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DATE: July 26, 2019

TO: Coastal Commissioners and Interested Parties

FROM: Alison Dettmer, Deputy Director
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Melissa Kraemer, Supervising Analyst

SUBJECT: **Humboldt County LCP Amendment No. LCP-1-HUM-16-0075-2 Part B**
(Commercial Cannabis Land Use Ordinance – Medical Dispensaries)
For the Commission meeting of Wednesday August 7, 2019 in Eureka

SUMMARY OF STAFF RECOMMENDATION

The County of Humboldt (County) proposes to amend its local coastal program's (LCP) implementation program (IP) to add standards and regulations for the siting and operation of retail facilities (dispensaries) engaged in the dispensing of cannabis, as shown in Appendix A. Because Humboldt County has six separate Local Coastal Area Plans (LUPs), the proposed IP amendment must be evaluated for conformity with each. LUP areas are shown in Exhibit 1.

The County first adopted regulations pertaining to cannabis (marijuana) in 2009 in response to concerns surrounding medical marijuana management within the County. Beginning in 2011, the County's "Commercial Cannabis Land Use Ordinance" (CCLUO) was adopted in four separate subject matter phases. The subject IP amendment request represents "Phase 3" of the County's CCLUO. As originally adopted and transmitted by the County in 2016, the proposed IP amendment consists of regulatory standards for the siting and operation of dispensaries engaged in the dispensing of medical marijuana to qualified patients. As proposed, dispensaries would be allowed in the Neighborhood Commercial (CN), General Commercial (CG), Business Park (MB), Light Industrial (ML), and General Industrial (MG) zoning districts. Both a CDP and conditional use permit would be required for cannabis dispensaries.

Over the past two years, during the time that the subject amendment application was pending as incomplete with the Commission, the County has adopted new IP text amendments that modify the previously transmitted IP amendment for Phase 3 (the subject application). The transmitted changes relate to (1) the state legalizing cannabis for adult recreational use since the time that the amendment was originally adopted by the County in July of 2016, and (2) the County recently adopting updated regulations for commercial cannabis activities (Phase 4 of the CCLUO) that include, among other commercial regulations, regulations for "Adult Use Retail Sales" of

cannabis (Part C of LCP Amendment Application No. LCP-1-HUM-16-0075-2, which will be effectively certified on August 7, 2019). The County staff indicates that the regulations of Part B and Part C that address cannabis dispensaries (medical and adult use, respectively) are meant to be supplementary to each other, and that Part B is meant to apply to cannabis dispensaries in general, not just medical dispensaries.

The proposed amendment recognizes that cannabis is akin to other retail uses and thus allows cannabis dispensaries within various zoning districts where retail sales and services are allowed. While cannabis dispensaries would be allowed in the CG, CN, MB, and ML zoning districts consistent with the uses allowed in these areas under the certified LUPs and the existing certified IP, the Commission, in its action to certify the County’s commercial cannabis regulations with suggested modifications in May of 2019 (Part C of this amendment application), found that Adult Use Retail Sales of cannabis (regulated under Part C) only would be appropriate to allow in the MG zoning district and in the Coastal-Dependent Industrial (MC) zoning district (as an interim use on MC lands) provided that the cannabis retail sale use is combined with other cannabis uses within a permitted microbusiness facility and with the certified LCP policies that protect coastal-dependent industrial lands around Humboldt Bay. Staff recommends **Suggested Modification 1** to (a) restrict the retail sale use to microbusiness situations only in the industrial zoning district where retail sales exclusively are not allowed; and (b) exclude lands zoned for priority MC uses from being host to cannabis retail facilities except in microbusiness situations as an “interim use” in order to prevent interference with priority coastal-dependent uses. Staff also recommends **Special Modification 2** to clarify that the requirements applicable to Adult Use Retail Sales of cannabis in section 313-55.4 of the IP also apply to the proposed new section on medical dispensaries. This will ensure that certain standards related to road paving requirements, setbacks, and several other coastal resource protection standards are applied to the proposed medical cannabis dispensary regulations as intended by the County. Finally, **Suggested Modification 3** includes numerous “friendly modifications” offered by County staff on February 28, 2019 (Appendix B) to (1) delete outdated code references; (2) update terminology and definitions for internal IP consistency and consistency with the more recently developed Part C regulations; and (3) make the regulations applicable to both medical and recreational cannabis use.

The appropriate motions and resolutions to adopt the staff recommendation are on page 5.

DEADLINE FOR COMMISSION ACTION

On December 30, 2016, Humboldt County transmitted its Commercial Cannabis Land Use Ordinance to the Commission under Implementation Program (IP) Amendment Application No. LCP-1-HUM-16-0075-2. This IP amendment application consists of three parts: (1) Part A amends existing regulations related to indoor cultivation for personal use and adds specific regulations for outdoor cultivation for personal use; (2) Part B adds specific regulations governing facilities involved in retail distribution of cannabis; and (3) Part C adds new regulations for commercial activities associated with cultivation, processing, manufacturing, and wholesale distribution of cannabis. On December 21, 2018, Commission staff determined all three parts of the proposed LCP amendment to be complete. At the February 8, 2019 hearing, the Commission granted a six-month time extension to act on all three parts of the subject amendment pursuant to Coastal Act Section 30517. At the Coastal Commission meeting of May 9, 2019 in

Oxnard, the Commission certified Part C of the proposed application with suggested modifications. The deadline for Commission action on the remaining two parts of the proposed IP amendment application, including Part B, the subject of this staff recommendation, is August 19, 2019.

ADDITIONAL INFORMATION

For further information, please contact Melissa Kraemer at the Commission’s North Coast District Office in Arcata at (707) 826-8950. The proposed amendment is available for review at the Arcata office upon request.

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APPENDICES

[Appendix A: County Adopted Amendment](#)

[Appendix B: County Staff Proposed “Friendly” Modifications Transmitted 2/28/19](#)

[Appendix C: Commission Suggested Modifications \(all modifications\)](#)

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EXHIBITS

[Exhibit 1 – Humboldt County LUP Areas](#)

[Exhibit 2 – Resolutions of Adoption/Transmittal](#)

[Exhibit 3 – Adopted Ordinance No. 2554](#)

I. MOTIONS, RECOMMENDATIONS, AND RESOLUTIONS

A. DENIAL OF IP AMENDMENT NO. “LCP-1-HUM-16-0075-2 PART B” AS SUBMITTED

Motion 1:

I move that the Commission reject Implementation Program Amendment No. LCP-1-HUM-16-0075-2 Part B as submitted by the County of Humboldt.

Staff recommends a **YES** vote. Passage of this motion will result in rejection of the implementation program 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 1 to Deny the IP Amendment as submitted:

The Commission hereby denies certification of Implementation Program Amendment No. LCP-1-HUM-16-0075-2 Part B as submitted for the County of Humboldt on grounds that the implementation program 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 program amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the implementation program amendment as submitted.

B. CERTIFICATION OF IP AMENDMENT NO. “LCP-1-HUM-16-0075-2 PART B” WITH SUGGESTED MODIFICATIONS

Motion 2:

I move that the Commission certify Implementation Program Amendment No. LCP-1-HUM-16-0075-2 Part B for the County of Humboldt if it is modified as suggested in this staff report.

Staff recommends a **YES** vote. Passage of this motion will result in certification of the implementation program amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Resolution 2 to Certify the IP Amendment with Suggested Modifications:

The Commission hereby certifies the Implementation Program Amendment No. LCP-1-HUM-16-0075-2 Part B for the County of Humboldt if modified as suggested on grounds that the implementation program, as amended, conforms with and is adequate to carry out the provisions of the certified land use plan. Certification of the implementation program amendment will comply with the California Environmental

Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the implementation program amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

II. PROCEDURAL ISSUES

A. STANDARD OF REVIEW

Section 30513 of the Coastal Act addresses certification of the Implementation Program (IP) portion of a local coastal program (LCP) in part as follows:

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

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

The Commission may suggest modifications in the rejected zoning ordinances, zoning district maps, or other implementing actions...

Section 30514 of the Coastal Act addresses LCP amendments in part as follows:

(a) A certified local coastal program and all local implementing ordinances, regulations, and other actions may be amended by the appropriate local government, but no such amendment shall take effect until it has been certified by the commission.

(b) 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...

The standard of review for the proposed amendment to the IP portion of the County of Humboldt certified LCP (in this case, changes to Coastal Zoning Regulations, Chapter 3) is whether the IP as amended conforms with and is adequate to carry out the provisions of the six Local Coastal Area Plans in the land use plan (LUP) portion of the County's LCP. The County has six different certified LUPs (from north to south): (1) North Coast Area Plan; (2) Trinidad Area Plan; (3)

McKinleyville Area Plan; (4) Humboldt Bay Area Plan; (5) Eel River Area Plan; and (6) South Coast Area Plan. Maps of the six LUP planning areas are included as Exhibit 1.

B. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in the preparation, approval, certification and amendment of any LCP. The County Planning Commission conducted nine public hearings on the development of the LCP amendment (in conjunction with the development of the inland cannabis ordinance), including on 1/6/11, 2/3/11, 5/12/11, 8/18/11, and 10/1/15. The County Board of Supervisors held seven public hearings, including on 11/15/11, 12/13/11, 7/28/15, 8/18/15, 5/10/16, and 7/19/16. All public hearings were noticed to the public consistent with Sections 13551 and 13552 of Title 14 of the California Code of Regulations. Notice of the Coastal Commission hearing for this LCP amendment has been distributed to all known interested parties.

C. TRIBAL CONSULTATION

During the process of reviewing the IP amendment application and developing this recommendation, Commission staff reached out via email to representatives from Native American Tribes and affiliated contact groups understood to have current and/or historic connections to the project area. Appendix D includes a summary of the tribes/groups who were contacted by Commission staff, the initial date(s) of contact, and the date(s) of initial reply from tribes/groups.

In addition, an in-person joint tribal meeting between various tribes and Coastal Commission staff was held on 3/28/19 in Eureka. The meeting was attended by tribal representatives from the Yurok, Wiyot, and Hoopa Valley Tribes, and the County Director of Planning and Building also was present. At the meeting, Commission staff presented an overview of the Commission's LCP amendment application review process, the County's proposal including the provisions providing specific protections for tribal cultural resources, the Commission's recently adopted tribal consultation policy, and background on existing LCP resource protection policies. Commission and County staff answered questions, and there was discussion of the proposed amendment and issues of concern to the tribes. The tribal representatives expressed no issues of concern regarding Part B of the application.

D. PROCEDURAL REQUIREMENTS

Pursuant to section 13551(b) of Title 14 of the California Code of Regulations, the County resolution for submittal may specify that a LCP amendment will either require formal local government adoption after the Commission approval, or that it is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code sections 30512, 30513, and 30519. In this case, the County's resolution of transmittal of the IP amendment to the Commission for certification states that the amendment will take effect immediately upon Commission action. Therefore, if the Commission certifies the LCP amendment as submitted, no further County Board action will be necessary. Should the Commission certify the LCP amendment subject to suggested modifications, acceptance of these suggested modifications by the County Board of Supervisors and a determination by the Executive Director of compliance with section 13544 of the Commission's regulations will be required in order for the amendment to take effect. Should the Commission deny the LCP

Amendment as submitted without suggested modifications, no further action is required by either the Commission or the County, and the LCP amendment will not become effective.

III. SUMMARY OF SUGGESTED MODIFICATIONS

The Commission attaches three suggested modifications shown below. The County staff has indicated its agreement with the Commission’s suggested modifications.

If Humboldt County accepts the suggested modifications within six months of Commission action (i.e., by February 7, 2020), by formal resolution of the Board of Supervisors, the modified amendment will become effective upon Commission concurrence with the Executive Director’s finding that this acceptance has been properly accomplished.

County proposed text is shown in black underline. Text shown in ~~bold double cross-out~~ and bold double-underline format denotes text to be deleted/added by the Commission:

Suggested Modification 1:

Specify, in proposed section 55.3.8.2, that retail dispensaries may only be permitted in the General Industrial (MG) zoning district and in the Coastal-Dependent Industrial (MC) zoning district as (only as an interim use on MC lands) as part of “microbusiness” activities consistent with IP section 313-55.4 and with the certified LUP policies that protect coastal-dependent industrial lands around Humboldt Bay. The purpose of this Suggested Modification is to (a) restrict the retail sale use to microbusiness situations only in the industrial zoning districts where retail sales exclusively are not allowed; and (b) consistent with the Commission’s action on Part C of the subject IP amendment application (certified with suggested modifications in May of 2019), exclude lands zoned for priority MC uses from being host to cannabis retail facilities except in microbusiness situations as an “interim use” in order to prevent interference with priority coastal dependent industrial and similar coastal-dependent uses.

55.3.8.2 ~~Medical e~~Cannabis dispensaries shall only be allowed in specifically enumerated zones with a valid business license, and a conditional use permit and coastal development permit, issued pursuant to Section 312-3.1 of the code. Zoning districts where a Dispensary may be located are CN, CG, MB, ~~and ML~~ and MG. Dispensaries may only be permitted in the MG zone and in the MC zone as an interim use as Microbusiness activities consistent with Section 313-55.4.

...

Suggested Modification 2:

Clarify, in proposed section 55.3.9 (Cannabis Dispensary Requirements), that in addition to all other requirements for a conditional use permit and coastal development permit, the requirements applicable to Adult Use Retail Sales of cannabis in section 313-55.4 of the IP also apply:

55.3.9 ~~Medical~~ Cannabis Dispensary Requirements

In addition to all other requirements for a conditional use permit and coastal development permit, **and in addition to the requirements applicable to Adult Use Retail Sales of cannabis in section 313-55.4 of the coastal zoning regulations, all of the following terms and provisions must be met in order for the Planning Commission to consider granting or renewing a conditional use permit or coastal development permit to operate a **medical** cannabis Dispensary:**

...

Suggested Modification 3:

Suggested modification 3 includes numerous “friendly modifications” offered by County staff on February 28, 2019 (Appendix B) to (1) delete outdated code references; (2) update terminology and definitions for internal IP consistency and consistency with the more recently developed Part C regulations; and (3) make the regulations applicable to both medical and recreational cannabis use. The suggested modification also includes additional minor changes suggested by the Commission to reduce redundancy and promote clarity and internal IP consistency.

Appendix C displays the totality of Commission suggested modifications, which include the County staff’s proposed friendly modifications plus the other changes suggested by the Commission in Suggested Modifications 1, 2, and 3 shown above.

IV. FINDINGS FOR DENIAL OF THE SUBJECT IP AMENDMENT AS SUBMITTED AND CERTIFICATION IF MODIFIED

The Commission finds and declares as follows for proposed Implementation Program (IP) Amendment No. LCP-1-HUM-16-0075-2 Part B:

A. AMENDMENT DESCRIPTION AND BACKGROUND

1. Description of Proposed IP Amendment (LCP-1-HUM-16-0075-2 Part B)

Proposed New Phase 3 Regulations (Retail Dispensaries)

As originally adopted and transmitted by the County in 2016, the proposed IP amendment consists of regulatory standards for the siting and operation of retail facilities (dispensaries) engaged in the dispensing of medical marijuana to qualified patients. As proposed, dispensaries would be allowed in the Neighborhood Commercial (CN), General Commercial (CG), Business Park (MB), Light Industrial (ML), and General Industrial (MG) zoning districts. Both a CDP and conditional use permit would be required for cannabis dispensaries. Applications would be required to be accompanied by a hazardous materials storage, handling, and disposal plan approved by the County Division of Environmental Health, if applicable. There are no specified setbacks required under the proposed IP amendment, though if a dispensary is located within 600 feet of any of the following, it could be denied if the County determines that there would be significant impacts: (a) “residential neighborhoods and their inhabitants;” (b) churches; (c) playgrounds, public parks, libraries, licensed day care facilities, and places where children congregate; (d) residential treatment facilities; or (e) “another cannabis dispensary, delivery service or other distribution or transfer facility...”

County Staff Proposed “Friendly Modifications”

Since the time that the County adopted and transmitted the proposed IP changes described above, (1) the State legalized cannabis for adult recreational use, and (2) the County updated regulations for commercial cannabis activities (Part C of the subject LCPA application, certified by the Commission with suggested modifications on May 9, 2019). To promote consistency with current State law as well as more recently adopted terminology, definitions, and other standards, County staff offered several proposed “friendly modifications” on February 28, 2019 (Appendix B). The proposed friendly modifications offered by County staff would (a) delete outdated code references; (b) update terminology and definitions for internal IP consistency and consistency with the more recently developed Part C regulations; and (c) make the regulations applicable to both medical and recreational cannabis use.

2. County Regulation of Cannabis and Timeline of Submittal to the Commission

Humboldt County first adopted regulations pertaining to cannabis (marijuana) in 2009 in response to concerns surrounding medical marijuana management within the County. Two members of the County Board of Supervisors served on a subcommittee to research medical marijuana management alternatives and investigate policy options. Beginning in 2011, the County’s “Commercial Cannabis Land Use Ordinance” (CCLUO) was adopted in four separate subject matter phases, including: Phase 1 regarding indoor cultivation for personal use; Phase 2 regarding outdoor cultivation for personal use; Phase 3 for dispensaries; and Phase 4 for commercial cultivation, processing, manufacturing, and distribution of cannabis. For each phase, the County adopted separate ordinances for the coastal zone and inland areas of the County. Generally, the coastal zone ordinance for each phase was modeled based on the corresponding inland area ordinance.

The ordinance for each phase was first adopted after cannabis activities related to personal medical use had been legalized within California, but prior to the voter initiative in 2016 that legalized at the state level cannabis activities related to adult recreational use. After passage of the initiative, the County adopted new ordinances amending each phase of the CCLUO to incorporate provisions regulating both personal medical use and adult recreational use of cannabis. The history of the County’s adoption and transmittal of coastal cannabis ordinances for certification by the Commission as amendments to the certified IP is summarized below (and see Appendix E).

CCLUO Phase 1 (Indoor Cultivation for Personal Medical Use)

The County adopted regulations for the indoor cultivation of cannabis for personal medical use on 12/13/11. The Commission certified these regulations (County Ordinance No. 2468) for the coastal zone under Minor IP Amendment No. “HUM-MIN-1-12” on 3/9/12.

CCLUO Phase 2 (Outdoor Cultivation for Personal Medical Use)

The County adopted regulations pertaining to the outdoor cultivation of cannabis for personal medical use on parcels five acres in size and smaller in the coastal zone on 10/28/14 (Ordinance No. 2523), and subsequently transmitted the amendment for certification on 12/30/16. The

adopted ordinance also includes certain changes to the previously certified Phase 1 regulations (County Ordinance No. 2468). Over the past two years, the County has adopted new IP text amendments that affect the previously transmitted IP amendment for Phase 2, and the County staff also has recently offered proposed changes (friendly modifications) to the transmitted amendment (Part A of IP Amendment Application No. LCP-1-HUM-16-0075-2). On 12/21/18, Commission staff determined that the County had provided sufficient information to deem the IP amendment submitted. On 2/8/19, the Commission granted a six-month time extension to act on the IP amendment application. The Commission will consider Part A of IP Amendment Application No. LCP-1-HUM-16-0075-2 at the August 7, 2019 Commission meeting.

CCLUO Phase 3 (Subject IP Amendment Application for Medical Dispensaries)

Phase 3 is the subject amendment, IP Amendment Application No. LCP-1-HUM-16-0075-2 Part B. The County adopted coastal regulations pertaining to medical dispensaries on 7/19/16 under Ordinance No. 2554 and transmitted the amendment for certification on 12/30/16. Similar to the ordinance transmitted as Part A of the IP Amendment submittal, over the past two years, the County has adopted new IP text amendments that modify the previously transmitted IP amendment for Phase 3, and as noted above, the County staff also has recently offered proposed changes (friendly modifications) to the submittal (summarized in Appendix E). On 12/21/18, Commission staff determined that the County had provided sufficient information to deem the IP amendment submitted. On 2/8/19, the Commission granted a six-month time extension to act on the IP amendment application.

CCLUO Phase 4 (Commercial Cannabis Activities)

The County adopted regulations pertaining to the commercial cultivation, processing, manufacturing, and distribution of cannabis for medical use on 9/13/16 under Ordinance No. 2559 (locally referred to as “Cannabis 1.0”). The County subsequently transmitted the amendment for certification on 12/30/16. Over the prior two years, the County repealed its previously adopted and transmitted IP amendment for Phase 4 (Ordinance 2559), and adopted and transmitted new regulations for Phase 4 (Ordinance No. 2598) incorporating provision for commercial adult recreational use activities. In addition, the County staff offered proposed changes (friendly modifications) to the submittal. Appendix E provides added detail on the history of changes to this proposed amendment. At the Coastal Commission meeting of May 9, 2019 in Oxnard, the Commission (a) denied the County of Humboldt IP Amendment Application No. LCP-1-HUM-16-0075-2 Part C as submitted, and (b) certified the IP amendment as recommended by staff with suggested modifications described in the April 19th staff report, as modified orally at the May 9th hearing. Humboldt County has accepted the suggested modifications by formal resolution of the Board of Supervisors, and the modified amendment will become effectively certified at the August 7, 2019 Commission hearing prior to hearing of the subject amendment.

B. ENVIRONMENTAL SETTING

Humboldt County has six separate certified Land Use Plans (LUPs), each certified by the Commission in the early 1980’s. LUP planning areas are shown in Exhibit 1.

North Coast Area Plan (NCAP)

The NCAP area extends from the northern County line approximately 23 miles south to Patricks Point and up to two miles inland. The area also includes nine miles of coastal lagoons (Freshwater Lagoon, Stone Lagoon, and Big Lagoon) and regionally unique wetland habitats (Big Lagoon Bog). Redwood National Park and several State and County parks are within and adjacent to the area.

Trinidad Area Plan (TAP)

The TAP area extends along approximately six miles of coastline from Patricks Point State Park to Little River State Beach and includes rural lands around the City of Trinidad and the unincorporated community of Westhaven. Several state and County beaches and parks in the TAP area are popular visitor destination areas. Most developed properties in the area are on individual wells and onsite wastewater treatment systems, though some water service is provided to certain areas (e.g., portions of Westhaven) by the City of Trinidad or small community services districts.

McKinleyville Area Plan (MAP)

The MAP area includes a five-mile-long stretch of coastal lands from the Little River to the Mad River and up to four miles inland (around the Mad River). The unincorporated community of McKinleyville is located partially within the coastal zone atop an uplifted marine terrace separated from the ocean by a series of coastal dunes and bluffs. Much of the MAP area has urban services (water and sewer) and has largely been built out.

Humboldt Bay Area Plan (HBAP)

The HBAP area includes approximately 20 miles of coastline extending from the Mad River to the north end of Table Bluff, plus over 100 additional miles of estuarine shoreline along Humboldt Bay and its tidally influenced tributaries. The HBAP area includes the north and south spits of Humboldt Bay, the farmed bottomlands around Arcata and Eureka, and various unincorporated urban areas (e.g., Samoa, Manila, Myrtle town, King Salmon, Fields Landing, and Humboldt Hill). Much of the HBAP area is served with urban services (sewer and/or water), and the LUP boundaries abut the cities of Eureka and Arcata. The Humboldt Bay Harbor, Recreation, and Conservation District manages the Port of Humboldt Bay.

Eel River Area Plan (ERAP)

The ERAP area includes lands that extend from Table Bluff, which lies just south of Humboldt Bay, approximately 11.5 miles southward to the rural ranchlands around and southwest of the cities of Ferndale and Fortuna. The ERAP area is mostly rural, except for the unincorporated community of Loleta (population approximately 780) north of the Eel River, which has community wastewater and water services. The ERAP area includes the entire Eel River Delta that extends inland over 10 miles to the confluence of the Van Duzen River with the main-stem Eel River.

South Coast Area Plan (SCAP)

The SCAP area is the largest geographically of the County's six LUPs, extending over 45 miles from the rural ranches around Guthrie Creek (southwest of Ferndale) to the southern County line. The federally owned and managed King Range National Conservation Area bisects the planning

area into two sections – the “north” SCAP area, including the coastal lands the extend from Guthrie Creek south to the Mattole River estuary, and the Shelter Cove area near the south end of the King Range. The SCAP area is completely rural except for Shelter Cove, which includes a ~2,640-acre, 4,700-lot residential subdivision (partially developed) served with community sewer and water by Resort Improvement District #1.

C. IMPLEMENTATION PLAN CONFORMITY

To certify proposed changes to an IP, the Commission must find that the changes conform with the certified LUPs and adequately carry out all applicable LUP policies. As described above, Humboldt County has six certified LUPs, each of which include various policies to protect coastal resources. In this case, the proposed IP changes do not conform with or adequately carry out the certified LUPs for the reasons discussed below. Therefore, the IP amendment as submitted must be denied pursuant to section 30513 of the Coastal Act. However, the Commission suggests three Suggested Modifications (summarized in Part III above and shown in their totality in Appendix C) to conform the proposed IP standards consistent with the LUP policies.

1. Land Use Compatibility and Protection of Priority Uses

Cannabis retail facilities will be allowed, subject to approval of both a coastal development permit (CDP) and conditional use permit (CUP), in the following zoning districts throughout the unincorporated County coastal zone: General Commercial (CG), Neighborhood Commercial (CN), Business Park Industrial (MB), Light Industrial (ML), and General Industrial (MG). Because both a CUP and CDP would be required, CDP approvals for all cannabis retail facilities will be appealable to the Commission pursuant to Coastal Act section 30603(a)(4).

The zoning districts in the certified IP correspond to various land use designations in each of the County’s six LUPs (Tables 1 and 2 below). Some land use designations are implemented by more than one zoning district (e.g., the MG land use designation is implemented by either the MG or ML zoning district). Land use designations and zoning districts are unevenly distributed in total acreage and geographic extent throughout the six LUP areas. Land use designations that could support cannabis retail facilities occur within each of the six LUP areas, as summarized in Table 1. A partial list of uses allowed in the various zoning districts proposed to host cannabis retail facilities is shown in Table 3 below.

Table 1. Geographic distribution of lands available for cannabis retail facilities within each of the six LUP planning areas, based on the geographic distribution of zoning districts and land use designations.						
Implementing Zoning District (see Table 3)	Land Use Designations in each LUP					
	NCAP	TAP	MAP	HBAP	ERAP	SCAP
CN: Neighborhood Commercial	--	RR ^A	--	--	--	--
CG: General Commercial	CG	CG	CG	CG	CG	CG
MB: Business Park	--	--	MB	MB	--	--
ML: Light Industrial	--	--	--	--	MG ^B	--
MG: General Industrial	MG	--	--	MG	MG	--

^A There is only one CN-zoned parcel in the coastal zone (in the TAP), and it has a corresponding land use designation of RR.

^B The ML zoning district appears only on lands in the ERAP with a General Industrial (MG) land use designation.

Table 2. Land use designations where cannabis retail facilities will be allowed, as described, in applicable part, in the six certified County land use plans (LUPs).

Land Use Designation	Purpose	Principal Uses	Conditional Uses
CG Commercial/ General	<i>To allow the integrated development of commercial districts or neighborhood commercial centers providing for the economic well-being and convenience of the community</i>	<i>Retail sales, retail services, office and professional uses</i>	<i>Hotels, motels</i>
MB Industrial/ Business Park	<i>To provide sites which are suitable for “business park” developments: Well designed and mixed industrially commercial areas composed of nuisance-free light industrial, research and development, administrative and business and professional office, warehousing and storage facilities, developed in a park-like environment</i>	<i>Research/light industrial, office and professional service, administrative, and warehousing, storage and distribution</i>	<i>Retail sales, retail service uses, transient habitation uses which are incidental to or supportive of principal uses</i>
MG Industrial/ General	<i>To protect sites suitable for the development of general industrial uses</i>	<i>Light and general manufacturing, warehousing and wholesaling, research and development</i>	<i>Heavy manufacturing, drilling and processing of oil & gas, agricultural-general uses, heavy commercial uses, sand & gravel extraction, electrical generating & distribution facilities, animal & fish reduction plants</i>

Table 3. Partial list of uses allowed in the various zoning districts proposed to host cannabis retail facilities, as described in the existing certified IP. Note that only those uses applicable to the proposed IP amendment are listed in this table.

Zoning Districts	Principally Permitted Uses (emphasis added)	Conditionally Permitted Uses (emphasis added)
CN Neighborhood Commercial	<i><u>Neighborhood Commercial (i.e., retail sales and services which provide convenient facilities to residential areas such as coin operated laundries, food markets, variety stores, and automobile gas or filling stations); Cottage Industry; Caretaker’s Residence</u></i>	<i><u>...Retail Sales; Retail Services...</u></i>
CG General Commercial	<i>...Administrative...; <u>Retail Sales; Retail Services...</u></i>	<i>(various, though none are applicable to this IP amendment so are not listed)</i>
MB Business Park	<i>...Administrative; Warehousing, Storage, and Distribution; <u>Office and Professional Service; Research/Light Industrial</u></i>	<i><u>Retail Sales; Retail Services...</u></i>

Table 3. Partial list of uses allowed in the various zoning districts proposed to host cannabis retail facilities, as described in the existing certified IP. Note that only those uses applicable to the proposed IP amendment are listed in this table.

ML Light Industrial	<i>... Warehousing, Storage, and Distribution; Heavy Commercial; Research/Light Industrial...</i>	<i>... Retail Sales; Retail Services...</i>
MG General Industrial	<i>... Warehousing, Storage, and Distribution; Heavy Commercial; Research/Light Industrial...</i>	(various, though none are applicable to this IP amendment so are not listed)

The amendment will specifically authorize cannabis retail facilities in the various zoning districts listed in Table 1 above. Under the proposed ordinance, cannabis retailers are defined as facilities “where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, medical cannabis and medical cannabis products as part of retail sale...” The definition’s focus on medical use is related to the fact that the ordinance was locally adopted prior to state legalization of cannabis for recreational use. As summarized in Finding IV-A-i above, the County separately adopted commercial cannabis regulations with standards related to the retail sale of cannabis for adult/recreational use (among other commercial cannabis activities), which were certified by the Commission with suggested modifications in May of 2019 under Part C of the subject LCP amendment application. The County staff indicates that the regulations of Part B and Part C that address cannabis dispensaries are meant to be supplementary to each other, and that Part B is meant to apply to cannabis dispensaries in general, not just medical dispensaries. As a result, the County staff has offered friendly modifications (Appendix B) that strike the word “medical” from the definition of cannabis dispensary and elsewhere in the proposed ordinance except from the title of the ordinance which is needed for reference purposes.

As proposed, the cannabis retail use is not a proposed new use to be itemized in the list of allowable use types in the LUPs and/or in the zoning district tables of the IP. Instead, the amendment adds a cannabis retail land use ordinance to the certified IP as a separate section and authorizes the specific retail-related cannabis use in eligible zones provided that the use meets various textual standards (related to health and safety, security, etc.), and the necessary permits are obtained. Though not itemized in the use types or zoning district tables, cannabis retail facilities will be regulated similarly to other types of (non-cannabis) retail facilities, except with additional requirements to address the unique issues related to the sale of cannabis.

Commercial Land Uses

In the six certified LUPs, there are two types of commercial land use designations: Commercial Recreation (CR) and Commercial General (CG). The CR land use designation is implemented by the CR zoning district, and the CG land use designation may be implemented by either the CG or CN (Neighborhood Commercial) zoning district. As mentioned above, cannabis retail activities will be allowed on CG lands but not on CR lands. The purpose of the CR land use designation under the certified LUPs is “to protect sites suitable for the development of commercial recreational facilities, and for visitor service facilities appropriate to assure recreational opportunity for visitors in the area.” Each of the LUPs includes the following related Coastal Act

policies that protect priority visitor-serving commercial recreational uses as enforceable LUP policies:

§ 30213 (in part):

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

§ 30222:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry

§ 30223:

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

As summarized in Table 2, the purpose of the CG designation is “to allow the integrated development of commercial districts or neighborhood commercial centers providing for the economic well-being and convenience of the community.” Thus, as CG-designated lands under the certified LUPs allow for retail uses, the proposed IP amendment appropriately allows CG- and CN-zoned lands (which may implement the CG land use designation) to host cannabis retail facilities. Moreover, consistent with the policies of the LUP that prioritize visitor-serving commercial uses, the proposed amendment will not allow cannabis retail on CR-zoned lands. Therefore, the CR lands are protected for priority visitor-serving commercial recreational uses consistent with the certified LUPs.

The LUP does not have a specific Neighborhood Commercial land use designation. As described in Table 3 above, the existing certified IP describes the CN use type as allowing *retail sales and services which provide convenient facilities to residential areas such as coin operated laundries, food markets, variety stores, and automobile gas or filling stations...* As noted in Table 1 above, there currently is only a single CN-zoned property in the coastal zone (in the TAP area), and it has a corresponding land use designation of RR. The CN zoning for the parcel was certified in 1998 as conforming with and adequate to carry out the RR land use designation in that location by LCP Amendment No. 2-97.

Industrial Land Uses

In the six certified LUPs, there are different types of industrial land use designations, including, but not limited to, Business Park Industrial (MB), Coastal-Dependent Industrial (MC), and General Industrial (MG). MB-designated lands, which are implemented by a corresponding MB zoning district, allow for retail sales and services as conditionally permitted uses. Thus, as MB lands allow for retail uses, and the ordinance requires both a CUP and CDP for cannabis retail facilities, the Commission finds that the proposed IP amendment as submitted appropriately allows MB lands to host cannabis retail facilities consistent with the certified LUPs.

MG-designated lands under the certified LUPs allow for “*Light and general manufacturing, warehousing and wholesaling, [and] research and development*” uses as well as various conditionally permitted industrial related uses. All lands with an MG land use designation have either a Light Industrial (ML) or General Industrial (MG) implementing zoning district. These two zoning districts are similar in terms of allowed uses (e.g., both allow for *Warehousing, Storage, and Distribution, Research/Light Industrial, Heavy Commercial, and General Agriculture*). A key difference between the two zoning districts is that the ML zoning district allows for retail sales and services, whereas the MG zoning district does not, and the MG zone allows for heavy and hazardous industrial uses, whereas the ML zoning district does not. As the ML zoning district allows for retail sales and services, the proposed allowance of cannabis retail facilities on ML-zoned lands is appropriate.

While cannabis dispensaries will be allowed in the CG, CN, MB, and ML zoning districts consistent with the uses allowed in these areas under the certified LUPs and the existing certified IP, the Commission, in its action to certify the County’s commercial cannabis regulations with suggested modifications in May of 2019 (Part C of this amendment application),¹ found that Adult Use Retail Sales of cannabis (regulated under Part C) only would be appropriate to allow in the MG zoning district and in the MC zoning district (as an interim use in the latter) consistent with the LUPs provided that the cannabis retail sale use is combined with other cannabis uses within a permitted microbusiness facility. A cannabis “microbusiness” is defined in section 313-55.4.4 of the IP (as suggested to be modified, under Part C) as “*a facility host to several Commercial Cannabis Activities under a single license including cultivation on an area less than 10,000 square feet, distribution, manufacturing without use of volatile solvents, and retail sales.*” Under section 313-55.4.10.2 of the IP, microbusiness activities may be permitted, subject to a CDP, in the CG, ML, and MG zoning districts and in the MC zoning district as an interim use. In addition, road access for both Adult Use Retail Sales and microbusiness uses are required under the cited section to be paved and compliant with minimum road width and public safety standards. These road requirements for cannabis dispensaries specified in section 313-55.4.10.2 of the IP will ensure safe road access for the public for retail cannabis uses on industrial lands and will prevent cannabis retail facilities from encroaching into rural industrial areas with substandard road systems (e.g., old timber mill sites surrounded by commercial timberlands).

The MC land use type only occurs around Humboldt Bay, within the HBAP area, and such lands are required under the certified LUP to be reserved for priority coastal-dependent industrial and similar coastal-dependent uses. HBAP section 3.13 allows, in some circumstances, for utilization of vacant and underutilized MC lands by certain non-coastal-dependent uses –including retail uses – on a short-term, temporary basis, provided such uses are only permitted as conditional “interim uses” subject to the interim use performance standards of the certified IP (section 313-104.1).² Although retail uses are permitted interim uses on MC lands, the proposed IP

¹ The determination by the Commission’s Executive Director that the County’s action (on July 23, 2019) to adopt the suggested modifications to Part C is legally adequate is scheduled to be reported to the Commission on August 7, 2019.

² IP section 313-104.1 specifies the performance standards for permitting interim uses on MC lands, which require, in part, that interim uses do all of the following: be compatible with, and not interfere with, the operation of existing onsite and offsite coastal-dependent industrial uses or other priority uses; allow the site where they are

amendment as submitted excludes lands zoned for priority MC uses from being host to cannabis retail facilities in order to prevent occupation or interference with priority coastal dependent industrial and similar coastal-dependent uses.

For internal IP consistency, to restrict the retail sale use on MG lands to microbusiness situations only in the industrial zoning districts where retail sales exclusively are not allowed, and to ensure that that the uses proposed in specific zoning districts under this IP amendment will be compatible with the land use designations under the certified LUPs, the Commission attaches Suggested Modifications 1 and 2. **Suggested Modification 1** would specify, in proposed section 55.3.8.2 (General Provisions), that retail dispensaries may only be permitted in the MG zoning district and in the MC zoning district as an interim use as part of microbusiness activities consistent with IP section 313-55.4. This will ensure that that the uses proposed in specific zoning districts under this IP amendment will be compatible with the land use designations under the certified LUPs.

Special Modification 2 would clarify, in proposed section 55.3.9 (Cannabis Dispensary Requirements), that in addition to all other requirements for a CUP and CDP, the requirements applicable to Adult Use Retail Sales of cannabis in section 313-55.4 of the coastal zoning regulations also apply. This will ensure that certain standards related to road paving requirements, setbacks, and several other standards (discussed in further detail in the below Finding) that are specified under section 313-55.4 of the IP apply to the proposed medical cannabis dispensary regulations. Section 313-55.4 of the IP was certified by the Commission with suggested modifications in May of 2019 as Part C of this LCP Amendment application, and the County took action to adopt the Commission’s suggested modifications on July 23, 2019. The determination by the Commission’s Executive Director that the County’s action to adopt the suggested modifications to Part C is legally adequate is scheduled to be reported to the Commission on August 7, 2019.

Therefore, because the proposed amendment as modified would: (a) specifically identify retail sales and microbusiness uses in compatible zones where similar uses are allowed; (b) restrict the retail sale use to microbusiness situations only in the industrial zoning districts where retail sales exclusively are not allowed (i.e., in the MG and MC zoning districts); (c) exclude lands zoned for priority MC uses from being host to cannabis retail facilities except in microbusiness situations as an interim use in order to prevent interference with priority coastal dependent industrial and similar coastal-dependent uses, and (d) ensure that various standards related to road paving requirements, setbacks, and several other standards that are specified under section 313-55.4 of the IP apply to the proposed medical cannabis dispensary regulations, the Commission finds that the amendment, only as modified, allows cannabis retail uses within zoning districts consistent with the land use designations and implementing standards of the certified LCP.

located to be converted back to a coastal-dependent industrial use when the site is needed for such use; use existing improvements where feasible; be located in the areas least likely to be required by a future coastal-dependent industrial use or other priority use on a particular site to the extent feasible; only provide those site improvements that are nonpermanent and removable or relocatable in a feasible manner, or such improvements that would preserve or enhance the utility of the project site for future coastal-dependent industrial uses, if new improvements are required; and not inhibit the eventual use of MC zoned land for coastal-dependent industrial use or other priority use.

2. Protection of Coastal Resources

As described above, cannabis retail facilities will be allowed subject to approval of both a CDP and a CUP in the aforementioned commercial and industrial zoning districts. Potential coastal resource impacts of cannabis retail facilities in commercial and industrial zoning districts include, but are not limited to, impacts to coastal access parking, visual resources, and water quality.

Summary of Applicable LUP Policies

The six certified LUPs each include various policies related to the protection of biological resources, water quality, visual resources, adequacy of services, and coastal public access, including, but not limited to, the following Coastal Act policies:

§ 30233, in applicable part:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(4) Incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(6) Restoration purposes.

(7) Nature study, aquaculture, or similar resource-dependent activities...

§ 30236:

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development, or (3)

developments where the primary function is the improvement of fish and wildlife habitat.

§ 30240:

(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.

§ 30244:

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

§ 30250, in applicable 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 or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

§ 30251, in applicable part:

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 land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

§ 30253(e):

New development shall do all of the following:...

...

(e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

In addition, all six LUPs include the following additional visual resources protection policy (in applicable part):

Physical Scale and Visual Compatibility: No development shall be approved that is not compatible with the physical scale of development as designated in the zoning for the subject parcel...

In addition, all the LUPs except for the ERAP include sections 30230 and 30231 of the Coastal Act as enforceable LUP policies, and three of the LUPs (NCAP, MAP, and HBAP) include Coastal Act section 30232 (emphasis added):

§ 30230, in applicable part, states (emphasis added):

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...

§ 30231 states (emphasis added):

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of wastewater discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with the surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

§ 30232 states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

The LUPs also include several additional policies related to the protection of wetlands. The NCAP, MAP, and HBAP include the following policies regarding wetland buffer areas and wetland setbacks, and similar standards also are included in the existing IP (emphasis added):

No land use or development shall be permitted in areas adjacent to coastal wetlands, called Wetland Buffer Areas, which degrade the wetland or detract from the natural resource value...

New Development except for (1) ... [(a) allowed uses in transitional agricultural lands; (b) permitted uses within wetlands planned Resource Dependent (MR); and (c) permitted uses within wetlands planned Natural Resources (NR)³]; (2) wells in rural areas; and (3) new fencing, so long as it would not impede the natural

³ Combined, these allowed/permitted uses included: (a) ongoing agricultural activities in farmed wetlands; (b) the uses allowed under Section 30233 of the Coastal Act; and (c) fish and wildlife management.

drainage, shall be sited to retain a setback from the boundary of the wetland sufficient to prevent adverse effects to the wetlands habitat values...

Within an urban limit line, the setback shall be either 100 feet or the average setback of existing development immediately adjacent as determined by the “stringline method.” That method shall be used which provides development setbacks similar to those occurring on adjacent parcels and adequately protects the wetlands.

Outside an urban limit line, the setback shall be between 100 and 200 feet, depending upon the size and sensitivity of the wetland, drainage boundaries, vegetation, adjacent uses, and the potential impacts of the project on the wetland habitat values. The precise width of the setback shall be sufficient to prevent significant effects to the wetland.

In both urban and rural areas, setbacks of less than the distance specified above may be permitted only when: (a) the prescribed buffer would prohibit development of the parcel for the principal permitted use for which it is designated; or (b) the applicant for the proposed development demonstrates, to the satisfaction of the [CDFW] that a setback of less than the distance specified above will not result in significant adverse impacts to the wetland habitat and will be compatible with the continuance of such habitats. Any such reduction in development setback may require mitigation measures...to ensure new development does not adversely affect the wetland habitat values...

Finally, the six LUPs each include several Coastal Act policies related to public access protection as enforceable LUP policies. These include section 30210, which requires that maximum public access shall be provided consistent with public safety needs and the need to protect natural resource areas from overuse. Also, section 30212, which requires that access from the nearest public roadway to the shoreline be provided in new development projects, except where it is inconsistent with public safety, military security, or protection of fragile coastal resources, or where adequate access exists nearby. The LUPs also include Coastal Act section 30211, which requires that development not interfere with the public’s right to access gained by use or legislative authorization. Even without direct incorporation into the certified LCP, those cannabis developments located between the first public road and the sea are subject to the Coastal Act public access policies. Thus, the requirements of section 30214 of the Coastal Act that public access be implemented in a manner to regulate the time, place, and manner of public access, depending on the facts and circumstances, are applicable to commercial cannabis developments located between the first public road and the sea.

LUP Consistency Analysis

As discussed above, under the proposed IP amendment as submitted, the definition of cannabis dispensary (proposed section 55.3.7, Appendix A) is focused on the retail sale of cannabis for medical use only, as the ordinance was locally adopted prior to state legalization of cannabis for recreational use. The County later separately adopted commercial cannabis regulations with standards related to the retail sale of cannabis for adult/recreational use (among other

commercial cannabis activities), which were certified by the Commission with suggested modifications in May of 2019 under Part C of the subject LCP amendment application. The County staff indicates that the regulations of Part B and Part C that address cannabis dispensaries are meant to be supplementary to each other, and that Part B is meant to apply to cannabis dispensaries in general, not just medical dispensaries. County staff recently (February 28, 2019) offered friendly modifications (Appendix B) that strike the word “medical” from the definition of cannabis dispensary and elsewhere in the proposed ordinance except from the title of the ordinance which is needed for reference purposes. Thus, as modified with the County staff’s proposed friendly modifications, the proposed dispensary regulations would pertain to the retail sale of cannabis for both medical and adult/recreational uses.

The regulations for retail sales under Part C that the Commission certified with suggested modifications in May of 2019 specify (in section 313-55.4.10.1) that the retail sale of cannabis shall be subject to the same permit requirements that apply to the proposed dispensary regulations under Part B (the subject IP amendment application). In addition, there are numerous standards in Part C related to minimum buffer requirements for wetlands and ESHA protection, water quality protection, adequacy of services, protection of public views, and other coastal resource protective measures that will apply to retail sale facilities for cannabis for adult use. A partial list of coastal resource protection requirements for Adult Use Retail Sales under Part C includes the following:

- A 100-foot setback from wetlands and ESHA is the minimum requirement for all types of new cannabis facilities, including retail dispensaries, and setbacks must be consistent with LUP requirements that sometimes require that a greater than 100-foot setback be provided, depending on the type of ESHA and site-specific factors;
- All cannabis permits, including permits for retail dispensaries, are required to produce a stormwater management plan to address drainage of the site in a manner that protects water quality consistent with the LUP policies requirements of Coastal Act section 30231;
- Roads providing access to any commercial cannabis site, including to retail dispensaries, must comply with various water quality protection standards, and permit applications are required to include a plan detailing stormwater management for the property;
- All cannabis permits, including permits for retail dispensaries, shall include a materials management plan (MMP) for proper disposal of project-related waste at legally authorized disposal sites;
- Where project-related activities involve storage and use of hazardous materials at a reportable quantity, applicants are required to prepare a hazardous materials management plan (HMMP) that must be reviewed and approved by the County Division of Environmental Health (DEH) and public agencies or private enterprises as appropriate;

- All commercial cannabis activities, including retail dispensaries, shall provide and maintain an approved means of sewage disposal that meets the required standards of the County DEH and/or the Regional Water Quality Control Board, as applicable;
- Any commercial cannabis site open to the public, including retail dispensaries, shall provide adequately sized on-site parking, including a minimum of six parking spaces plus one additional parking space for every two employees; and
- All development associated with a commercial cannabis operation, including a retail dispensary operation, shall comply with all applicable policies of the Local Coastal Area Plan for the protection of public visual resources.

These same coastal resource protection standards outlined in Part C including those listed above also apply to cannabis microbusiness uses (such as those that may occur on MG lands and on MC lands as an interim use, as discussed in Finding IV-C-i above).

To clarify that these same coastal resource protection standards apply to all cannabis retail dispensaries, including those that would be permitted pursuant to the regulations proposed under this IP amendment, the Commission adds **Suggested Modification 2**. As discussed above, this suggested modification would clarify, in proposed section 55.3.9 (Cannabis Dispensary Requirements), that in addition to all other requirements for a CUP and CDP, the requirements applicable to Adult Use Retail Sales of cannabis in section 313-55.4 of the coastal zoning regulations also apply. These various requirements will ensure that new retail dispensary facilities that may be permitted under the proposed IP amendment (1) are served by an adequate supply of parking and thus will prevent overflow into public access parking facilities, preserving public access parking consistent with the public access policies of the certified LUPs and the Coastal Act; (2) protect wetlands and ESHA by requiring minimum setback standards from sensitive resources consistent with LUP requirements; (3) protect water quality by requiring the preparation, approval, and implementation of stormwater management plans, materials management plans, and hazardous materials management plans; (4) have adequate services for on-site sewage disposal systems and waste management; and (5) comply with all applicable LUP policies for visual resources protection. As cannabis retail facilities require both a CDP and a use permit in all districts in which retail facilities will be allowed under the proposed IP amendment, all cannabis retail dispensaries will be appealable to the Commission. Moreover, the CDP application review of cannabis retail dispensaries will evaluate specific impacts to coastal access parking, visual and water resources, and other potential coastal resource effects that may result from individual cannabis retail facilities. The CDP review process will ensure that projects comply with the resource protection policies and regulations of the certified LCP. For all of the above reasons, the Commission finds the proposed IP amendment, as suggested to be modified, conforms with and is adequate to carry out the coastal access, visual, wetlands, ESHA, and water resource protection provisions of the certified LUPs.

3. Friendly Modifications

As previously discussed in Finding IV-A, since the time that the County adopted and transmitted the proposed IP changes described above, (1) the State legalized cannabis for adult recreational

use, and (2) the County updated regulations for commercial cannabis cultivation (Part C of the subject LCP amendment application, certified by the Commission with suggested modifications on May 9, 2019). To promote consistency with current State law as well as more recently adopted terminology, definitions, and other standards, County staff offered several proposed “friendly modifications” related to indoor and outdoor cultivation for personal use on February 28, 2019 (Appendix B). The proposed friendly modifications offered by County staff would (1) delete outdated code references; (2) update terminology and definitions for internal IP consistency and consistency with the more recently developed Part C regulations; and (3) make the regulations applicable to both medical and recreational cannabis use.

At the County staff’s request, the Commission incorporates the County staff’s proposed “friendly modifications” as **Suggested Modification 3**, which includes the proposed friendly modifications plus additional minor changes suggested by the Commission to reduce redundancy and promote clarity and internal IP consistency. Appendix C displays the totality of Commission suggested modifications.

V. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

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

The County’s LCP Amendment consists of an IP amendment only. The Commission incorporates its findings on LUP conformity into this CEQA finding as it is set forth in full. As discussed herein, the IP amendment as originally submitted is not in conformity with, or adequate to carry out, the provisions of the six Local Coastal Area Plans in the certified LCP. The Commission, therefore, has suggested modifications to bring the IP Amendment into full conformance with the six Local Coastal Area Plans in the certified LUP. As modified, the Commission finds that approval of the LCP amendment will not result in significant adverse environmental impacts under the meaning of CEQA.

The Commission finds that the LCP Amendment, as modified, will not result in significant unmitigated adverse environmental impacts under the meaning of CEQA. Further, future individual projects would require CDPs issued by the County. Throughout the coastal zone, specific impacts to coastal resources resulting from individual development projects are assessed through the coastal development review process; thus, an individual project's compliance with CEQA would be assured. Therefore, the Commission finds that there are no other feasible alternatives or mitigation measures which would further reduce the potential for significant adverse environmental impacts, which the activity may have on the environment [14 CCR §§ 13542(a), 13540(f), and 13555(b)].