

## CALIFORNIA COASTAL COMMISSION

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# W17c

**DATE:** September 27, 2018

**TO:** Commissioners and Interested Persons

**FROM:** Steve Hudson, Deputy Director  
Barbara Carey, District Manager  
Deanna Christensen, Supervising Coastal Program Analyst  
Michelle Kubran, Coastal Program Analyst

**SUBJECT:** County of Santa Barbara Local Coastal Program Amendment No. LCP-4-STB-18-0039-1-Part C (Cannabis Regulations), for public hearing and Commission action at the October 10, 2018 Commission Hearing in San Diego.

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## SUMMARY OF STAFF RECOMMENDATION

Santa Barbara County proposes to amend the Implementation Plan (IP) component of its Local Coastal Program (LCP) to allow for and regulate cannabis-related activities in the unincorporated areas of the County. Commission staff recommends that the Commission, after public hearing, **reject** the County of Santa Barbara's proposed LCP Amendment No. LCP-4-STB-18-0039-1-Part C as submitted, and **certify** the proposed amendment only if modified pursuant to four (4) suggested modifications. The staff recommended suggested modifications can be found in [Exhibit 1](#) of this staff report. The suggested modifications are necessary to ensure that the IP/CZO conforms with and is adequate to carry out the provisions of the certified LUP. The motions and resolutions to accomplish this recommendation are found on page 5 of this staff report.

The proposed amendment differentiates between the broad subtypes of cannabis activities (e.g., cultivation, distribution, manufacturing, testing, and retail), and limits these activities to appropriately zoned areas. More specifically, the proposed amendment would allow for outdoor, indoor, and mixed-light cannabis cultivation and nurseries in the Agriculture-I (AG-I) and Agriculture-II (AG-II) zone districts and indoor cultivation and nurseries in the Industrial Research Park (M-RP) zone district. Distribution and non-volatile manufacturing would be allowed in all three zone districts (AG-I, AG-II, M-RP) as well. Microbusinesses, which include three of the four following types of cannabis activities at a site: cultivation, distribution, non-volatile manufacturing, and retail, would be allowed in AG-II, Limited Commercial (C-1), and Retail Commercial (C-2). In the AG-II zone district only non-storefront retail (delivery-only) would be allowed. The amendment would also allow for retail, either storefront or non-storefront, in the C-1 and C-2 zone districts, cannabis testing in the C-1, C-2, M-RP, and Professional and Institutional (PI) zone districts, and volatile manufacturing in the AG-I and AG-II zone districts.

The proposed amendment would regulate the various subtypes of cannabis activities in a manner similar to other types of agricultural cultivation and processing uses, with a few exceptions. It

would also add additional requirements to address unique issues related to cannabis activities, including development standards related to archaeological and paleontological resource protection, habitat protection, security and screening, odor abatement, visual resource protection, minimum distances that cannabis activities can be located from residential zones and schools, and development standards for manufacturing and distribution on agricultural lands. Since the proposed amendment would allow manufacturing and distribution on agriculture zoned lands, Suggested Modification No. 3 is necessary to include increased protection for prime soils and non-prime land suitable for agriculture. Additionally, Suggested Modification No. 3 is necessary to protect the local agricultural economy and regulate cannabis in a manner similar to other types of agricultural cultivation and processing by requiring that a minimum of 51% of the cannabis product manufactured or distributed on the Gaviota Coast is sourced from the lot where the manufacturing or distribution occurs, and that all manufactured or distributed cannabis in the County that is grown offsite in other areas of California is sourced from lands within 25 miles of the boundaries of Santa Barbara County. Finally, Suggested Modification No. 3 is necessary to ensure that the required development standards are consistent with the visual resources, public access and environmentally sensitive habitat area provisions of the certified LUP.

The County is also proposing a Cannabis Business License Ordinance for certification. The Business License Ordinance includes definitions, requirements, and procedures for processing business licenses for commercial cannabis activities. Prior to submittal of the proposed ordinances, the County adopted changes to the Business License Ordinance, which created inconsistencies between that ordinance and the IP/CZO amendment, and those changes were not made in the IP/CZO amendment before submittal to the Commission. Such inconsistencies include differences in definitions for terms used in both ordinances, as well as a land use cap for cultivation that is part of the Business License Ordinance but not included in the IP/CZO amendment. This land use cap limits cannabis cultivation within the Carpinteria Agricultural Overlay District to a maximum of 186 acres in order to avoid a proliferation of this type of crop in the Carpinteria area. Staff is recommending Suggested Modification Nos. 1 and 3 to include additional definitions and a reference to the cultivation cap applicable in the Carpinteria Overlay that were missing from the IP/CZO amendment and are important for clarity.

Another inconsistency between the Business License Ordinance and the proposed IP/CZO amendment is that outdoor cultivation is completely prohibited in the Business License Ordinance but allowed in the IP/CZO amendment. The County indicated that their intent is to prohibit outdoor cultivation due to concerns about odors and other nuisances associated with this type of crop in agricultural areas that are in close proximity to residential and other urban land uses, particularly in the Carpinteria Valley where most of the cultivation is expected to occur. However, requiring cannabis cultivation to occur indoors throughout the County's coastal zone, even in rural areas, creates the potential for a significant increase in the construction of greenhouses and other structures on prime soils and other land suitable for agriculture. This has the potential to result in adverse impacts to agricultural and visual resources. Commission staff worked with the County to address this issue by limiting the prohibition on outdoor cultivation to within one mile of the County's Urban-Rural boundary. This standard would minimize nuisances from the cultivation activities and allow for outdoor cultivation in areas further away from sensitive receptors. Therefore, in order to be consistent with the agriculture protection policies of the County's certified LUP, as well as meet the needs of the local jurisdiction, Suggested

Modification No. 3 prohibits outdoor cultivation on AG-I and AG-II zoned lots within one mile of an Urban-Rural boundary.

As proposed, the Business License Ordinance would reside in a section of the County's Code outside of the certified LCP, and other than some of the definitions, the 186 acre land use cap, and the inconsistency regarding outdoor cultivation, the Business License Ordinance pertains to local business issues and does not contain standards that would apply to coastal development permits. Therefore, since Suggested Modifications No. 1 and 3 reconcile the two ordinances, Suggested Modification No. 4 is necessary to not certify the Business License Ordinance as part of this LCP amendment so that it is not the standard of review for coastal development permits and can be separately implemented by the County. The County has indicated that it is in agreement with this approach.

In conclusion, staff recommends that the Commission certify the proposed amendment if modified pursuant to the four (4) suggested modifications that can be found in Exhibit 1 of this staff report.

**Additional Information:** Please contact Michelle Kubran at the South Central Coast District Office of the Coastal Commission at (805) 585-1800 or 89 South California Street, Suite 200, Ventura, CA 93001

## TABLE OF CONTENTS

<b>I. PROCEDURAL OVERVIEW.....</b>	<b>4</b>
A. STANDARD OF REVIEW .....	4
B. PUBLIC PARTICIPATION .....	5
C. PROCEDURAL REQUIREMENTS.....	5
<b>II. STAFF RECOMMENDATION, MOTIONS, &amp; RESOLUTIONS FOR THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE .....</b>	<b>6</b>
A. DENIAL AS SUBMITTED.....	6
B. APPROVAL WITH SUGGESTED MODIFICATIONS .....	6
<b>III. FINDINGS FOR DENIAL AS SUBMITTED, &amp; APPROVAL OF THE AMENDMENT, IF MODIFIED AS SUGGESTED.....</b>	<b>7</b>
A. LCP AMENDMENT DESCRIPTION.....	7
B. CORRESPONDENCE RECEIVED .....	8
C. AGRICULTURE AND LAND USE.....	9
D. LAND AND MARINE RESOURCES .....	18
E. VISUAL RESOURCES AND PUBLIC ACCESS.....	27
F. CALIFORNIA ENVIRONMENTAL QUALITY ACT .....	32

### EXHIBITS

[Exhibit 1 – Suggested Modifications to the proposed Coastal Zoning Ordinance amendment](#)

[Exhibit 2 – Santa Barbara County Ordinance Nos. 5028 and 5037 containing the proposed Coastal Zoning Ordinance amendment text and proposed Cannabis Business License Ordinance text](#)

[Exhibit 3 – Urban-Rural Boundary Buffer Maps](#)

[Exhibit 4 – Correspondence from City of Carpinteria](#)

### I. PROCEDURAL OVERVIEW

#### 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... (Section 30513)*

*...The Commission may only reject zoning 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 in the rejected zoning ordinances, zoning district maps, or other implementing actions, which, if adopted by the local government and transmitted to the commission, shall be deemed approved upon confirmation by the executive director...(Section 30513)*

*Any proposed amendments to a certified local coastal program shall be submitted to, and processed by, the commission in accordance with the applicable procedures and time limits specified in Sections 30512 and 30513... (Section 30514(b))*

Pursuant to Section 30512(c), the standard of review for the proposed amendment to the County's certified IP/CZO, pursuant to Sections 30513 and 30514(b) of the Coastal Act, is whether the proposed amendment is in conformance with, and adequate to carry out, the provisions of the Land Use Plan (LUP) portion of the County's certified LCP. Additionally, all Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the County's certified LUP as guiding policies pursuant to Policy 1-1 of the LUP.

## **B. PUBLIC PARTICIPATION**

Section 30503 of the Coastal Act requires public input in the preparation, approval, certification and amendment of any LCP. Santa Barbara County held 27 public meetings and hearings regarding the cannabis land use ordinance between February 27, 2017 and February 27, 2018. All County hearings were duly noticed to the public consistent with Sections 13552 and 13551 of the California Code of Regulations. Notice of the subject amendment was posted in a local newspaper at least ten days prior to the October 10, 2018 Coastal Commission hearing, and individual notices have been distributed to all known interested parties.

## **C. PROCEDURAL REQUIREMENTS**

Pursuant to Section 13551(b) of the California Code of Regulations, the County resolution for submittal of the LCP amendment can either require formal local government adoption after Commission approval, or designate that an amendment will take effect automatically upon Commission approval pursuant to Public Resources Code Sections 30512, 30513, and 30519. However, if the Commission approves this amendment with any modifications, as recommended, the County must act to accept the certified suggested modifications within six months from the date of Commission action for the amendment to become effective (CCR Sections 13544.5 and 13537). Pursuant to Section 13544 of the California Code of Regulations, the Executive Director shall determine whether the County's action is adequate to satisfy all requirements of the Commission's certification order and report on such adequacy to the Commission. If the Commission denies the LCP Amendment, no further action is required by either the Commission or the County.

## **II. STAFF RECOMMENDATION, MOTIONS, & RESOLUTIONS FOR THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE**

Following public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation is provided prior to each resolution.

### **A. DENIAL AS SUBMITTED**

**MOTION I:** *I move that the Commission **reject** Implementation Plan Amendment No. LCP-4-STB-18-0039-1-Part C for the County of Santa Barbara as submitted.*

#### **STAFF RECOMMENDATION OF REJECTION:**

Staff recommends a **YES** vote. Passage of this motion will result in denial of the Implementation 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 Commissioners present.

#### **RESOLUTION TO DENY:**

The Commission hereby **denies** certification of the Implementation Plan Amendment No. LCP-4-STB-18-0039-1-Part C submitted for the County of Santa Barbara and adopts the findings set forth below on the grounds that the Amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Amendment as submitted.

### **B. APPROVAL WITH SUGGESTED MODIFICATIONS**

**MOTION II:** *I move that the Commission **certify** Implementation Plan Amendment No. LCP-4-STB-18-0039-1-Part C for the County of Santa Barbara if it is modified as suggested in this staff report.*

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

Staff recommends a **YES** vote. Passage of this motion will result in the certification of the Implementation Plan Amendment with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the Commissioners present.

#### **RESOLUTION TO CERTIFY WITH SUGGESTED MODIFICATIONS:**

The Commission hereby **certifies** Implementation Program Amendment No. LCP-4-STB-18-0039-1-Part C for the County of Santa Barbara if modified as suggested and adopts the findings

set forth below on the grounds that the Implementation Plan Amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Plan Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Amendment as submitted.

### **III. FINDINGS FOR DENIAL AS SUBMITTED, & APPROVAL OF THE AMENDMENT, IF MODIFIED AS SUGGESTED**

The following findings support the Commission’s denial of the LCP Amendment as submitted, and approval of the LCP Amendment if modified as indicated in Exhibit 1 (*Suggested Modifications*) to this staff report. The Commission hereby finds and declares as follows:

#### **A. LCP AMENDMENT DESCRIPTION**

Santa Barbara County is proposing to amend the Implementation Plan/Coastal Zoning Ordinance (IP/CZO) component of its Local Coastal Program (LCP) to regulate cannabis-related activities. The proposed amendment adds definitions for “cannabis,” “commercial cannabis activity,” and other cannabis-related activities, such as “cultivation,” “retail,” “distribution,” and “manufacturing.” The proposed amendment adds a new section to the IP/CZO that contains the proposed cannabis regulations and allows for specific commercial cannabis uses in certain zones. Specifically, the amendment would allow for outdoor, indoor, and mixed-light cannabis cultivation and nurseries in the Agriculture-I (AG-I) and Agriculture-II (AG-II) zone districts and indoor cultivation and nurseries in the Industrial Research Park (M-RP) zone district. Distribution and non-volatile manufacturing would be allowed in all three zone districts (AG-I, AG-II, M-RP) as well. Microbusinesses, which are owners or entities that engage in three of the four following types of cannabis activities: cultivation, distribution, non-volatile manufacturing, and retail, would be allowed in AG-II, Limited Commercial (C-1), and Retail Commercial (C-2). In the AG-II zone district only non-storefront retail (delivery-only) would be allowed. The amendment would also allow for retail, either storefront or non-storefront, in the C-1 and C-2 zone districts, cannabis testing in the C-1, C-2, M-RP, and Professional and Institutional (PI) zone districts, and volatile manufacturing in the AG-I and AG-II zone districts.

Proposed development standards include a minimum distance of 600 ft. for nurseries, 1,500 ft. for outdoor cultivation on AG-I zoned lots, and 750 ft. for all other cannabis activities from any school providing instruction in kindergarten or any grades one through 12, any day care center, or youth center. Outdoor cultivation on AG-I zoned lots is also required to be a minimum distance of 1,500 ft. from any residential zone. Manufacturing and distribution on AG-I and AG-II zoned lots would only be permissible if they are accessory to cannabis cultivation. Additionally, the proposed amendment includes requirements for archaeological and paleontological surveys, fencing and security plans, landscape and screening plans, lighting,

noise, and odor abatement plans, signage, and tree protection, habitat protection, and wildlife movement plans.

The County is also proposing a Cannabis Business License Ordinance for certification. The Business License Ordinance includes definitions and requirements and procedures for processing business licenses for commercial cannabis activities. Prior to submittal of the proposed IP/CZO amendment and Business License Ordinance, the County adopted changes to the Business License Ordinance, which created inconsistencies between the Business License Ordinance and the IP/CZO amendment, and those changes were not made in the IP/CZO amendment before submittal to the Commission. These inconsistencies and the suggested modifications to harmonize the two documents are discussed further below.

## **B. CORRESPONDENCE RECEIVED**

The City of Carpinteria submitted a letter to the Commission on July 23, 2018 describing the City's concerns regarding the subject amendment, which include the discrepancy between the Business License Ordinance and the IP/CZO amendment regarding the land use cap for cultivation in the Carpinteria Valley, permitting manufacturing and distribution on agricultural lands, impacts to prime soils, and parking standards for manufacturing and distribution on agriculture zoned lots. Most of the City's concerns have been directly addressed by the suggested modifications. However, the City requested that a suggested modification be included to apply the LCP's existing parking standard for industrial uses to distribution and manufacturing on agriculture zoned lots in order to minimize impacts to on-street parking. The parking standard required for agriculture is 2 parking spaces per acre of land used for greenhouses, hothouses or other plant protection structures, while the parking standard for industrial uses is one parking space per 1.5 employees, but in no case less than one space per 500 square feet of gross floor area. Requiring the industrial parking standard on agriculture zoned lots would have the potential to impact prime soils. Therefore, this issue has been addressed in a different way through Suggested Modification No. 3 to the Site Transportation Demand Management Plan, which would require applicants to provide a combination of methods to reduce vehicle trips to the commercial cannabis site in order to avoid impacts to prime soils and on-street parking to the maximum extent feasible. Additionally, the City requested that volatile manufacturing be prohibited on agriculture zoned lots. As explained in Section B. below, the County has stated that the quantities of chemicals used in cannabis manufacturing operations are not greater than the quantities used in other agricultural operations and determined that there was not a great enough distinction to more closely regulate manufacturing in the cannabis industry. However, Suggested Modification No. 3 would require all manufacturing activities to comply with all necessary Best Management Practices in order to avoid soil and water contamination on agricultural lands. Therefore, staff believes that all of the City's concerns are addressed either directly or indirectly by the suggested modifications.



## C. AGRICULTURE AND LAND USE

### 1. Coastal Act Policies

Section 30241 states:

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

- (a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.*
- (b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.*
- (c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.*
- (d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.*
- (e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.*
- (f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.*

Section 30242 states:

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

Section 30603(a)(4) of the Coastal Act states:

*(a) After certification of its local coastal program, an action taken by a local government on a coastal development permit application may be appealed to the commission for only the following types of developments: ...*

...

*(4) Any development approved by a coastal county that is not designated as the principal permitted use under the zoning ordinance or zoning district map approved pursuant to Chapter 6 (commencing with Section 30500).*

...

## **2. Applicable LUP Policies**

All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County LUP as guiding policies pursuant to Policy 1-1 of the LUP.

Policy 8-2 states:

*If a parcel is designated for agricultural use and is located in a rural area not contiguous with the urban/rural boundary, conversion to non-agricultural use shall not be permitted unless such conversion of the entire parcel would allow for another priority use under the Coastal Act, e.g., coastal dependent industry, recreation and access, or protection of an environmentally sensitive habitat. Such conversion shall not be in conflict with contiguous agricultural operations in the area, and shall be consistent with Section 30241 and 30242 of the Coastal Act.*

Policy 8-3 states:

*If a parcel is designated for agricultural use and is located in a rural area contiguous with the urban/rural boundary, conversion shall not be permitted unless:*

- a. The agricultural use of the land is severely impaired because of physical factors (e.g. high water table), topographical constraints, or urban conflicts (e.g., surrounded by urban uses which inhibit production or make it impossible to qualify for agricultural preserve status), and*
- b. Conversion would contribute to the logical completion of an existing urban neighborhood, and*
- c. There are no alternative areas appropriate for infilling within the urban area or there are not other parcels along the urban periphery where the agricultural potential is more severely restricted.*

Policy 8-5 states, in relevant part:

*All greenhouse projects of 20,000 or more square feet and all additions to existing greenhouse development, i.e., greenhouse expansion, packing sheds, or other development for a total of existing and additions of 20,000 or more square feet, shall be subject to County discretionary approval and, therefore, subject to environmental review under County CEQA guidelines.*

*Prior to issuance of a coastal development permit, the County shall make the findings based on information provided by environmental documents, staff analysis, and the applicant that all significant adverse impacts of the development as addressed in paragraphs "a" through "e" below have been identified and mitigated...*

*The Carpinteria Agricultural Overlay District map identifies areas where future development of greenhouses shall be regulated in accordance with the CA Overlay District. Area A allows future expansion of greenhouses, greenhouse related development, packing and shipping facilities, shade and hoop structures, on AG-I zoned lands as identified by the Carpinteria Agricultural Overlay District map, subject to the provisions of this overlay district. Area A is generally located south of Highway 192, east of Nidever Road and west of Linden Avenue. Within Area A, a total development cap of 2.75 million square feet of new greenhouse and greenhouse related development, packing and shipping facilities, and hoop structures (excluding shade structures) has been established for the life of the program. Area B allows new greenhouses, greenhouse related development, packing and shipping facilities, shade and hoop structures subject to the provisions of the CA Overlay District. Area B encompasses the remainder of AG-I zoned lands, as identified by the Carpinteria Agricultural Overlay District map, in the Carpinteria Valley...*

Policy 8-6 states, in relevant part:

*No greenhouse, hothouse, or accessory structure shall be located closer than 50 feet from the boundary line of a lot zoned residential. In addition, setback and maximum lot coverage requirements shall be as follows:*

<i>Parcel Size</i>	<i>Setbacks</i>	<i>Maximum Lot Coverage for All Structures</i>
<i>Less than 5 acres</i>	<i>30 feet from the right-of-way of any street and 20 feet from the lot lines of the parcel on which the greenhouse is located</i>	<i>75 percent</i>
<i>5 to 9.99 acres</i>	<i>30 feet from the right-of-way of any street and 20 feet from the lot lines of the parcel on which the greenhouse is located</i>	<i>70 percent</i>
<i>10 acres or more</i>	<i>30 feet from the right-of-way of any street and 20 feet from the lot lines of the parcel on which the greenhouse is located</i>	<i>65 percent</i>

*Within the Carpinteria Agricultural Overlay District the following lot coverage, height and setback requirements shall apply:*

*1) Lot Coverage*

*Lot coverage shall be calculated to include all greenhouses, shade and hoop structures, packing and shipping facilities, and greenhouse related development including accessory buildings, and associated paved driveways and parking areas.*

- a. For parcels identified as view corridor parcels on the Carpinteria Agricultural Overlay District map, lot coverage shall not exceed 25% net lot coverage. Development shall be clustered adjacent to existing greenhouse development to the greatest extent feasible.*
- b. In Area B, the maximum cumulative lot coverage shall be 20,000 square feet...*

Policy 8-11 states:

*The following requirements shall apply to greenhouse and greenhouse related development within the Carpinteria Valley to protect the long-term productivity of prime agricultural soils.*

- a. Greenhouse operations on prime agricultural soils shall encourage use of in-soil cultivation methods.*
- b. Prime agricultural soils shall not be modified with sterilants or other chemicals that would adversely affect the long-term productivity of the soil.*
- c. The removal of prime agricultural soils shall be prohibited, including removal of indigenous prime soils used as a growing medium for container plants which are sold intact.*

Toro Canyon Plan Policy LUA-TC-2 states:

*Land designated for agriculture within Toro Canyon shall be preserved and protected for agricultural use.*

Toro Canyon Plan Dev Std LUA-TC-2.2 states:

*To the maximum extent feasible, hardscaped areas associated with agricultural and greenhouse development (i.e., parking lots, loading bays, interior walkways in greenhouses, and accessory building footprints) shall be minimized in order to preserve the maximum amount of prime agricultural soils. Minimizing the covering of soils shall be accomplished through efficient site and building design and the use of pervious surfaces wherever feasible.*

Toro Canyon Plan Policy LUA-TC-3 states:

*New development shall be compatible with adjacent agricultural lands.*

Toro Canyon Plan Policy LUA-TC-4 states:

*Within the coastal zone, in areas with prime agricultural soils, structures, including greenhouses that do not rely on in-ground cultivation, shall be sited to avoid prime soils to the maximum extent feasible.*

Eastern Goleta Valley Community Plan Policy LUA-EGV-1.1 states:

*Agricultural resources, agricultural land uses and operations, and distinctive urban and rural agricultural characteristics shall be preserved to the greatest extent feasible.*

### **3. Consistency Analysis**

Coastal Act Section 30241 requires preservation of the maximum amount of prime agricultural land. Coastal Act Section 30242 requires the preservation of lands suitable for agricultural use,

the long-term productivity of soils, and limits the conversion of agricultural lands to non-agricultural uses. The County's certified LUP also contains policies that protect existing agricultural land uses within the Plan area. Policies 8-2 and 8-3 provide for the designation of agricultural lands and limit the conversion of agricultural land uses to non-agricultural land uses. Policies 8-5, 8-6, and 8-11 include specific requirements for greenhouse development, and the Toro Canyon and Eastern Goleta Community Plans contain specific policies regarding agriculture in those areas. Additionally, greenhouse and related development is regulated in the Carpinteria Valley by the Carpinteria Agricultural Overlay District.

### Agriculture

As previously described, the proposed IP/CZO amendment would allow cultivation, distribution, and manufacturing on AG-I and AG-II zoned lots. Proposed development standards for cultivation include prohibition of outdoor cultivation on AG-I lots of certain sizes and on AG-I lots within 1,500 ft. of a residential zone or school. This development standard was proposed to ensure that nuisances associated with cannabis cultivation, such as odor and noise, are minimized near schools and residential areas. When the County adopted the Cannabis Business License Ordinance after adoption of the IP/CZO amendment, a change was made in the Business License Ordinance to prohibit all outdoor cultivation in the coastal zone. However, this change was not made in the IP/CZO amendment. Commission staff coordinated with County staff to determine the County's intent with regards to outdoor cultivation. Commission staff also discussed with County staff the concern that prohibiting outdoor cultivation everywhere in the coastal zone, even in rural areas, would force cultivation to be conducted indoors, and thus increase the construction of greenhouses and accessory structures on prime soils and land suitable for open field agriculture. County staff determined that prohibition of outdoor cultivation within one mile of an Urban-Rural boundary would be an appropriate standard in order to minimize nuisances from the cultivation activities and to allow for outdoor cultivation in areas further away from sensitive receptors. This change would result in the prohibition of outdoor cultivation for most of the agricultural areas near the cities of Carpinteria and Goleta, and outdoor cultivation would be allowed on the entire Gaviota Coast ([Exhibit 3](#)). By prohibiting outdoor cultivation within one mile of an Urban-Rural boundary, both the conflicts between cultivation activities and residences and schools and the potential for the proliferation of greenhouses and other structures for cannabis cultivation in rural areas would be minimized. Therefore, in order to be consistent with Coastal Act Sections 30241 and 30242 as incorporated into the County's LUP as well as meet the needs of the local jurisdiction, Suggested Modification No. 3 is included to include the prohibition of outdoor cultivation on AG-I and AG-II zoned lots within one mile of an Urban-Rural boundary.

The proposed prohibition of outdoor cultivation within one mile of an Urban-Rural boundary would require most cultivation within the Carpinteria Valley to be conducted indoors (i.e., in a greenhouse, hothouse, or other structure). In the existing certified IP/CZO, greenhouses, hothouses, and other plant protection structures and related development are listed as permitted uses that must also meet the regulations of the Carpinteria Agricultural Overlay District. The subject amendment proposes to add cannabis cultivation, nursery, distribution, and manufacturing as separate permitted uses in the AG-I and AG-II zone districts subject to the provisions of Section 35-144U (the proposed cannabis regulations) ([Exhibit 2](#)). However,

Section 35-144U does not propose to reference the Carpinteria Agricultural Overlay District, so it is unclear whether greenhouses and similar structures would be regulated for cannabis activities in the same manner as they are regulated for other agriculture. The Carpinteria Agricultural Overlay District was certified in order to require limitations on the square footage of greenhouses built in the Carpinteria Valley. The Carpinteria Agricultural Overlay District was implemented in response to a significant increase in greenhouses and greenhouse related development in past decades, which resulted in a significant visual change in the rural character of the valley and raised other issues related to increased traffic, flooding potential, groundwater recharge, impacts on the Carpinteria Salt Marsh, and conflicts with adjacent residential uses. Therefore, a Suggested Modification No. 3 is necessary to clarify that all structures for commercial cannabis activities, including accessory structures, within the Carpinteria Agricultural Overlay District must comply with the Overlay District standards.

The County also adopted a 186 acre cap for cannabis cultivation within the Carpinteria Agricultural Overlay District in the Business License Ordinance but did not adopt the acreage cap in the IP/CZO amendment. According to the County, the 186 acre cap was adopted to allow for new operations in addition to existing operations, while also limiting the number of acres within the Carpinteria Valley to be cultivated for cannabis in order to ensure that other crops, such as cut flowers, would remain in the region as well. Since this land use cap was not included in the IP/CZO amendment, which provides the provisions and regulations for land use in the County, Suggested Modification No. 3 adds reference to the 186 acre cap for cannabis cultivation, nurseries, and microbusinesses with cultivation within the Carpinteria Agricultural Overlay District to the IP/CZO. The County has indicated that the acreage cap will be implemented through the Business License Ordinance, rather than through coastal development and use permits. Therefore, the suggested modification to add the 186 acre cap is simply to make clear that this maximum acreage limit applies and notes that the cap will be implemented through the Business License Ordinance.

The proposed amendment also includes a development standard that requires all structures for cannabis cultivation to avoid prime soils to the maximum extent feasible. Sections 30241 and 30242 of the Coastal Act, as incorporated into the certified LUP, protect coastal agricultural land, by requiring the maximum amount of prime agricultural land to be maintained in agricultural production and by prohibiting conversion of lands suitable for agriculture to non-agricultural uses unless continued or renewed agricultural use is not feasible or such conversion would preserve prime agricultural land or concentrate development. The County has indicated that most of the interest to conduct cannabis cultivation has been in the Carpinteria Valley where many of the lots are entirely covered with prime soils; and while the proposed amendment requires structures to avoid prime soils to the maximum extent feasible, cultivation would also be allowed in other areas of the County, such as the Gaviota Coast, which do not contain many areas of prime soil but are nonetheless suitable for agriculture. Therefore, Suggested Modification No. 3 is necessary to modify the proposed development standard to also require structures for cannabis cultivation to avoid land suitable for agriculture to the maximum extent feasible in order to be consistent with Section 30242. To further carry out the agricultural protection policies of the Coastal Act and the certified LUP, Suggested Modification No. 3 requires all cannabis structures to be designed to use as little agricultural land as possible and to be clustered with other existing structures to the maximum extent feasible.

The amendment also proposes to allow manufacturing and distribution for cannabis products on agriculture zoned lands. The proposed development standards require that a minimum of 10% of the cannabis product either manufactured or distributed is sourced from cannabis plant material cultivated on the same lot as the manufacturing or distribution activity. Additionally, the proposed amendment requires the manufacturing or distribution to be subordinate and incidental to the cultivation use of the lot, and the area designated for manufacturing or distribution must occupy a smaller footprint than the area designated for cultivation on the lot. The purpose of these standards is to allow for consolidation of manufacturing and distribution while requiring these uses to be subordinate and incidental to the cultivation on site in order to restrict lots zoned for agriculture from converting to entirely industrial purposes. However, these standards are neither fully protective of coastal agriculture nor consistent with the certified LCP. Therefore, Suggested Modification No. 3 is necessary to require that structures for manufacturing and distribution are sited and designed to avoid prime soils and non-prime land suitable for agriculture to the maximum extent feasible, as well as require such structures to use as little agricultural land as possible and be clustered to the maximum extent feasible. Further, the suggested modification is necessary to require that such uses be located in existing structures to the maximum extent feasible in order to preserve prime and non-prime agricultural land.

Additionally, the existing IP/CZO requires manufacturing and distribution of all other agricultural products grown off premises to primarily source the agricultural products from local agricultural land, which is defined as lands located within 25 miles of the boundaries of Santa Barbara County. This requirement is to ensure the protection of the local agricultural economy consistent with Section 30241 of the Coastal Act. Therefore, Suggested Modification No. 3 is necessary to modify the development standards for both distribution and manufacturing to require that cannabis products not grown on the same lot as the manufacturing or distribution activity are sourced from lands within 25 miles of the boundaries of Santa Barbara County. In addition, the Commission approved the Gaviota Coast Plan through Local Coastal Program Amendment (LCPA) No. LCP-4-STB-18-0039-1-Part B on August 10, 2018, which included policies and development standards specific to the Gaviota Coast Plan Area. While that LCPA has not yet been fully certified, it does provide guidance on provisions for the protection of agriculture in the Gaviota Coast area. The subject amendment, as proposed, would create inconsistencies with this recently approved LCPA. One of the proposed development standards in the Gaviota Coast Plan limits the percentage of products from offsite that are processed on agricultural lots to 49%. This standard was proposed to ensure that manufacturing and distribution on the Gaviota Coast are supportive of the local coastal agriculture. The subject amendment, however, would allow for 90% of the manufactured or distributed cannabis plant material to be sourced from offsite. Therefore, in order to be consistent with the Gaviota Coast Plan and ensure that the local coastal agricultural economy is supported, Suggested Modification No. 3 is necessary to require that within the Gaviota Coast Plan Area a minimum of 51% of the manufactured or distributed cannabis product shall be sourced from cannabis plant material cultivated on the same lot on which the distribution or manufacturing activities occur.

The amendment also proposes to allow both non-volatile and volatile manufacturing on agriculture-zoned lots. The County has stated that the quantities of chemicals used in cannabis manufacturing operations are not greater than the chemicals used in other agricultural operations and determined that there was not a great enough distinction to more closely regulate

manufacturing in the cannabis industry. However, chemicals used in both the volatile and non-volatile manufacturing processes have the potential to contaminate soils and groundwater when used in operations on lots zoned for agriculture. Therefore, in order to protect prime soils, non-prime land suitable for agriculture, groundwater, and surface water, consistent with the agriculture protection policies of the LUP (Policies 8-11, LUA-TC-2 and LUA-EGV-1.1), it is necessary to modify the proposed IP/CZO to add a requirement that all volatile and non-volatile manufacturing operations implement all necessary Best Management Practices to avoid soil and water contamination.

In addition, the proposed amendment requires applicants for cultivation to prepare and submit a Site Transportation Demand Management Plan in order to reduce vehicle trips generated by the cultivation. Such plans must include at least one method listed in the requirement to reduce vehicle trips, such as providing shared parking areas for ridesharing on large and/or rural lots. While this requirement, which is intended to reduce greenhouse gas emissions associated with cannabis cultivation, is beneficial, such a requirement should be intended to protect prime soils as well. Most of the lots in the Carpinteria Valley are covered entirely with prime soils. Therefore, if a cultivator has to increase parking on his or her lot the parking area could potentially impact prime soils. Thus, it is necessary to modify the Site Transportation Demand Management Plan requirement to require that a combination of methods must be included in the plan to reduce vehicle trips generated by the cultivation in order to avoid impacts to prime soils to the maximum extent feasible. Additionally, the proposed amendment only requires submittal of a Site Transportation Demand Management Plan for cultivation. However, this plan should be required for manufacturing and distribution activities as well. Therefore, Suggested Modification No. 3 is necessary to include these requirements in the development standards for manufacturing and distribution.

### Principal Permitted Use

The proposed amendment describes the type of permit and permit requirements for each commercial cannabis activity. The amendment proposes a table (Allowed Cannabis Uses and Permit Requirement by Zone), which lists the permitted uses for each cannabis use in each zone district; however, the table does not identify which of the allowed uses would be considered the “principal permitted use” in each zone, as required under Coastal Act Section 30603(a)(4). Section 30603(a)(4) of the Coastal Act provides that approval, by a coastal county, of any development that is not designated in the LCP as “the principal permitted use” is appealable to the Coastal Commission.

For example, the subject amendment proposes to allow cultivation, distribution, and manufacturing (both volatile and non-volatile) on agriculture zoned land. All of these uses, except for volatile manufacturing, are listed as permitted uses in the proposed use table. Volatile manufacturing is proposed to require a major conditional use permit. Due to the fact that the County has not proposed a principal permitted use for each zone district but has rather proposed a range of uses that are permitted within each zone district, it is necessary to clarify which use is considered a principal permitted use in each zone district. Therefore, it is necessary to modify the proposed use table to denote that cultivation on agriculture zoned lands is a principal permitted use, storefront and non-storefront retail are principal permitted uses on commercial zoned land,



testing is a principal permitted use in the Commercial, Professional and Institutional, and Industrial Research Park zone districts, and manufacturing and distribution are principal permitted uses in the Industrial Research Park zone as well. Other commercial cannabis uses, where allowed, would be appealable to the Coastal Commission. Further, to ensure that the use table is properly interpreted, it is necessary to modify the “Permit Requirements for commercial cannabis activities” section of the proposed amendment to include language that explains the different permit requirements in the proposed use table.

#### Definitions and Other Minor Changes

As discussed above, the County submitted a Business License Ordinance that includes definitions and requirements and procedures for processing business licenses for commercial cannabis activities. However, several definitions included in the Business License Ordinance are either not included or not consistent with the definitions in the proposed IP/CZO amendment. For example, the terms “canopy area” and “commercial cannabis operations” are both used in the IP/CZO amendment but are only defined in the Business License Ordinance. Therefore, Suggested Modification No. 1 is necessary to include definitions from the Business License Ordinance in the IP/CZO and revise others for clarity and consistency.

Additionally, the Business License Ordinance, which was submitted for certification, would reside in a section of the County’s Code outside of the certified LCP. Further, other than some of the definitions and the 186 acre land use cap in the Carpinteria Valley, the Business License Ordinance pertains to local business issues and does not contain standards that would apply to coastal development permits. Therefore, since modifications are suggested in order to include and revise certain definitions from the Business License Ordinance and note the 186 acre land use cap, certification of the Business License Ordinance is not necessary. Thus, Suggested Modification No. 4 is necessary to not certify the Business License Ordinance as part of this LCP amendment so that it is not the standard of review for coastal development permits and can be separately implemented by the County.

Finally, Suggested Modification Nos. 2 and 3 are necessary to ensure that the proposed amendment is consistent with the certified language in the LUP, correct inconsistencies within the proposed amendment, and make changes and correct minor grammatical errors requested by the County.

#### **4. Conclusion**

For all of the reasons stated above, the Commission finds that the IP/CZO amendment, only as suggested to be modified, conforms with and is adequate to carry out the agricultural resource protection and land use policies of the certified Land Use Plan.

## **D. LAND AND MARINE RESOURCES**

### **1. Coastal Act Policies**

Section 30230 states:

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

Section 30231 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 waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30240 states:

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

Section 30244 states:

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

### **2. Applicable LUP Policies**

All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County LUP as guiding policies pursuant to Policy 1-1 of the LUP.

Policy 1-2 states:

*Where policies within the land use plan overlap, the policy which is the most protective of coastal resources shall take precedence.*

Policy 2-2 states, in relevant part:

*The long term integrity of groundwater basins or sub-basins located wholly within the coastal zone shall be protected. To this end, the safe yield as determined by competent hydrologic evidence of such a groundwater basin or sub-basin shall not be exceeded except on a temporary basis as part of a conjunctive use or other program managed by the appropriate water district. If the safe yield of a groundwater basin or sub-basin is found to be exceeded for reasons other than a conjunctive use program, new development, including land division and other use dependent upon private wells, shall not be permitted if the net increase in water demand for the development causes basin safe yield to be exceeded...*

Policy 2-5 states:

*Water-conserving devices shall be used in all new development.*

Policy 2-11 states:

*All development, including agriculture, adjacent to areas designated on the land use plan or resource maps as environmentally sensitive habitat areas, shall be regulated to avoid adverse impacts on habitat resources. Regulatory measures include, but are not limited to, setbacks, buffer zones, grading controls, noise restrictions, maintenance of natural vegetation, and control of runoff.*

Policy 3-19 states:

*Degradation of the water quality of groundwater basins, nearby streams, or wetlands shall not result from development of the site. Pollutants, such as chemicals, fuels, lubricants, raw sewage, and other harmful waste, shall not be discharged into or alongside coastal streams or wetlands either during or after construction.*

Policy 9-1 states:

*Prior to the issuance of a development permit, all projects on parcels shown on the land use plan and/or resource maps with a Habitat Area overlay designation or within 250 feet of such designation or projects affecting an environmentally sensitive habitat area shall be found to be in conformity with the applicable habitat protection policies of the land use plan. All development plans, grading plans, etc., shall show the precise location of the habitat(s) potentially affected by the proposed project. Projects which could adversely impact an environmentally sensitive habitat area may be subject to a site inspection by a qualified biologist to be selected jointly by the County and the applicant.*

Policy 9-9 states:

*A buffer strip, a minimum of 100 feet in width, shall be maintained in natural condition along the periphery of all wetlands. No permanent structures shall be permitted within the wetland or buffer area except structures of a minor nature, i.e., fences, or structures necessary to support the uses in Policy 9-10.*

*The upland limit of wetland shall be defined as: 1) the boundary between land with predominately hydrophytic cover and land with predominately mesophytic or xerophytic cover; or 2) the boundary between soil that is predominately hydric and soil that is predominately nonhydric; or 3) in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation and land that is not.*

*Where feasible, the outer boundary of the wetland buffer zone should be established at prominent and essentially permanent topographic or manmade features (such as bluffs, roads, etc.). In no case, however, shall such a boundary be closer than 100 feet from the upland extent of the wetland area, nor provide for a lesser degree of environmental protection than that otherwise required by the plan. The boundary definition shall not be construed to prohibit public trails within 100 feet of a wetland.*

Policy 9-11 states:

*Wastewater shall not be discharged into any wetland without a permit from the California Regional Water Quality Control Board finding that such discharge improves the quality of the receiving water.*

Policy 9-14 states:

*New development adjacent to or in close proximity to wetlands shall be compatible with the continuance of the habitat area and shall not result in a reduction in the biological productivity or water quality of the wetland due to runoff (carrying additional sediment or contaminants), noise, thermal pollution, or other disturbances.*

Policy 9-16(a) states:

*No grazing or other agricultural uses shall be permitted in coastal wetlands.*

Policy 9-18 states:

*Development shall be sited and designed to protect native grassland areas.*

Policy 9-22 states:

*Butterfly trees shall not be removed except where they pose a serious threat to life or property, and shall not be pruned during roosting and nesting season.*

Policy 9-23 (Butterfly Trees) states:

*Adjacent development shall be set back a minimum of 50 feet from the trees.*

Policy 9-35 states:

*Oak trees, because they are particularly sensitive to environmental conditions, shall be protected. All land use activities, including cultivated agriculture and grazing, should be carried out in such a manner as to avoid damage to native oak trees. Regeneration of oak trees on grazing lands should be encouraged.*

Policy 9-36 states:

*When sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. All development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees.*

Policy 9-37 states:

*The minimum buffer strip for major streams in rural areas, as defined by the land use plan, shall be presumptively 100 feet, and for streams in urban areas, 50 feet. These minimum buffers may be adjusted upward or downward on a case-by-case basis. The buffer shall be established based on an investigation of the following factors and after consultation with the Department of Fish and Game and Regional Water Quality Control Board in order to protect the biological productivity and water quality of streams:*

- a. Soil type and stability of stream corridors;*
- b. How surface water filters into the ground;*
- c. Slope of the land on either side of the stream; and*
- d. Location of the 100-year floodplain boundary.*

*Riparian vegetation shall be protected and shall be included in the buffer. Where riparian vegetation has previously been removed, except for channelization, the buffer shall allow for the reestablishment of riparian vegetation to its prior extent to the greatest degree possible.*

Policy 9-42 states:

*The following activities shall be prohibited within stream corridors: cultivated agriculture, pesticide applications, except by a mosquito abatement or flood control district, and installation of septic tanks.*

Toro Canyon Plan Policy LUG-TC-7 states:

*In addition to the requirements of LUP Policy 2-11, development shall be scaled, sited and designed to protect resources such as environmentally sensitive habitat and visual resources and to respect site constraints such as steep slopes. Regulatory measures to ensure such protection shall include but not be limited to restrictions on the following: size; color; reflectivity and height of structures; roofs and other architectural features; length of roads and driveways; number and size of accessory structures; configuration and size of development envelopes including concentrating development in existing development areas; amount and location of grading; vegetation removal; and night lighting.*

Toro Canyon Plan Policy LUG-TC-8 states:

*Protection of ESH and public access shall take priority over other development standards and where there is any conflict between general development standards and ESH and/or public access protection, the standards that are most protective of ESH and public access shall have precedence.*

Toro Canyon Plan Policy WW-TC-3 states:

*Development in Toro Canyon shall incorporate appropriate water efficient design, technology and landscaping.*

Toro Canyon Plan Policy WW-TC-4 states:

*Development shall avoid the introduction of pollutants into surface, ground and ocean waters. Where avoidance is not feasible, the introduction of pollutants shall be minimized to the maximum extent feasible...*

Toro Canyon Plan Policy BIO-TC-1 states:

*Environmentally Sensitive Habitat (ESH) areas shall be protected and, where appropriate, enhanced.*

Toro Canyon Plan Policy BIO-TC-13 states:

*Native protected trees and non-native protected trees shall be preserved to the maximum extent feasible.*

Toro Canyon Plan Policy BIO-TC-14 states:

*Non-native trees and forests (e.g., eucalyptus groves and windrows) that provide known raptor nesting or major and recurrent roosting sites shall be protected.*

Toro Canyon Plan Policy BIO-TC-16 states:

*The conversion of vacant land in ESH, ESH buffer, or on slopes over 30 percent to new crop, orchard, vineyard, or other agricultural use shall not be permitted. Existing, legally established agricultural uses shall be allowed to continue.*

Eastern Goleta Valley Community Plan Policy ECO-EGV-1.1 states:

*The County shall designate and provide protection to important or sensitive environmental resources and habitats in Eastern Goleta Valley.*

Eastern Goleta Valley Community Plan Policy ECO-EGV-3.2 states:

*Ecological communities and habitats shall not be fragmented into small non-viable pocket areas by development.*

Eastern Goleta Valley Community Plan Policy ECO-EGV-3.3 states:

*In rural areas and where major wildlife corridors are present in urban areas, development shall not interrupt major wildlife travel corridors within Eastern Goleta Valley. Typical wildlife corridors are provided by drainage courses and similar undeveloped natural areas.*

Eastern Goleta Valley Community Plan Policy ECO-EGV-4.2 states:

*(COASTAL) All existing “protected trees” shall be protected from damage or removal to the maximum extent feasible, except in cases where preservation of trees would preclude reasonable use of a parcel, or threaten life and/or property. Where the removal of protected trees cannot be avoided through the implementation of project alternatives, or where development encroachments into the protected zone of protected trees result in the loss or worsened health of the trees, mitigation measures shall include, at a minimum, the planting of replacement trees on-site, if suitable area exists on the project site, at a ratio of 10 replacement trees for every one tree removed. Where on-site mitigation is not feasible, off-site mitigation shall be required.*

Eastern Goleta Valley Community Plan Policy ECO-EGV-5.1 states:

*Environmentally Sensitive Habitat (ESH) areas and Riparian Corridors (RC) within Eastern Goleta Valley shall be protected and, where feasible and appropriate, enhanced.*

Eastern Goleta Valley Community Plan Policy ECO-EGV-5.8 states:

*(COASTAL) Resource dependent uses may be allowed in ESH where sited and designed to avoid significant disruption of habitat values. A resource dependent use is a use that is dependent on the ESH resource to function (e.g., nature study, habitat restoration, and public trails). Non-resource dependent development, including fuel modification, shall be*

LCP-4-STB-18-0039-1-Part C (Cannabis Regulations)

*sited and designed to avoid ESH and ESH buffer areas. If avoidance is infeasible and would preclude reasonable use of a parcel, then the alternative that would result in the fewest or least significant impacts shall be selected.*

Eastern Goleta Valley Community Plan Policy ECO-EGV-6.1 states:

*Native woodlands, native grasslands, and coastal sage scrub shall be preserved and protected as viable and contiguous habitat areas.*

Eastern Goleta Valley Community Plan Policy ECO-EGV-6.2 states:

*Monarch butterfly roosting habitats shall be preserved and protected.*

Policy 10-1 states:

*All available measures, including purchase, tax relief, purchase of development rights, etc., shall be explored to avoid development on significant historic, prehistoric, archaeological, and other classes of cultural sites.*

Policy 10-2 states:

*When developments are proposed for parcels where archaeological or other cultural sites are located, project design shall be required which avoids impacts to such cultural sites if possible.*

Policy 10-3 states:

*When sufficient planning flexibility does not permit avoiding construction on archaeological or other types of cultural sites, adequate mitigation shall be required. Mitigation shall be designed in accord with guidelines of the State Office of Historic Preservation and the State of California Native American Heritage Commission.*

Policy 10-5 states:

*Native Americans shall be consulted when development proposals are submitted which impact significant archaeological or cultural sites.*

Toro Canyon Plan Policy HA-TC-1 states:

*Archaeological resources shall be protected and preserved to the maximum extent feasible.*

Eastern Goleta Valley Community Plan Policy HA-EGV-1.1 states:

*Known and discovered significant historic, archeological, and tribal cultural resources shall be protected from immitigable disturbance or destruction.*



Eastern Goleta Valley Community Plan Policy HA-EGV-2.1 states:

*Significant tribal cultural resources of concern to the Chumash Indians should be protected and preserved to the maximum extent feasible.*

### **3. Consistency Analysis**

All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County LUP as guiding policies pursuant to Policy 1-1 of the LUP. Coastal Act Section 30230 requires the maintenance, enhancement, and restoration of marine resources and assigns the highest protection to areas and species of special biological or economic significance. Section 30231 requires the protection of the biological productivity and quality of coastal waters and provides specific methods for achieving these protections. Section 30240 of the Coastal Act requires the protection of environmentally sensitive habitat areas (ESHA) against any significant disruption of habitat values. No development, with the exception of uses dependent on the resources, is allowed within any ESHA. This policy further requires that development adjacent to ESHA and parks and recreation areas is sited and designed to prevent impacts that would significantly degrade those areas and to be compatible with the continuance of those areas. Section 30244 requires the protection of archaeological and paleontological resources and the implementation of mitigation measures to avoid or minimize any impacts. In addition, the County's existing certified LUP contains numerous policies (listed in subsection 2 above) to protect biological resources, ESHA, water quality, and cultural resources within the County's coastal zone.

#### Environmentally Sensitive Habitat

The proposed amendment requires an applicant for a commercial cannabis activity to submit a Tree Protection Plan, Habitat Protection Plan, and/or Wildlife Movement Plan if the proposed activity would involve removal of native vegetation or "other vegetation in an area that has been identified as having a medium to high potential of being occupied by a special-status wildlife species, nesting bird, or a Federal or State-listed special-status plant species." Although this proposed language intends to protect sensitive habitat, the proposed language is inconsistent with the certified LCP as it would only require plans to be submitted to protect limited vegetation. The certified LUP, however, contains policies 9-1, 9-16(a), 9-18, 9-22, 9-35, 9-36, and 9-42, which protect ESHA, wetlands, native grasslands, butterfly trees, oak trees, other native trees and vegetation, and stream corridors. The proposed amendment does not require a plan to protect streams and wetlands, and vegetation that is non-native may still be considered ESHA even if it does not have a "medium to high potential of being occupied by a special-status wildlife species, nesting bird, or a Federal or State-listed special-status plant species." For instance, monarch butterfly trees are protected by LUP policy 9-22, but monarchs do not roost year-round in such trees. Therefore, the proposed amendment implies that non-native monarch butterfly trees would be allowed to be removed so long as monarch butterflies are not roosting in the trees at the time of application. Further, the proposed language only requires tree, habitat, and wildlife movement plans if the proposed development would directly remove such habitat; but the certified LCP protects ESHA, streams, and wetlands by regulating development adjacent to the habitat and by requiring habitat buffers (policies 2-11, 3-19, 9-9, 9-14, 9-23, and 9-37).

Additionally, the proposed amendment implies that commercial cannabis activities may be allowed in ESHA if a habitat protection plan is submitted. However, pursuant to Coastal Act 30240, as incorporated into the County's certified LCP, only resource-dependent uses are allowed within ESHA and only where avoidance of ESHA is not feasible and would result in a taking would development, such as commercial cannabis activities, be allowed. Therefore, Suggested Modification No. 3 is necessary to ensure that proposed commercial cannabis activities comply with the existing tree, ESHA, and buffer protection policies of the certified LCP and Coastal Act.

In addition, the proposed amendment requires applicants for any commercial cannabis activity that involves artificial lighting to submit a lighting plan for approval by the County. To ensure consistency with the existing lighting requirements of the certified LCP, Suggested Modification No. 3 is necessary to include the requirement that exterior lighting for commercial cannabis activities must be sited and designed to avoid light spill or other impacts to ESHA.

### Water

The proposed amendment includes standards to ensure compliance of wastewater discharge and encourage efficient use of water for cannabis cultivation activities. This is consistent with LUP policies 2-2, 2-5, 2-11, 3-19, and 9-11, which ensure the integrity of the County's groundwater basins and protect the County's water quality from degradation due to polluted wastewater discharge, runoff, and erosion. The proposed amendment, however, only includes water efficiency and wastewater discharge standards for cultivation and does not include such standards for other cannabis activities such as manufacturing. Therefore, to ensure that such uses are consistent with the certified LUP regarding water use and water quality, Suggested Modification No. 3 includes water efficiency standards for manufacturing and the requirement that all commercial cannabis manufacturing operations on agriculture-zoned lots implement Best Management Practices to avoid water contamination, such as the proper use, storage, and disposal of chemicals, potential contaminants, waste, and wastewater that is used and produced the in the manufacturing process.

### Cultural Resources

The development standards in the proposed amendment require archaeological and paleontological surveys to be conducted when commercial cannabis activities are proposed on lots that have not been subject to prior archaeological or paleontological surveys in accordance with the County's Cultural Resources Thresholds and Guidelines. While requiring surveys for archaeological and paleontological resources is consistent with the cultural resources protection policies of the LUP (policies 10-1, 10-2, 10-3, 10-5, HA-TC-1, HA-EGV-1.1, and HA-EGV-2.1), the County's Cultural Resources Thresholds and Guidelines document, which the subject amendment references, is outside of the County's certified LCP and is therefore not a standard of review for coastal development permits. Thus, the Commission finds that Suggested Modification No. 3 to this development standard is necessary to delete reference to the Thresholds and Guidelines document and include a reference to Section 35-65 (Archaeology), which is a provision of the certified IP/CZO.

#### **4. Conclusion**

For all of the reasons stated above, the Commission finds that the IP/CZO amendment, only as suggested to be modified, conforms with and is adequate to carry out the land, marine, and cultural resource protection policies of the certified Land Use Plan, as amended.

#### **E. VISUAL RESOURCES AND PUBLIC ACCESS**

##### **1. Coastal Act Policies**

Section 30210 states:

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

Section 30211 states:

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

Section 30251 states:

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

Section 30252 states:

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

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

## **2. Applicable LUP Policies**

All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County LUP as guiding policies pursuant to Policy 1-1 of the LUP.

Policy 3-14 states:

*All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited for development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.*

Policy 4-3 states:

*In areas designated as rural on the land use plan maps, the height, scale, and design of structures shall be compatible with the character of the surrounding natural environment, except where technical requirements dictate otherwise. Structures shall be subordinate in appearance to natural landforms; shall be designed to follow the natural contours of the landscape; and shall be sited so as not to intrude into the skyline as seen from public viewing places.*

Policy 4-6 states:

*Signs shall be of size, location, and appearance so as not to detract from scenic areas or views from public roads and other viewing points.*

Policy 4-9 (View Corridor Overlay) states:

*Structures shall be sited and designed to preserve unobstructed broad views of the ocean from Highway #101, and shall be clustered to the maximum extent feasible.*

Policy 4-10 (View Corridor Overlay) states:

*A landscaping plan shall be submitted to the County for approval. Landscaping when mature, shall not impede public views.*

Policy 4-11 (View Corridor Overlay) states:

*Building height shall not exceed one story or 15 feet above average finished grade, unless an increase in height would facilitate clustering of development and result in*

*greater view protection, or a height in excess of 15 feet would not impact public views to the ocean.*

Policy 7-1 states, in relevant part:

*The County shall take all necessary steps to protect and defend the public's constitutionally guaranteed rights of access to and along the shoreline...*

Toro Canyon Plan Policy VIS-TC-1 states:

*Development shall be sited and designed to protect public views.*

Toro Canyon Plan Policy VIS-TC-2 states:

*Development shall be sited and designed to be compatible with the rural and semi-rural character of the area, minimize impact on open space, and avoid destruction of significant natural resources.*

Eastern Goleta Valley Community Plan Policy VIS-EGV-1.1 states:

*Development should minimize impacts to open space views as seen from public vistas and scenic local routes and avoid impairment of significant visual resources.*

Toro Canyon Plan DevStd PRT-TC-2.6 states:

*Consistent with the Agricultural Element, all opportunities for public trails within the general corridors identified on the Parks, Recreation and Trails (PRT) map shall be protected, preserved and provided for during review and upon approval of development and/or permits requiring discretionary approval. County Public Works shall consult with the County Park Department prior to issuing any encroachment permits for on-road development such as driveways along road shoulders with current or proposed trails.*

Eastern Goleta Valley Community Plan Policy PRT-EGV-5.1 states:

*In compliance with applicable requirements, all opportunities for public recreational trails within the general corridors adopted by the Board of Supervisors as part of the Parks, Recreation and Trails (PRT) maps of the County Comprehensive Plan (and this Community Plan) shall be protected, preserved and provided for upon approval of any development, subdivision and/or permit requiring any discretionary review or approval, except as referenced in Agricultural Element Policy IA.*

Eastern Goleta Valley Community Plan Policy PRT-EGV-7.4 states:

*To the greatest extent feasible, coastal access shall be maintained in a natural condition.*

Eastern Goleta Valley Community Plan DevStd PRT-EGV-7A states:

*(COASTAL) Opportunities for coastal public access shall be analyzed, considered, and maximized as feasible for any discretionary proposal within the coastal zone, including coastal development permit applications. Where the provision of public access is related and proportional to the impacts of the proposed development, the County shall require dedication of a public accessway or easement as a condition of permit approval for the development.*

### **3. Consistency Analysis**

Coastal Act Section 30251, as incorporated into the certified LUP, requires that the scenic and visual quality of coastal areas be protected and recognizes the public importance of these resources. Further, Section 30251 states that new development shall be sited and designed to protect views to and along the ocean and scenic coastal areas and to be visually compatible with the character of surrounding areas. In addition, the County's certified LUP contains numerous policies to protect visual resources within the coastal zone. Specifically, LUP Policies 3-14 and 4-3 relate to the siting and design of structures so that they are compatible with the character of the surrounding natural environment, designed to follow the natural contours of the landscape, and sited so as not to intrude into the skyline as seen from public viewing places. LUP Policy 4-6 regulates signage to prevent any potential adverse visual impacts to scenic areas and public roads. In addition, substantial areas south of Highway 101 are designated as View Corridors and are thus subject to specific policies regarding the protection of public views of the ocean from Highway 101 (LUP Policies 4-9, 4-10, 4-11). In addition, the Toro Canyon and Eastern Goleta Community Plans contain specific policies in order to protect the visual resources of those areas (Policies VIS-TC-1, VIS-TC-2, and VIS-EGV-1.1).

One of the fundamental objectives of the Coastal Act is the protection of public access and recreation opportunities along the coast. Among other public access provisions, the Coastal Act requires that development not interfere with the public's right of access to the sea (Section 30211) and provides that the location and amount of new development should maintain and enhance public access to the coast through various means, such as by providing adequate parking or public transportation to the development (Section 30252). The County's existing certified LCP includes a number of public access policies, including the public access and recreation policies of the Coastal Act which are incorporated into the LCP. The full text of the relevant policies is listed in subsections 1 and 2 above.

The proposed amendment includes requirements for fencing and landscaping as part of the application for a permit for a commercial cannabis activity. For example, an applicant for a permit to allow outdoor, mixed-light, or nursery cultivation must submit a fencing and security plan that demonstrates that the cultivation site is secure and screened. The proposed language for the fencing and security plan requirement states that, "Where there are conflicts between the standards in this Section and any other applicable standards of this Article, the standards of this Section shall control." This statement, however, is not consistent with the visual resource or public access policies of the certified LCP. While it may be necessary to fence and properly secure cultivation sites for safety and security reasons, such fencing has the potential to block

views to the ocean and other coastal scenic areas, to otherwise adversely impact visual resources, and to block access to the shoreline and other recreational areas. Therefore, the Commission finds that it is necessary to modify the fencing and security plan requirement to delete language that states that that section shall control as well as add language to require security fencing measures to be sited and designed to avoid impacts to public access and minimize adverse impacts to visual resources. Additionally, the County has been implementing these standards in inland areas of the County and has identified that the way the fencing and security plan requirement is written is not clear enough and has resulted in cultivators erecting fences that are not visually compatible with the character of the surrounding area and do not minimize impacts to visual resources. Therefore, the County has requested that “Fencing and Security Plan” is changed to “Security Fencing Plan” in order to clarify that this requirement only pertains to the security of the site and not screening of the site. Therefore, Suggested Modification No. 3 is necessary to make these revisions in order for the proposed amendment to be consistent with the visual resource and public access policies of the LUP.

In addition to the security fencing requirement, all applicants for cannabis cultivation must submit a landscape and screening plan to screen the proposed cultivation activities. The intent of this requirement is to screen cultivation so that it is not seen from public places to the maximum extent feasible. However, as proposed, it is unclear if all applicants must submit a landscape and screening plan even if the site cannot be seen from public viewing areas. Additionally, landscape screening should not substitute for good siting and design of development in order to avoid being seen from public areas, or at least minimize impacts to public views of the ocean and other scenic areas. Therefore, the Commission finds that it is necessary to modify the landscape and screening plan requirements to include language that requires commercial cannabis activities to be sited and designed to minimize adverse impacts to visual resources and require applicants to submit such plans only if it is infeasible to site and design the proposed development to avoid being seen from public places.

Although outdoor cultivation is proposed to be allowed in the rural areas of the County, the potential for increased development of greenhouses and other structures remains, which may ultimately result in cumulative impacts to visual resources, especially in remarkably scenic areas, such as the Gaviota Coast, where the certified LCP does not contain absolute limitations on the number and size of greenhouses. Therefore, the Commission finds that it is necessary to require applicants for commercial cannabis activities outside of the boundaries of the Carpinteria Agricultural Overlay District to submit view impact studies that analyze the individual and cumulative visual impacts of the proposed structure or structures along with existing structures as seen from public viewing areas.

In addition, the proposed amendment requires applicants for cultivation to prepare and submit a Site Transportation Demand Management Plan in order to reduce vehicle trips generated by the cultivation. Such plans must include at least one method listed in the requirement to reduce vehicle trips, such as providing shared parking areas for ridesharing on large and/or rural lots. While this requirement, which is intended to reduce greenhouse gas emissions associated with cannabis cultivation, is beneficial, such a requirement can protect public parking areas as well, and commercial cannabis operations should be required to provide adequate parking or other means of serving the development consistent with Section 30252 of the Coastal Act, as

incorporated into the County's LUP. While providing adequate parking on site is one way for a proposed development to avoid impacting on-street parking or other public parking areas, requiring onsite parking for commercial cannabis activities could potentially impact prime soils on agricultural properties in the County. Therefore, a combination of methods to reduce vehicle trips generated by the cannabis activity should be implemented in order to avoid impacts to prime soils and on-street parking to the maximum extent feasible. Thus, it is necessary to modify the Site Transportation Demand Management Plan requirement to require that a combination of methods be included to reduce vehicle trips generated by the commercial cannabis activity. Additionally, the proposed amendment only requires submittal of a Site Transportation Demand Management Plan for cultivation. However, this plan should be required for manufacturing and distribution as well. Therefore, Suggested Modification No. 3 is necessary to include these requirements in the development standards for manufacturing and distribution.

#### **4. Conclusion**

For all of the reasons stated above, the Commission finds that the IP/CZO amendment, only as suggested to be modified, conforms with and is adequate to carry out the visual resource and public access protection policies of the certified Land Use Plan.

#### **F. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Section 21080.9 of the California Public Resources Code – within the California Environmental Quality Act (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 (LCP). 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 functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP. Additionally, Santa Barbara County prepared an EIR for the Cannabis Regulations, dated December 2017.

Nevertheless, the Commission is required, in approving an LCP 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 alternative or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. §§ 13540(f) and 13555(b).

The County's LCP amendment consists of an IP amendment. As discussed above, the IP amendment as originally submitted does not conform with, and is not adequate to carry out, the policies of the certified LUP. The Commission has, therefore, suggested modifications to the proposed IP to include all feasible measures to ensure that such significant environmental impacts of new development are minimized to the maximum extent feasible consistent with the requirements of the Coastal Act. These modifications represent the Commission's analysis and thoughtful consideration of all significant environmental issues raised in public comments received, including with regard to potential direct and cumulative impacts of the proposed IP



amendment, as well as potential alternatives to the proposed amendment. As discussed in the preceding sections, the Commission's suggested modifications represent the most environmentally protective alternative to bring the proposed IP amendment into conformity with the LUP consistent with the requirements of the Coastal Act.

Therefore, the Commission finds that there are no other feasible alternatives or mitigation measures under the meaning of CEQA which would further reduce the potential for significant adverse environmental impacts.