16, 1999. The City is currently preparing another comprehensive update to the LUP, and is also planning a comprehensive update of the IP in the near future.

If certified by the Commission, the proposed amendment would expressly add cannabis activities as either principally permitted or conditionally permitted uses in the LCP for the first time. The vast majority of land where the City is proposing to allow commercial cannabis facilities is

¹ See Table 2 in Appendix B

² Under Eureka's certified IP, permitted uses in the RS District area also permitted in the Multi-Family Residential (RM), Office and Multi-Family Residential (OR), Neighborhood Commercial (CN), and Service Commercial (CS) Districts, and are conditionally permitted in the Waterfront Commercial (CW) District provided the residential units are located above the ground floor of commercial structures.

³ Information in this section is sourced from:

ESA (2015, June). *City of Eureka Community Background Report*. Prepared for the City of Eureka General Plan Update.

Laird, A., Trinity Associates (2016). *City of Eureka Sea Level Rise Assets Vulnerability and Risk Assessment, Appendix*. Prepared for the City of Eureka.

located in the portion of the city that is within the coastal zone. The City’s entire heavy industrial zoning district is in the coastal zone and all but three blocks of the light industrial district is located in the coastal zone. Three-quarters of the service commercial zone is in the coastal zone.

2. History of cannabis regulation in Eureka

In 2010, the Eureka City Council approved a text amendment to add Chapter 158, titled “Cannabis: Cultivation, Processing, and Distribution” to the Eureka Municipal Code regulating the cultivation, processing and distribution of cannabis within the city. This chapter was only applicable to the portion of the City outside of the coastal zone and thus was not submitted to the Coastal Commission for certification.

In the fall of 2015, the state legislature passed and the Governor signed into law three bills, AB 266, AB 243, and SB 643, which together comprised the Medical Cannabis Regulation and Safety Act (MCRSA). MCRSA created a comprehensive state licensing system for the commercial cultivation, manufacture, dispensing, transport, distribution, delivery and testing of medical cannabis. In September 2016, the City Council adopted an ordinance modifying Chapter 158 to bring the Chapter into compliance with MCRSA. The City also adopted and transmitted to the Coastal Commission a parallel ordinance adding a proposed Article 30 to the certified IP for medical cannabis in the coastal zone and amending certified Article 29 to allow commercial medical cannabis use types in various coastal zoning districts. This proposed IP amendment was filed as Part B of LCP Amendment No. LCP-1-EUR-17-0007-1.

In November of 2016, California’s voters approved Proposition 64, titled the Adult Use of Marijuana Act (AUMA), legalizing and regulating the adult recreational use of cannabis. On June 27, 2017, Governor Brown signed into law SB94: The Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA). The bill repeals the Medical Cannabis Regulation and Safety Act (MCRSA) and incorporates some provisions of MCRSA and AUMA (aka Proposition 64). Accordingly, the City withdrew the proposed LCPA addressing only medical cannabis use and replaced it with the subject LCP amendment application that addresses both medical and adult recreational use of cannabis.⁴

C. CONSISTENCY ANALYSIS

To approve the amendments to the implementation plan (IP), the Commission must find the IP, as amended, conforms with, and is adequate to carry out, the provisions of the land use plan (LUP) pursuant to Section 30513 of the Coastal Act. As explained in the Findings below, the proposed IP amendment is in full conformity with, and would adequately carry out, the policies of the LUP.

1. Compatibility with Land Use Designations & Protection of Priority Uses

The City’s LUP is embedded within a City-wide General Plan. Components of the General Plan designed to meet Coastal Act requirements are noted with a wave symbol. In addition, an Appendix B is attached to the General Plan that describes which of the land use maps, policies, and programs of the overall City-wide General Plan comprise the certified LUP.

⁴ City Council Resolution No. 2017-62 (Exhibit 4) withdraws Part B of LCP-1-EUR-17-0007-1 (Ordinance No. 848) and replaces with the subject amendment (LCP-1-EUR-17-0063-2).

With regard to the designated land uses, the general intent and purpose of land use designations is first described in Part II (Goals, Policies, and Programs), Section 1 (Land Use and Community Design). Excerpts from Part II, Section 1 that describe the land use designations applicable to the proposed IP amendment can be found in Appendix C. Table B-1 of the Land Use Diagram within the Eureka General Plan’s Appendix B further defines and details the purpose of these designations as follows:

TABLE B-1 GENERAL PLAN LCP LAND USE PLAN (LUP) AND IMPLEMENTATION PROGRAM (IP) DESIGNATION CORRESPONDENCE			
GP Designation(s)	LCP-LUP Designation(s)	LCP-IP (Zoning) Designation(s)	Purpose(s)
C-RO Core- Residential Office	C-RO Core- Residential Office	OR Office/Multi- Family Residential	<i><u>To provide opportunities for offices of a commercial character to locate outside commercial districts and to provide opportunities for compatible mixed uses such as commercial and single and multiple family dwellings</u></i>
NC Neighborhood Commercial	NC Neighborhood Commercial	CN Neighborhood Commercial	<i><u>To allow the integrated development of neighborhood commercial centers providing for the economic well-being and convenience of the residents of the immediate area</u></i>
GSC General Service Commercial	GSC General Service Commercial	CS Service Commercial	<i><u>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.</u></i>
WFC Waterfront Commercial	WFC Waterfront Commercial	CW Waterfront Commercial	<i><u>To protect and provide for nearshore development of recreational, visitor-serving, and commercial fishing industry uses that relate to the presence of coastal resources.</u></i>
C-WFC Core Waterfront Commercial	C-WFC Core Waterfront Commercial		
C-RC Core Retail Commercial	C-RC Core Retail Commercial		
LI Light Industrial	LI Light Industrial	ML Limited Industrial	<i><u>To provide sites for industries that can operate in close proximity to commercial uses with minimum adverse impact.</u></i>
GI General Industrial	GI General Industrial	MG General Industrial	<i><u>To provide sites suitable for the development of general and heavy industrial uses.</u></i>

The City of Eureka’s LUP, consistent with the Coastal Act, prioritizes coastal-dependent, coastal-related, and visitor-serving commercial recreational uses over private residential, general industrial, and general commercial development in the coastal zone. The City implements these protections in part through restrictive zoning districts that reserve lands for priority uses, including the Waterfront Commercial, Coastal Dependent Industrial, and Public Facility/Marina

Districts, which reserve lands for visitor-serving commercial recreational, coastal-dependent industrial, and commercial fishing and recreational boating uses respectively.

The commercial cannabis facility types that the City proposes to add to the certified IP include commercial and industrial uses that are not priority uses under the certified LUP or the Coastal Act. As such, the City proposes to add these uses to general commercial and industrial districts, and not to priority-use districts, including the Coastal Dependent Industrial, and Public Facility/Marina Districts. The one exception is that the City is proposing to add three commercial cannabis facility types as conditional uses above the ground floor in the Commercial Waterfront District.

The Commercial Waterfront District

The CW District corresponds to the Core – Commercial Waterfront (C-WFC) and Waterfront Commercial (WFC) land use designations. The purpose of the WFC and C-WFC designations is to protect and provide for nearshore development of recreational, visitor-serving, and commercial fishing industry uses that relate to the presence of coastal resources. As such, the ground floor of buildings in the CW District are intended for coastal-related businesses catering to visitors, while office, residential, and other uses that are not visitor serving are permitted above the ground floor. This mixed-use configuration ensures a vibrant, pedestrian-oriented commercial center by providing storefronts with visual interest and destinations at the street level, and allowing homes and businesses above the ground floor of buildings whose residents and employees can support the ground floor commercial uses and generate foot traffic around the clock.

The proposed amendment would allow cannabis testing facilities, distribution facilities (transportation only with no-cannabis on-site), and research and development facilities (where no plants or manufacturing processes occur) as conditional uses in the CW District, provided that the facilities are located above the ground floor of commercial structures. According to proposed Article 30, a testing facility is a business that offers or performs testing of cannabis or cannabis products where no commercial cultivation, processing, dispensing, distribution, or sale of cannabis or cannabis products occurs; and a distribution facility (transportation only) includes the procurement, sale, and transport of cannabis and cannabis products purchased and sold between licensed entities. A research and development facility offers or performs research and development of cannabis or cannabis products. Proposed Article 30, §10-5.3007(b) specifies that research and development facilities in the CW district may not include cultivation or manufacturing processes.

As defined, testing, distribution (transportation only), and research and development facilities are essentially professional offices that provide laboratory and delivery services that are neither coastal-related nor visitor-serving. Currently other professional offices that are not coastal-related or visitor-serving are limited to the upper floors in the CW district to reserve locations for recreational, visitor-serving and commercial fishing industry uses on the ground floor. The proposal to allow cannabis testing, distribution (transportation only), and research and development facilities as conditional uses only allowed above the ground floor of commercial structures is therefore consistent with the purpose and intent of the WFC and C-WFC designations to provide for a variety of commercial uses to promote coastal-related establishments catering to visitors, while allowing office and residential uses on the upper floors of multi-story buildings.

Therefore, the Commission finds the proposed IP amendment, as submitted, conforms with and is adequate to carry out the C-WFC and WFC land use designations of the certified LUP.

Other Districts

Under the proposed amendment, commercial cannabis-specific facility types, including commercial cannabis retail, testing, distribution, indoor cultivation, manufacturing, research and development, and microbusiness facilities, would be added to the lists of permitted and/or conditional uses in the Office and Multi-Family Residential (OR), Waterfront Commercial (CW), Neighborhood Commercial (CN), Service Commercial (CS), Limited Industrial (ML) and General Industrial (MG) Districts. The proposed amendment would add cannabis activities to these districts which already allow for uses of a similar type and intensity. For example, commercial cannabis manufacturing with volatile materials is proposed as a conditional use in the MG District. Currently, the MG District allows other volatile manufacturing uses including manufacturing of chemical products, paraffin products, fertilizer, and paint. The proposed new uses are consistent with and adequate to carry out the corresponding land use designations as follows:

- Office and Multi-Family Residential (OR) District
 The proposed amendment adds cannabis distribution (transportation only, no cannabis on-site) as a permitted use and cannabis testing as a conditionally permitted use in the OR District. The purpose of the corresponding Core-Residential Office (C-RO) land use designation is to provide opportunities for offices of a commercial character to locate outside of commercial districts in a compatible mix of commercial and residential uses. A cannabis transporter is a professional office that provides services by dispatching drivers to pick up and deliver cannabis and cannabis products among other licensed cannabis facilities. A cannabis testing laboratory provides a service in a professional office-like setting by testing samples of cannabis and cannabis products from cultivators, manufacturers, and distributors. As both cannabis transporter and testing facilities constitute professional offices, the addition of these facilities as uses in the OR District is consistent with and adequate to carry out the C-RO Designation.
- Neighborhood Commercial (CN) District
 The proposed amendment adds cannabis retail, distribution (transportation only, no cannabis on-site), and microbusinesses as conditional uses in the CN District. The purpose of the corresponding land use designation is to allow for the development of neighborhood commercial centers providing retail stores, offices, and personal service businesses that benefit the surrounding neighborhood. The proposed new uses are retail and office use types that are consistent with and adequate to carry out the Neighborhood Commercial land use designation.
- Service Commercial (CS) District
 Regarding the Service Commercial District (CS), under the proposed amendment, cannabis testing and distribution facilities would be permitted uses and non-volatile manufacturing, retail, indoor cultivation (not more than 5,000 square feet of cultivation area), research and development, and microbusiness facilities would be conditionally permitted. The CS District corresponds to the General Service Commercial (GSC) land use designation which provides for more intensive commercial uses including retail uses,

warehouses, and wholesale commercial uses that offer commodities and services required by residents of the city and its surrounding market area. The purpose of the CS District also includes allowing a wider choice of locations for certain industrial uses that do not have an adverse impact on commercial services. The proposal to add office, commercial, and lower-intensity industrial cannabis use types (non-volatile manufacturing and smaller indoor cultivation facilities) to the CS District while omitting volatile manufacturing and larger indoor cultivation facilities allows for a broad range of commercial and light industrial uses while preventing incompatible heavy industrial uses, consistent with and adequate to carry out the GSC land use designation of the certified LUP.

- Limited Industrial (ML) and General Industrial (MG) Districts

The ML and MG zoning districts are the most permissive coastal zoning districts in Eureka's coastal zone. The purpose of the corresponding Light Industrial (LI) and General Industrial (GI) land use designation is to provide sites for industries that can operate in close proximity to commercial uses with minimum adverse impact, and to provide sites suitable for development of general and heavy industrial uses, respectively. Under the proposed amendment, all proposed commercial and industrial cannabis facility types would be allowed in the ML and MG Districts, except that large volatile manufacturing facilities would not be allowed in the ML District. Retail, volatile manufacturing, and large indoor cultivation facilities (with 10,000 square feet or less of cultivation area), the most intensive proposed use types, would be conditionally permitted. Similar and broader use types than the uses proposed are already allowed in the ML and MG Districts, including laboratories, offices, food product and drug manufacturing, wholesale stores, trucking terminals, and retail establishments. Thus the proposed amendment is consistent with and adequate to carry out the LI and GI land use designations of the certified LUP.

2. Protection of coastal resources

Potential coastal resource impacts of cannabis activities include impacts to coastal access parking, visual resources, and water quality.

Coastal Access Parking

The City's certified LUP includes a number of policies related to preserving public access to and along the waterfront, including the provision of adequate off-street parking facilities. LUP Coastal Recreation and Access Policies 5.B.4, 5.B.9, and 5.B.10 state in applicable part [***emphasis added***]:

5.B.4. ***The City of Eureka shall protect and enhance the public's rights of access to and along the shoreline, consistent with protecting environmentally sensitive habitats, by:***

...

c. ***Allowing only such development as will not interfere with the public's right of access to the sea, where such right was acquired through use or legislative authorization.***

5.B.9. *The City shall ensure that public access support facilities are distributed throughout the Eureka Coastal Zone. ***Off-street parking shall be provided****

***in the waterfront area;** however, it shall not be located immediately adjacent to the shoreline, unless there is no feasible alternative.*

5.B.10. **To the maximum extent feasible, the City shall ensure universal public access to the waterfront, including support facilities.**

The aforementioned policies serve to protect and enhance the public’s right of access to and along the coast, including off-street parking in the waterfront area. Commercial cannabis facilities will generate demand for off-street parking in the City’s coastal zone. As the City’s coastal zone is largely less than a quarter mile wide from the shoreline of Humboldt Bay to its inland boundary, any increase in demand for parking has the potential to impact public access parking near the waterfront.

The certified IP includes public access standards as well as off-street parking requirements for new development. The certified IP specifies that off-street parking facilities shall be provided for each listed use in each zoning district as prescribed in Article 15 of Chapter 5 of the certified IP (“Off-Street Parking Facilities”). Article 15 of the City’s certified IP requires off-street parking spaces to be provided incidental to new uses and major alterations and enlargements of existing uses, and includes a schedule for calculating the number of required off-street parking spaces for different use types.

The proposed amendment adds various types of commercial cannabis facilities to the list of permitted uses in a number of zoning districts. These facilities will be subject to the currently certified parking requirements of Article 15; proposed Article 30 expressly states that commercial cannabis facilities are required to provide off-street parking in compliance with Article 15. These parking requirements will ensure that new commercial cannabis facilities are served by an adequate supply of parking and thus will prevent overflow into public access parking facilities. Regarding personal cultivation and processing of cannabis at residences, proposed Article 30 also requires that cultivation of cannabis for personal use shall not displace required off-street parking [§10-5.3005(ii)]. Therefore the Commission finds the proposed IP amendment, as submitted, conforms with and is adequate to carry out the coastal access provisions of the certified LUP.

Visual Resources

The development of commercial cannabis facilities and personal cannabis cultivation and processing also have the potential to impact visual resources. LUP Core Area, Waterfront Policy 1.D.1 and Coastal Recreation and Access Policy 5.B.1 include relevant protections [***emphasis added***]:

1.D.1. **The City shall retain the historic waterfront building scale, building form, and general character in waterfront revitalization and development** as a means of creating a “Victorian Seaport” identity for the waterfront area...

5.B.1. *The City shall provide public open space and shoreline access throughout the Coastal Zone, particularly along the waterfront First Street, through all of the following:*

...

(d) Consider and protect the scenic and visual qualities of coastal areas that are visible from scenic public vista points and waterfront walkways.

...

The aforementioned LUP policies provide for the scenic and visual qualities of coastal areas. The certified IP includes a number of provisions to ensure new development is consistent with and adequate to carry out these policies, including identification of scenic coastal areas and scenic routes and visual standards for permitted development. The proposed amendment does not modify any of these existing development standards. To prevent visual and community character impacts, proposed Article 30 prohibits any exterior visual evidence from a public right-of-way of cannabis cultivation for personal use [§10-5.3005(xi)]. Therefore the proposed IP amendment, as submitted, conforms with and is adequate to carry out the visual resource protection provisions of the certified LUP.

Water Quality

Finally, cannabis activities, particularly manufacturing with volatile substances and cultivation with fertilizers, could potentially impact water quality through wastewater or stormwater entrainment and discharges. LUP Natural Resource Policies 6.A.1 and 6.A.3 state [**emphasis added**]:

- 6.A.1. **The City shall maintain, enhance, and, where feasible, restore valuable aquatic resources**, with special protection given to areas and species of special biological or economic significance. The City shall require that uses of the marine environment are carried out in the manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

- 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.

The aforementioned LUP policies provide for maintenance, enhancement, and, where feasible, restoration of water quality and aquatic resources, including minimization of adverse effects of wastewater and stormwater discharges and entrainment. The certified IP includes a number of provisions to ensure new development is consistent with and adequate to carry out these policies, including drainage standards and required development buffers from wetlands and coastal waters. The proposed amendment does not modify any of these existing development standards or resource protections.

The proposed IP amendment also does not affect coastal development permitting requirements. Pursuant to Article 29, Section 10-5.29302 of the certified IP, development in the coastal zone requires a coastal development permit. Article 29, Section 10-5.2906.2 of the certified IP defines development consistent with the Coastal Act to include, among other activities, the construction of any structure and a change in the density or intensity of use of land. In addition, the City's IP expressly states that projects requiring a use permit or minor use permit in the coastal zone also require a coastal development permit in compliance with certified Article 29 (Title 10, Chapter 5, Article 24, Section 10-5.2401 as amended by LCP-1-EUR-17-007-1). In cases where proposed cannabis activities require a conditional use permit or constitute development, consistent with Article 29 of the certified IP, coastal development permit review will evaluate specific impacts to water resources resulting from individual cannabis projects, and ensure that projects comply with the water resource protection policies and regulations of the certified LCP.

Furthermore, proposed Article 30 includes additional development standards to ensure potential cannabis-specific water quality impacts will be appropriately addressed and mitigated, including a requirement that commercial cannabis facility operators refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide [§10-5.3010(h)], and a requirement that applications for use permits and cannabis licenses specify the chemicals stored or used at the premises and the type and quantity of all effluent discharged into the city's wastewater and/or stormwater system (§10-5.3011.4). In addition, proposed Article 30 includes a broad requirement that the cultivation and processing of cannabis for personal use and the operation of commercial cannabis facilities shall not adversely affect the health and safety of residents, occupants, employees, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, smoke, traffic, vibration, surface runoff, or other impacts; be hazardous because of the use or storage of materials, processes, products or wastes; nor create odors that are detectable outside the walls of the facility, residence, or structure [§§10-5.3005(vi), 10-5.3005.2(v), and 10-5.3010(d)].

To further ensure maintenance of the quality and biological productivity of coastal waters, the proposed amendment does not allow the outdoor cultivation of cannabis and only allows indoor cultivation on properties zoned for residential, commercial, and industrial use. These restrictions ensure that cannabis is grown in a contained environment where effluent discharges into coastal waters and wetlands can be avoided. No cannabis cultivation of any kind including outdoor cultivation or other commercial cannabis activities are allowed on natural resource or agricultural lands which could directly impact wetlands and other environmentally sensitive habitats.

For all of the above reasons, the Commission finds the proposed IP amendment, as submitted, conforms with and is adequate to carry out the water resource protection provisions of the certified LUP.

3. Conclusion

The proposed IP amendment adds a variety of commercial cannabis use types and additional cannabis-specific standards to the IP while retaining existing coastal development permitting requirements, development standards, and coastal resource protections. In addition, the proposed IP amendment only introduces cannabis uses of a type, character, and intensity similar to existing allowable uses in applicable zoning districts, and includes protective standards to address cannabis-specific concerns to ensure the protection of coastal resources. The amendment also maintains consistency with and carries out the priority uses provisions of the certified LUP by

only permitting commercial cannabis facilities in general commercial and industrial zoning districts and above the ground floor of the City's visitor-serving Waterfront Commercial District; and ensuring that cannabis facilities are avoided on lands reserved for natural resources, agriculture, coastal-dependent industry, commercial fishing, and recreational boating. In conclusion, for all of the reasons discussed above, the Commission finds that the proposed IP amendment as submitted conforms with and is adequate to carry out the certified LUP.

D. CALIFORNIA ENVIRONMENTAL QUALITY ACT

As set forth in section 21080.9 of the California Public Resources Code, CEQA exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program. Therefore, local governments are not required to prepare an EIR in support of their proposed LCP amendments, although the Commission can and does use any environmental information that the local government submits in support of its proposed LCPA. Instead, the CEQA responsibilities are assigned to the Coastal Commission, and the Commission's LCP review and approval program has been found by the Resources Agency to be the functional equivalent of the environmental review required by CEQA, pursuant to CEQA Section 21080.5. Therefore the Commission is relieved of the responsibility to prepare an EIR for each LCP.

Nevertheless, the Commission is required, in approving an LCP amendment submittal, to find that the approval of the proposed LCP, as amended, does conform with CEQA provisions, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 CCR §§ 13542(a), 13540(f), and 13555(b).

As discussed throughout the staff report and hereby incorporated by reference, the Local Implementation Plan amendment has been found to be in conformity with, and adequate to carry out, the provisions of the Land Use Plan portion of the certified LCP. The Commission finds that approval of the LCP amendment will not result in significant adverse environmental impacts within the meaning of the California Environmental Quality Act. Pursuant to Article 29, Section 10-5.29302 of the certified IP, development in the coastal zone will also require a coastal development permit. In cases where proposed cannabis activities constitute development, consistent with the Coastal Act and Article 29 of the certified IP, coastal development permit review will evaluate specific impacts to coastal resources resulting from individual cannabis projects, and further ensure that projects comply with the coastal resource protection policies and regulations of the certified LCP.

The Commission finds therefore that for all of the reasons discussed in this report, there are no additional feasible alternatives or feasible mitigation measures available that could substantially reduce any significant adverse environmental impacts. The Commission thereby finds that the proposed LCP amendment is consistent with CEQA.

**APPENDIX A:
SUBSTANTIVE FILE DOCUMENTS**

Application Files for LCP-1-EUR-17-0063-2 and LCP-1-EUR-0007-1

City of Eureka certified Local Coastal Program

Adopted Findings for the following LCP amendments: LCP-3-GRB-17-0046-1 and LCP-6-SAN-17-0050-2

**APPENDIX B:
ADDITIONAL BACKGROUND INFORMATION**

The western, northern, and northeastern edges of the City are located within the coastal zone (Exhibit 2). The coastal zone boundary predominately follows Broadway (Highway 101), 3rd Street, and Myrtle Avenue along the western, northern, and eastern edges of the City, respectively. The City’s coastal zone also includes Indian, Daby, and Woodley Islands. Commercial and industrial lands dominate the City’s coastal zone in addition to large areas designated for natural resources and coastal agriculture (Exhibit 3).

Table 1. Parcels and acreage of each zoning district in the coastal zone (zones where commercial cannabis facilities are proposed under the subject amendment are highlighted in gray)

Zoning District	Number of Parcels	Acreage of Parcels
Coastal Agricultural (AC)	16	616
Neighborhood Commercial (CN)	9	7
Planned Shopping Center (CP)	9	52
Service Commercial (CS) & CS-Planned Development	340	259
Waterfront Commercial (CW)	139	80
Coastal Dependent Industrial (MC)	42	152
General Industrial (MG)	56	110
Limited Industrial (ML)	49	35
Natural Resources (NR)	88	834
Office and Multi-Family Residential (OR)	93	21
Public (Works) (P)	43	122
Multi-Family Residential (RM)	75	20
One-Family Residential (RS)	91	66
Conservation Water (WC)	19	1925
Development Water (WD)	30	90
Totals	1,099 parcels	4,389 acres

While the City’s certified IP currently does not specifically allow for commercial cannabis uses, certain existing use categories could be interpreted to encompass commercial cannabis uses. However, the proposed amendment clarifies that cannabis activities will only be allowed at commercial cannabis facilities and therefore existing uses will not encompass commercial cannabis uses.

Table 2. Existing uses allowed in zoning districts such as those below will not encompass cannabis uses because separate cannabis-specific use types have been expressly added to various zoning districts and commercial cannabis activities are only allowed at commercial cannabis facilities.

Existing use type	Zoning districts where use type is an allowable use	Zoning districts where use type is a conditional use
Laboratories	CS, ML, MG	
Offices	OR, CN, CS, CP, P, ML, and MG	CW
Bakeries	CW (retail sale only), CN, CS,	CW

	CP, ML, and MG	
Pharmacies	CN, CS	OR, CW
Drugstores	CN, CS, CP	
Cigar stores	CN, CS, CP	CW
Candy stores	CW, CN, CS, CP	OR
Manufacturing, canning, and packing of food products	ML and MG	
Food products manufacture, including such processes as cooking, dehydrating, roasting, refining, pasteurization, and extraction	MG	
Nursery and garden supply	CN, CS, CP	
Commercial nursery growing grounds		RS, RM
Greenhouses	AC (not on slab foundations where crops grown in existing soil), RS, RM, OR, CN, CS	
Chemical products manufacture	MG	
Warehouses, except for the storage of fuel or flammable liquids	CS, CS	CW
Parcel delivery services	CS	
Wholesale establishments without stocks	CN, CP	CW
Wholesale establishments	CS	
Wholesale stores with single occupant floor areas of forty thousand (40,000) square feet or larger	ML and MG	
Trucking terminals	CS, ML, and MG	
Retail sales establishments with single occupant floor areas of forty thousand (40,000) square feet or larger	ML and MG	
Manufacturing, assembling, compounding, packaging, and processing drugs and pharmaceuticals	ML and MG	

**APPENDIX C:
EXCERPTS FROM THE CITY’S CERTIFIED LUP**

The “Land Use Designations” subsection of Part II, Section I of the General Plan describes the land use designations applicable to the proposed IP amendment as follows [***emphasis added***]:

Core – Residential Office (C-RO)

*The primary focus of this designation is on providing residential uses (including hotels and bed and breakfast inns) **and low-intensity professional office uses**, principally in converted residential buildings...*

Neighborhood Commercial (NC)

*The NC designation **provides for retail stores, offices, and personal service businesses** that are intended primarily for residents of the immediate area, including neighborhood shopping centers of limited size and in locations that minimize adverse impact on adjoining residential uses...*

General Service Commercial (GSC)

The GSC designation provides for land-extensive retail uses, warehouses, and wholesale commercial uses...

Core – Commercial Waterfront (C-WFC)

***This designation provides for coastal-related businesses catering to visitors,** including retail stores, boat landings, fishing-related activities, restaurants, and visitor accommodations...*

Waterfront Commercial (WFC)

This designation provides for a variety of primary commercial uses to promote coastal-related establishments catering to visitors,** including markets, boat landings, fishing-related activities, restaurants, and tourist accommodations. Multiple-unit residential uses and **ancillary offices are permitted on the upper floors of multi-story buildings...

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...

General Industrial (GI)

***The GI designation provides for intensive industrial development,** including manufacturing, processing, and assembly uses...*