

## CALIFORNIA COASTAL COMMISSION

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# Th11a

**DATE:** January 17, 2019

**TO:** Commissioners and Interested Persons

**FROM:** Steve Hudson, Deputy Director  
Barbara Carey, District Manager  
Jacqueline Phelps, District Supervisor  
Wesley Horn, Coastal Program Analyst

**SUBJECT:** City of Carpinteria Local Coastal Program Amendment No. LCP-4-CPN-18-0089-1 (Cannabis Regulations), for public hearing and Commission action at the February 7, 2019 Commission Hearing in Half Moon Bay.

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## DESCRIPTION OF THE SUBMITTAL

The City of Carpinteria (City) is requesting an amendment to the Implementation Plan (IP) component of its Local Coastal Program (LCP) to allow for and regulate cannabis-related activities. The proposed amendment will allow for personal use cannabis cultivation of up to six plants in all zones pursuant to state law and subject to proposed personal use cultivation standards intended to minimize nuisance impacts. The amendment will also allow for certain commercial cannabis activities solely within the City's Industrial/Research Park District (M-RP) zone including testing laboratories, distribution, volatile and non-volatile manufacturing, and non-storefront retail (delivery). These commercial cannabis activities will require operators to obtain a Commercial Cannabis Operator's License from the City and state, and operators will be subject to additional standards to limit impacts from odor, light, and noise. Finally, the subject amendment will prohibit any commercial cultivation of cannabis within City limits.

The City submitted LCP Amendment LCP-4-CPN-18-0089-1 to the Commission on December 13, 2018. The amendment proposal was deemed complete and filed on December 28, 2018. Pursuant to Public Resources Code Section 30513 and California Code of Regulations, Title 14, Section 13522, an amendment to the certified LCP for changes to the IP component only must be scheduled for a public hearing and the Commission must take action within 60 days of receipt of the information that completed the file. In the subject case, the 60<sup>th</sup> day will be February 11, 2019.

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## SUMMARY OF STAFF RECOMMENDATION

Commission staff recommends that the Commission, after public hearing, **deny** the City's proposed IP amendment No. LCP-4-CPN-18-0089-1 as submitted, and **certify** the proposed amendment only if modified pursuant to one suggested modification. The suggested modification is necessary to ensure that the IP conforms with and is adequate to carry out the

provisions of the certified LUP. The motions and resolutions to accomplish this recommendation are found starting on page 6 of this staff report.

As described above, the City is proposing to add provisions to allow for and regulate cannabis-related activities. Specifically, the permitted uses section of several zoning districts will be updated to add certain personal and commercial cannabis-related activities as allowable uses. The amendment will allow indoor cannabis cultivation of up to six plants for personal use within all zones, and commercial cannabis activities, including testing, distribution, and manufacturing, within the Industrial/Research Park District (M-RP) zone. All commercial-cannabis cultivation, both indoor and outdoor, would be prohibited.

Within the City there are approximately 32 acres of privately owned land zoned agricultural (A), and the City's IP currently allows for all types of crop cultivation within the A zone. This agricultural land is located immediately adjacent to a Medium Density Residential (MDR) zone that is developed with an existing mobile home park. Due to the proximity of existing residential development in the area of the A zone, odors and nuisance impacts have the potential to create conflicts between potential commercial cannabis growers and residents. Coastal Act Section 30241, which is incorporated into the City's certified Local Coastal Program, and Implementation Policy 43 both require the establishment of buffer zones to minimize conflicts between agricultural and urban land uses. However, due to the proximity of the A zoned parcels to existing residential development, the City determined that an adequate buffer could not be provided in this instance. Therefore, the proposed prohibition on outdoor cannabis cultivation will minimize land use conflicts between agricultural and urban land uses. Furthermore, approximately half of the subject agricultural land is designated as "prime" soils by the California Department of Conservation. While the construction of greenhouses with odor abating technologies and other mitigation measures could potentially minimize conflicts between the urban and agricultural uses, the proliferation of greenhouse structures can significantly impact prime soils, and because of this, the City determined that allowing indoor commercial production on A parcels would adversely impact prime soils within the City.

All allowable commercial cannabis activities will be located at the easternmost end of the City's boundary, and will be limited to the M-RP zone where existing allowable uses consist of similar commercial and industrial processes. Allowing commercial cannabis development within this zone is consistent with the mandates of Coastal Act Section 30250 (as incorporated in the City's LCP), which require that new commercial and industrial development be located in areas able to accommodate it. Section 30250 also requires that new hazardous development is located away from developed areas. In addition to limiting commercial cannabis activities to the M-RP zone, the provisions of the subject IP amendment also require a protective buffer, which would prohibit any new commercial cannabis development within 700 feet of a sensitive receptor, which includes schools, day care facilities, and public recreational facilities.

Lastly, several of the proposed sections in the subject amendment include language highlighting compliance with current state laws and regulations for medicinal, recreational, and commercial use of cannabis in addition to language directly incorporating into the City's IP any subsequent amendment of, or successor to, state cannabis laws and regulations. The proposed amendment was specifically written to carry out current state laws and regulations in a way that is consistent

with the policies of the certified LUP, which is the standard of review. It is not possible to predict the substance of any future amendment to a cannabis law or regulation or successor legislation or determine whether automatic updates to the City's IP to reflect such changes would conform with the certified LUP. Future changes to the IP need to be reviewed by the Commission at that time for consistency with the applicable policies of the LUP. Therefore, to avoid potential future inconsistencies, **Suggested Modification 1** removes any reference that would allow automatic incorporation of amended or successive cannabis legislation into the City's IP.

In conclusion, the proposed amendment to the IP will not be fully adequate to carry out the certified land use plan for the above-stated reason, and staff recommends that the Commission deny the amendment as submitted. With the suggested modification, however, staff recommends that the Commission approve the IP amendment as being consistent with and adequate to carry out the certified land use plan. The motions and resolutions to carry out this recommendation begin on Page 6.

**Additional Information:** Please contact Wesley Horn 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. The proposed amendment to the City of Carpinteria Local Coastal Program (LCP) is available for review at the Ventura Office of the Coastal Commission.

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### EXHIBITS

[Exhibit 1 – City of Carpinteria Zoning Map](#)

[Exhibit 2 – City of Carpinteria Environmentally Sensitive Habitat Overlay Map](#)

[Exhibit 3 – Map of Cannabis Sensitive Receptors and Industrial Research Park \(M-RP\) Zone](#)

[Exhibit 4 – Carpinteria City Council Resolution for Amendment to Local Implementation Plan](#)

[Exhibit 5 – City of Carpinteria Ordinance No. 726](#)

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

The standard of review for the proposed amendment to the Implementation Plan of the certified Local Coastal Program, pursuant to Sections 30513 and 30514 (regarding amendments) of the Coastal Act, is whether the Implementation Plan would be in conformance with, and adequate to carry out, the provisions of the Land Use Plan portion of the City of Carpinteria's certified Local Coastal Program.

### **B. PUBLIC PARTICIPATION**

Section 30503 of the Coastal Act requires public input in the preparation, approval, certification and amendment of any LCP. The City Planning Commission held public hearings on the subject of this amendment request on October 1, 2018 and November 5, 2018. Additional public hearings were held by the City Council on December 11, 2017; January 22, 2018; April 23, 2018; and November 26, 2018. The hearings were noticed to the public consistent with Sections 13551 and 13552 of Title 14 of the California Code of Regulations. Notice of the subject amendment has been distributed to all known interested parties.

### **C. PROCEDURAL REQUIREMENTS**

Pursuant to Section 13551(b) of Title 14 of the California Code of Regulations, the City resolution for submittal of the LCP amendment will 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. In this case, because this approval is subject to a suggested modification by the Commission, if the Commission approves the proposed amendment pursuant to the staff recommendation, the City must act to accept the certified suggested modification within six

months from the date of Commission action for the amendment to become effective (California Code of Regulations, Title 14, Sections 13544 & 13544.5; and Sections 13542(b) and 13537(b)). If the Commission certifies the proposed LCP Amendment with suggested modifications and the City acts on those suggested modifications, then pursuant to Section 13544 of the California Code of Regulations, the Executive Director shall determine whether the City'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, as submitted, without suggested modifications, no further action is required by either the Commission or the City, and the LCP amendment is not effective.

## **II. STAFF RECOMMENDATION, MOTIONS, & RESOLUTIONS FOR THE IMPLEMENTATION PLAN AMENDMENT**

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 OF THE IMPLEMENTATION PLAN AMENDMENT AS SUBMITTED**

#### **Motion I:**

*I move that the Commission **reject** Implementation Plan Amendment No. LCP-4-CPN-18-0089-1 for the City of Carpinteria as submitted.*

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:**

The Commission hereby **denies** certification of the Implementation Plan Amendment No. LCP-4-CPN-18-0089-1 submitted for the City of Carpinteria 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. Certification of the Implementation Plan Amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Plan Amendment as submitted.

### **B. CERTIFICATION OF THE IMPLEMENTATION PLAN AMENDMENT WITH SUGGESTED MODIFICATION**

#### **Motion II:**

*I move that the Commission **certify** Implementation Plan Amendment No. LCP-4-CPN-18-0089-1 for the City of Carpinteria if it is modified as suggested in this staff report.*

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 the suggested modification passes only upon an affirmative vote of the majority of the Commissioners present.

**Resolution:**

The Commission hereby **certifies** Implementation Plan Amendment No. LCP-4-CPN-18-0089-1 for the City of Carpinteria if modified as suggested and adopts the findings set forth below on the grounds that the Implementation Plan Amendment with the suggested modification conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. 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.

**III. SUGGESTED MODIFICATION**

**A. SUGGESTED MODIFICATION TO THE LOCAL IMPLEMENTATION PLAN**

The staff recommends the Commission certify the proposed IP amendment, with one (1) suggested modification as shown below. Language proposed to be added by the City of Carpinteria is shown underlined. Language recommended to be deleted by Commission staff is shown in underline with strikethrough.

**1. Suggested Modification Number One:**

Sections 14.59.020, 14.59.030, 14.59.040, and 14.59.050 shall be modified as follows:

**14.59.020 Purpose and Intent.**

~~H. <sup>...</sup> Any reference to California statutes includes any regulations promulgated thereunder and is deemed to include any successor or amended version of the referenced statute or regulation.~~

**14.59.030 Legal Authority.**

Pursuant to Section 7 of Article XI of the California Constitution, the provisions of AUMA and MAURCRSA, and any subsequent state legislation and/or regulations regarding same, the City of Carpinteria is authorized to adopt ordinances that establish standards, requirements and regulations for the personal cultivation of cannabis, and the licensing and permitting of commercial (medicinal and adult-use) cannabis activity. Any standards, requirements, and

regulations regarding health and safety, security, and worker protections established by the State of California, or any of its departments or divisions, shall be the minimum standards applicable in the City of Carpinteria to all personal use, and commercial cannabis activity.

**14.59.040 Compliance with Laws.**

Nothing in this Chapter shall be construed as authorizing any actions that violate federal, state, or local law. It shall be the responsibility of the person(s) involved in the regulated activity to ensure that all personal use or commercial cannabis activities are, at all times, being conducted in a manner compliant with all applicable federal, state and local laws, including for as long as applicable, all state cannabis laws, ~~any subsequently enacted state law or regulatory, licensing, or certification standards or requirements,~~ and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of a land use permit or Commercial Cannabis Operator’s License.

**14.59.050 Definitions.**

When used in this Ordinance, the following words are defined as follows and in Chapter 14.08. If a word or term is not defined in this Section, Chapter 14.08, or in other provisions of the Carpinteria Municipal Code, the word or term shall have the meaning ascribed to it in Business and Professions Code Section 26001, or Health and Safety Code Section 11362.7 (“state cannabis laws”), ~~as they now read, or as they may be amended to read.~~ In cases where a definition is not provided, the meaning shall be as determined by the Director.

**IV. 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 suggested in Section III (Suggested Modification) above. The Commission hereby finds and declares as follows:

**A. LCP AMENDMENT DESCRIPTION AND BACKGROUND**

The City of Carpinteria (City) is proposing to amend the Implementation Plan (IP) component of its certified Local Coastal Program (LCP) to regulate cannabis-related activities. The proposed amendment will add definitions to Chapter 14.08- Definitions for “cannabis” and other cannabis-related activities including “cultivation”, “Commercial cannabis non-storefront retail (delivery)”, “Commercial cannabis testing laboratory”, “Commercial Cannabis distribution”, and “Commercial cannabis manufacturing”. The proposed amendment will also update the permitted uses sections of several zoning districts, including Single-Family Residential (R-1), Planned Residential Development (PRD), Mobile Home Park (MHP), Commercial Planned Development (CPD), Industrial/Research Park (M-RP), General Industry (M), and Agriculture (A) to add certain cannabis-related activities as an allowable use where appropriate. Specifically, the amendment will allow indoor cannabis cultivation for personal use within all zones up to a maximum of six plants and subject to proposed personal use cannabis regulations. Any outdoor cannabis cultivation for personal use will be prohibited. All commercial cannabis activities



including testing, manufacturing, distribution, and non-storefront retail (delivery) will be allowable uses only within the Industrial/Research Park District (M-RP) zone and subject to additional standards regarding licensing, protective buffers from sensitive receptors, odor control, public visibility and signage, lighting, and noise. Lastly, the amendment also proposes to prohibit all indoor and outdoor commercial-cannabis cultivation in all zoning districts.

### Background

On December 11, 2017 the City Council (Council) was given a presentation from City staff that included a briefing on state laws for cannabis, and staff's efforts to date on the development of a City cannabis ordinance. The Council requested further public outreach, and in response, City staff prepared an online survey in December 2017 to gather public input on possible citywide cannabis regulations. The results of that survey were discussed at the Council hearing on January 22, 2018 and the Council determined that it was primarily interested in further exploring allowances for commercial cannabis manufacturing, distribution, non-storefront retail (delivery), and testing facilities and that it was not in support of retail storefront dispensaries. The City Council then met again on April 23, 2018 and heard additional information on what the aforementioned commercial cannabis activities would entail and how they are regulated on the State and local level. At the conclusion of that meeting the Council was in agreement with staff's recommendation to allow these commercial cannabis activities, but to geographically limit them within the Industrial Research Park (MR-P) zone.

The City Planning Commission (Planning Commission) reviewed a working draft of the City cannabis ordinance on October 1, 2018 and received public comment and provided feedback to City staff. Overall, the Planning Commission was in agreement with staff's recommended ordinance for personal use and commercial cannabis, but requested additional information on how the proposed ordinance would be implemented and continued the item to the November 5, 2018 Planning Commission meeting. After hearing the additional research by City staff and minor changes to the proposed ordinance, the Planning Commission voted to approve the ordinance with an amendment to prohibit outdoor personal use cultivation.

On November 26, 2018 the Council approved the amended ordinance with one additional change, to increase the required buffer between commercial cannabis activities and sensitive receptors from 600 feet to 700 feet.

The City submitted LCP Amendment LCP-4-CPN-18-0089-1 to the Commission on December 13, 2018. The amendment proposal was deemed complete and filed on December 28, 2018. Pursuant to Public Resources Code Section 30513 and California Code of Regulations, Title 14, Section 13522, an amendment to the certified LCP for changes to the IP component only must be scheduled for a public hearing and the Commission must take action within 60 days of receipt of the information that completed the file. In the subject case, the 60<sup>th</sup> day will be February 11, 2019.

## **B. CONSISTENCY ANALYSIS**

Section 30240 of the Coastal Act, which is incorporated as a policy of the City of Carpinteria's Land Use Plan, states:

- (a) Environmentally Sensitive Habitat Areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

Section 30241 of the Coastal Act, which is incorporated as a policy of the City of Carpinteria's Land Use Plan, states (in relevant part):

*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.*

Section 30250 of the Coastal Act, which is incorporated as a policy of the City of Carpinteria's Land Use Plan, states (in relevant part):

- (a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.*
- (b) Where feasible, new hazardous industrial development shall be located away from developed areas.*

Policy LU-2b of the Carpinteria Land Use Plan states (in relevant part):

*Regulate all development, including agriculture, to avoid adverse impacts on habitat resources.*

Policy OSC-1a of the Carpinteria Land Use Plan states:

*Protect Environmentally Sensitive Habitat Area(s) (ESHA) from development and maintain them as natural open space or passive recreational areas.*

Policy OSC-1b of the Carpinteria Land Use Plan states:

*Prohibit activities, including development, that could damage or destroy ESHA.*

Implementation Policy 4 of the Carpinteria Land Use Plan states (in relevant part):

*The City shall maintain an Environmentally Sensitive Habitat Area (ESHA) Overlay district within its zoning ordinance with the purpose of protecting and preserving areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in the ecosystem and which could be easily disturbed or degraded by human activities and development. The intent of the zoning district shall be to ensure that all development on properties subject to the ESHA overlay is designed and carried out in a manner that will provide maximum protection to sensitive resources.*

Policy OSC-9d of the Carpinteria Land Use Plan states:

*Encourage conservation of agricultural production areas.*

Policy OSC-9j of the Carpinteria Land Use Plan states (in relevant part):

*The City shall encourage agricultural practices that protect water quality including but not limited to, reducing erosion, minimizing nutrient loss, reducing pesticide use and contamination, and irrigation management.*

Implementation Policy 43 of the Carpinteria Land Use Plan states:

*Develop buffer zones to minimize land use conflicts between agricultural operations and urbanized land uses.*

The standard of review for the proposed amendment to the Implementation Plan (IP) of the certified Local Coastal Program (LCP), pursuant to Sections 30513 and 30514 (regarding amendments) of the Coastal Act, is whether the IP would be in conformance with, and adequate to carry out, the policies of the Land Use Plan (LUP) portion of the City of Carpinteria's (City) certified LCP.

The City LUP includes policies that protect Environmentally Sensitive Habitat Areas (ESHA) against any significant disruption of habitat values. The LUP also requires that the maximum amount of prime agricultural land shall be maintained for production and that conflicts with adjacent land uses are avoided. Additionally, the LUP includes a policy which requires that new commercial or industrial development be located in existing areas able to accommodate it and that hazardous industrial development is set sufficiently far away from existing development.

As previously discussed, the proposed amendment will add definitions for "cannabis" and other cannabis-related activities, and will update the permitted uses section of several zoning districts to add certain cannabis-related activities as allowable uses. Specifically, the amendment will allow indoor cannabis cultivation for personal use within all zones, and certain commercial

cannabis activities within the Industrial/Research Park District (M-RP) zone. All commercial-cannabis cultivation, both indoor and outdoor, would be prohibited.

Within the City, there are approximately 32-acres of privately owned agriculturally zoned land (**Exhibit 1**). Open field agriculture is an allowed use within the Agricultural (A) zone while greenhouses, or other plant related development, are allowed pursuant to the approval of a Conditional Use Permit (CUP). The subject agricultural land is located immediately adjacent to a Medium Density Residential (MDR) zone that is developed with an existing mobile home park. Based on the City's experience with land use conflicts and nuisance complaints regarding odor, light, and traffic as a result of the proliferation of commercial cannabis cultivation within the surrounding, unincorporated areas of the Carpinteria Valley (that area of the Carpinteria Valley is within the jurisdiction of Santa Barbara County), the City does not believe that open field commercial cannabis cultivation within the aforementioned agricultural parcels is appropriate considering the proximity of existing residential uses (existing mobile home park). Similarly, the Commission recently approved County of Santa Barbara (County) LCP amendment LCP-4-STB-18-0039-1-Part C regarding cannabis regulations. In recognition of the potential conflict between urban and residential uses and outdoor cannabis cultivation, the County's amendment also included buffers, which prohibit outdoor cultivation immediately adjacent to residential development (within one mile of an Urban Rural boundary and within 1,500 feet of a residential zone).

Consistent with the mandates of Coastal Act Section 30241, which is incorporated into the City's LCP, and Implementation Policy 43 of the LUP, the proposed prohibition on outdoor personal and commercial cannabis cultivation will minimize land use conflicts between agricultural operations and residential or other urbanized land uses. While Section 30241 and Implementation Policy 43 specifically call for a protective buffer, the subject amendment recognizes that due to the proximity of the A zoned parcels to existing residential development, an adequate buffer could not be provided, and therefore any outdoor cultivation of cannabis on these parcels is not appropriate.

Approximately half of the subject agricultural land is designated as "prime" soils by the California Department of Conservation. While the construction of greenhouses with odor abating technologies and other mitigation measures could potentially minimize conflicts between the residential/other urban and agricultural uses, the proliferation of greenhouse structures can significantly impact prime soils, and because of this, the City determined that allowing indoor commercial cannabis production on A parcels would adversely impact prime soils within the City. Section 30241 of the Coastal Act, as incorporated in the LCP, requires that the maximum amount of prime agricultural land be maintained in agricultural production to assure protection of the area's agricultural economy. Although the subject amendment proposes to prohibit commercial cannabis cultivation within the agricultural zones, there will be no change to the amount of agricultural land available for production of other crops and there will be no change to the other types of crops permissible for cultivation. Therefore, while the proposed amendment will prohibit the commercial cultivation of cannabis, the subject agricultural parcels are still available for maximum agricultural production consistent with Section 30241.

In addition to being located in close proximity to residential uses, the A zoned parcels within the City are also located immediately adjacent to Carpinteria Creek, which is designated as ESHA by the City's LCP. Because this agricultural land is located so close to the creek, the majority of the A designated parcels are within the City's ESHA Overlay as depicted in Figure OSC-1 (**Exhibit 2**). The LCP requires that all development on properties located within the ESHA Overlay is designed in a manner that will provide maximum protection to sensitive resources. As proposed, the subject amendment only allows for indoor cultivation of up to six plants in all zones for personal use. Any new structures used for such personal cannabis cultivation would be subject to the ESHA protection policies of the LUP. Further, the IP amendment would prohibit all outdoor and indoor commercial cultivation of cannabis. As such, the proposed LCP amendment would not result in any additional potential impacts to ESHA.

Proposed commercial cannabis activities included in the subject amendment consist of testing, manufacturing (both volatile and non-volatile), distribution, and non-storefront retail (delivery), which would be allowable uses only in the City's Industrial/Research Park Zoning District (M-RP). Limiting these commercial cannabis activities to this zone is appropriate because the M-RP District already allows for similar industrial commercial uses including light processing/manufacturing of food/beauty products, distribution/storage warehouses, laboratory testing/research and development, and shipping/receiving facilities. Additionally the location of the M-RP District at the easternmost portion of the City, as depicted on **Exhibit 1**, ensures that commercial cannabis activities will be located as far as feasible from any residences or sensitive receptors to avoid nuisance impacts. While the M-RP District is located in a somewhat isolated area of the City, due to the location and orientation of the M-RP parcels there are still several sensitive receptors located in the vicinity of the M-RP that could be impacted. As such, the proposed amendment includes a standard that requires all commercial cannabis business to be located outside of a 700 foot radius from any sensitive receptor in order to provide further protection. A map of the M-RP parcels within the City as well as the required 700 foot buffer from sensitive receptors is included in **Exhibit 3**.

Coastal Act Section 30250, as incorporated into the LCP, requires that new commercial and industrial development be located in existing developed areas able to accommodate it and that hazardous industrial development be located away from developed areas. In the case of the subject amendment, the proposed commercial cannabis activities will be concentrated within the M-RP district because development in this zone consists of large, existing industrial facilities with available space to accommodate new commercial cannabis activities. Additionally, this zone already allows for industrial uses that are similar to the proposed commercial cannabis activities. As such, land use conflicts within this zone should be minimized. Finally, as described above, the location of the M-RP district at the easternmost end of the City limits, in conjunction with the required 700 foot buffer from sensitive receptors, will ensure that nuisance impacts and incompatible land uses as a result of commercial cannabis activities are avoided. Consistent with Section 30250, allowing commercial cannabis activities in the M-RP District will concentrate the development in existing developed areas able to accommodate it while also ensuring that any hazardous development (i.e. volatile manufacturing of cannabis) is located away from developed areas.

Lastly, several of the proposed sections in the subject amendment include language highlighting compliance with current state laws and regulations for medicinal, recreational, and commercial use of cannabis in addition to language directly incorporating into the City's IP any subsequent amendment of, or successor to, state cannabis laws and regulations. The proposed amendment was specifically written to be consistent with current state laws and regulations in a way that is consistent with the policies of the certified LUP, which is the standard of review. It is not possible to predict the substance of any future amendment to a cannabis law or regulation or successor legislation or to determine whether automatic updates to the City's IP to reflect such changes would conform with the certified LUP. Future changes to the IP need to be reviewed by the Commission at that time for consistency with the applicable policies of the LUP. Therefore, to avoid future changes to state law from being automatically incorporated into the IP, which could lead to inconsistencies between the IP and LUP, **Suggested Modification 1** removes any reference that would allow automatic incorporation of amended or successive legislation into the City's IP.

In conclusion, the proposed amendment will adequately protect coastal resources and maximize the amount of agricultural land available for production. In addition, the amendment will allow for new commercial and industrial cannabis development in an area able to accommodate it and locate those cannabis activities sufficiently far away from existing development to avoid land use conflicts. Therefore, the Commission finds that the subject amendment, if modified as suggested, conforms with and is adequate to carry out the certified LUP policies.

### **C. 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, the City of Carpinteria prepared a Notice of Exemption (NOE) for the Cannabis Regulations, dated November 26, 2018.

Nevertheless, the Commission is required, in approving an LCP submittal to find that the approval of the proposed LCP, as amended, does conform with some 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 City'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, modified the proposed IP to bring it into conformity with the LUP, as required by the Coastal Act. This report includes 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 modification represents 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.