

**CALIFORNIA COASTAL COMMISSION**

NORTH COAST DISTRICT OFFICE  
1385 8<sup>th</sup> STREET SUITE 130  
ARCATA, CA 95521  
VOICE (707) 826-8950  
FAX (707) 826-8960



# F8a

**Prepared September 18, 2020 for the October 9, 2020 Hearing**

**TO:** Coastal Commissioners and Interested Persons

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

**SUBJECT: City of Eureka LCP Amendment LCP-1-EUR-20-0009-1, PART C  
(Crowley Site Redesignation)**

---

## SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission certify the proposed City of Eureka LCP Amendment LCP-1-EUR-20-0009-1, Part C with suggested modifications.

The City of Eureka is proposing to amend the land use plan (LUP) land use map and implementation program (IP) zoning district map of the City's certified Local Coastal Program (LCP) to redesignate and rezone a City-owned vacant, 6.1-acre parcel known as the Crowley Site, located along the eastern Humboldt Bay shoreline in southern Eureka (APN 019-271-04). The parcel is currently designated Public/Quasi-Public (PQP) and zoned Coastal Dependent Industrial (MC). Under the proposed amendment, the parcel would be redesignated General Service Commercial (GSC) and rezoned Service Commercial with a Qualifying Combining District (CS-Q).

The subject amendment is not project-specific but is project-driven to provide the Betty Kwan Chinn Homeless Foundation a space to utilize eleven donated construction trailers as short-term rental housing to help unsheltered individuals establish rental history and transition to long-term permanent housing. The current land use and zoning of the parcel does not allow for housing, while the proposed land use and zoning would allow such a project.

The proposed change in land use and zoning of the parcel would not displace area needed for priority uses under the Coastal Act and certified LUP. The lack of access to deep water greatly limits the viability of the site for coastal dependent uses. The Coastal Trail and other public access facilities have already been developed bayward of the subject parcel, and the parcel has not been identified as a site needed for other visitor-

serving uses. However, the subject parcel has a number of coastal resource and hazard constraints. The parcel is located within the 100-year flood zone and tsunami inundation zone, and its high flood risk is expected to worsen in the coming decades with projected sea level rise. Extensive wetlands cover a significant portion of the parcel so that the site can only accommodate a development footprint with limited 30-foot-wide buffers from the nearest environmentally sensitive wetland habitats. The parcel also has potential soil and groundwater contamination that requires capping any portion of the parcel intended for residential use.

The range of uses allowed under the proposed GSC land use designation, intended for general commercial uses serving a regional market, is out of scale with the small developable area on the subject parcel. Thus, the LUP designation as proposed is not protective of wetlands, marine resources, and water quality, inconsistent with Coastal Act Sections 30230, 30231, and 30233. In addition, the proposed change to a designation that is intended for high density/intensity general commercial development does not minimize risk to geologic and flood hazards in a manner consistent with Coastal Act Section 30253. As a result, **Suggested Modification 1** is recommended to add a new Mixed Use Limited (MUL) designation to the LUP that would allow only limited-intensity, temporary residential, commercial, and public facility uses that could be developed consistent with LCP requirements on parcels with significant coastal resource and/or coastal hazard constraints. Suggested Modification 1 would also apply the MUL designation to the Crowley Site.

The proposed IP zoning change is intended to address hazard and coastal resource concerns by adding a Q Combining District to the proposed CS zoning of the parcel which would significantly reduce the number of CS uses allowed on the parcel. The proposed application of the Q Combining District to the Crowley Site would limit permitted uses to multi-family/multi-unit housing for up to 40 people, public utility and public service infrastructure, storage yards for commercial vehicles, temporary/seasonal uses such as Christmas tree lots, and wireless telecommunication facilities.

**Suggested Modification 2** is recommended to modify the application of the Q Combining District to the Crowley Site to remove commercial vehicle storage from the proposed list of allowable uses as such a use would generate pollutant loads and lighting impacts to wetland ESHA on the site that could not be mitigated by the site's minimal available area for wetland buffers. Given the inability of the narrow available development footprint to accommodate 100-foot buffers (the minimal buffer required by the City's certified LUP), the suggested modification would also add language to the Q Combining District restrictions for the Crowley Site alerting future property owners and developers of the need to complete a reduced-buffer analysis for any future development to ensure buffers adequately protect adjacent wetland habitat.

The proposed Q Combining District would also require that all structures built on the parcel comply with the City's flood hazard area regulations and be constructed to allow relocation or removal. Typical commercial buildings constructed today are likely to remain in place over the next 75 to 100 years, whereas the potential development footprint on the subject parcel and the intervening trail and road will all be overtopped by

average king tides within 30-60 years and will potentially experience chronic flooding earlier from decreased stormwater drainage and rising groundwater. To account for the impacts of sea level rise over the life of the development, **Suggested Modification 2** would add language to the Q Combining District restrictions for the parcel (1) requiring that all structures be designed to minimize flood risk over the anticipated life of the development taking into account current best available science on projected sea level rise, and (2) specifying that future structures will only be permitted for a limited term taking into account increasing flood hazard risk affecting the subject parcel over time.

**Suggested Modification 2** would also amend the limitations of the proposed Q Combining District to require that a soil and groundwater management plan be prepared prior to any ground disturbance on the parcel and to require that any future residential use of the parcel be designed to prevent future residents from coming into contact with and experiencing any adverse impacts caused by potential subsurface contamination through such means as capping the development footprint.

The proposed land use and zoning amendments also raise environmental justice concerns related to affordable and temporary housing, coastal hazards, and exposure to pollution. Although the subject amendment is not project-specific, the intent is to create housing for unsheltered individuals who warrant consideration under the Commission's Environmental Justice Policy ("EJ Policy"). While the Commission's EJ Policy is supportive of affordable housing, the hazardous nature of the parcel to be redesignated and rezoned raises questions of whether the proposed LCP amendment will perpetuate disproportionate exposure to environmental impacts inconsistent with the Commission's EJ Policy. However, Suggested Modifications 1 and 2 provide measures to minimize adverse impacts from coastal hazards and ensure development occurs only after taking measures to prevent human exposure to potential soil and groundwater contamination. These modifications allow the City to provide an additional site for critical affordable, transitional housing while addressing coastal resource constraints consistent with the Coastal Act and certified LUP.

City staff has indicated its agreement with the Commission staff's recommended suggested modifications summarized above and discussed in the findings below. Thus, staff recommends that the Commission reject the proposed LUP and IP amendments as submitted and approve the amendments only as modified to ensure that the LUP amendment is consistent with the Chapter 3 policies of the Coastal Act and the IP amendment is in conformance with and adequate to carry out the certified LUP policies.

**Staff Note: LCP Amendment Action Deadline**

On February 3, 2020, the City of Eureka transmitted an LCP amendment application to the Commission consisting of three parts: (1) Part A amends the IP to establish a Q Combining District that can be combined with any other zoning district to add parcel-specific restrictions on the base zone; (2) Part B amends the IP to increase the maximum building height within the CS Zoning District from 35 feet to 55 feet; and (3) Part C amends the certified IP zoning map and LUP land use map to change the land use designation and zoning on the Crowley Site. On May 13, 2020, the Commission concurred with the Executive Director's determination that Part A of the LCP

amendment was de minimis, and Part A became part of the certified IP ten days later. The remainder of the LCP amendment submittal was filed as complete by the North Coast District Office on June 16, 2020. On August 12, 2020, the Commission granted a one-year extension to the 90-day time limit for Commission action on the proposed LCP amendment to October 21, 2021.

**Additional Information**

For further information, please contact Cristin Kenyon at the Commission's North Coast District Office in Arcata at [Cristin.kenyon@coastal.ca.gov](mailto:Cristin.kenyon@coastal.ca.gov). Please mail correspondence to the Commission at the letterhead address. Please also send a copy of all correspondence or other documents electronically to [Northcoast@coastal.ca.gov](mailto:Northcoast@coastal.ca.gov).

Table of Contents

**I. MOTIONS AND RESOLUTIONS.....6**

- A. Denial of the LUP Amendment as Submitted ..... 6
- B. Certification of the LUP Amendment with Suggested Modifications ..... 6
- C. Denial of the IP Amendment As Submitted ..... 7
- D. Certification of the IP Amendment with Suggested Modifications..... 7

**II. SUGGESTED MODIFICATIONS..... 8**

- A. Suggested Modification 1: Changes to the Land Use Plan Amendment ..... 8
- B. Suggested Modification 2: Changes to the IP Amendment ..... 9

**III. PROCEDURAL ISSUES ..... 11**

- A. Standard of Review ..... 11
- B. Public Participation ..... 11
- C. Procedural Requirements..... 11

**IV. AMENDMENT DESCRIPTION & BACKGROUND ..... 12**

**V. CONSISTENCY ANALYSIS..... 15**

- A. Hazards ..... 15
- B. Wetland ESHA..... 26
- C. Water Quality..... 39
- D. Priority Uses ..... 43
- E. Siting New Development ..... 50
- F. Visual Resources..... 52
- G. Public Access ..... 56
- H. Archaeological Resources..... 59
- I. Conformity of the Zoning District with the Land Use Designation ..... 61
- J. Conclusion..... 61

**VI. ENVIRONMENTAL JUSTICE CONSIDERATIONS ..... 63**

**VII. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)..... 69**

**VIII. APPENDIX A – SUBSTANTIVE FILE DOCUMENTS ..... 70**

**EXHIBITS**

- [Exhibit 1 – Regional Location](#)
- [Exhibit 2 – Project Vicinity Map](#)
- [Exhibit 3 – Resolution of LUP Amendment Adoption & LCP Amendment Transmittal](#)
- [Exhibit 4 – Ordinance of Adoption of IP Amendment](#)
- [Exhibit 5 – Existing & Proposed Land Use & Zoning Maps](#)
- [Exhibit 6 – Potential Site Plan for Housing Showing 30-Foot-Wide Wetland Buffers](#)

## **I. MOTIONS AND RESOLUTIONS**

Staff recommends that the Commission, after public hearing, first reject the LUP and IP components of the amendment as submitted and then approve both components if modified as suggested in the staff report. The Commission needs to make four motions in order to adopt the staff recommendation.

### **A. Denial of the LUP Amendment as Submitted**

Staff recommends a **NO** vote on the motion. Failure of this motion will result in denial of the land use plan amendment as submitted and adoption of the following resolution and findings. The motion passes only upon an affirmative vote of a majority of the appointed Commissioners.

**Motion 1:** I move that the Commission certify Land Use Plan Amendment No. LCP-1-EUR-20-0009-1 Part C as submitted by the City of Eureka.

**Resolution 1:** The Commission hereby denies certification of the Land Use Plan Amendment No. LCP-1-EUR-20-0009-1 Part C as submitted by the City of Eureka and adopts the findings set forth below on the grounds that the submitted land use plan amendment fails to meet the requirements of and does not conform to the policies of Chapter 3 of the California Coastal Act. Certification of the land use plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the land use plan amendment.

### **B. Certification of the LUP Amendment with Suggested Modifications**

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

**Motion 2:** I move that the Commission certify Land Use Plan Amendment No. LCP-1-EUR-20-0009-1 Part C for the City of Eureka if modified as suggested in this staff recommendation.

**Resolution 2:** The Commission hereby certifies the Land Use Plan Amendment No. LCP-1-EUR-20-0009-1 Part C for the City of Eureka if modified as suggested and adopts the findings set forth below on the grounds that the land use plan amendment with the suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use 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 plan 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 that will result from certification of the land use plan amendment if modified.

### **C. Denial of the IP Amendment As Submitted**

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.

**Motion 3:** I move that the Commission reject Implementation Program Amendment No. LCP-1-EUR-20-0009-1 Part C as submitted by the City of Eureka.

**Resolution 3:** The Commission hereby denies certification of Implementation Program Amendment No. LCP-1-EUR-20-0009-1 Part C as submitted by the City of Eureka 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.

### **D. Certification of the IP Amendment with Suggested Modifications**

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.

**Motion 4:** I move that the Commission certify Implementation Program Amendment No. LCP-1-EUR-20-0009-1 Part C for the City of Eureka if modified in accordance with the suggested changes set forth in the staff report.

**Resolution 4:** The Commission hereby certifies the Implementation Program Amendment No. LCP-1-EUR-20-0009-1 Part C for the City of Eureka 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. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following modifications to the proposed LCP amendment, which are necessary to make the requisite Coastal Act and LUP consistency findings. If the City of Eureka accepts each of the suggested modifications within six months of Commission action, by formal resolution of the City Council, the modified amendment will become effective upon Commission concurrence with the Executive Director’s finding that this acceptance has been properly accomplished.

Where applicable, the text shown below in single underline format denotes text of the certified LCP that the City proposes to add. Text in ~~**bold double strikethrough**~~ format denotes text to be deleted through the Commission’s suggested modifications and text in **bold double underline** format denotes text to be added through the Commission’s suggested modifications.

### A. Suggested Modification 1: Changes to the Land Use Plan Amendment

1. Modify the existing certified LUP as described below to add a new Mixed-Use Limited (MUL) Land Use Designation and amend the Land Use Map to apply the MUL designation to Parcel 019-271-00.

- Amend the “Land Use Designations” subsection of Part II (Goals, Policies, and Programs), Section 1 (Land Use and Community Design) of the Eureka General Plan to add a “Mixed-Use Limited” designation under “Commercial Designations” as follows:

**Mixed-Use Limited (MUL)**

**The MUL designation provides for limited-intensity temporary uses including residential, commercial, and public facilities uses.**

- Amend Table B-1 of Appendix B (Coastal Land Use Policy) of the Eureka General Plan to add a “Mixed-Use Limited” designation as follows:

LCP-LUP Designation	LCP-IP (Zoning) Designation	Purpose(s)	Principal Uses	Conditional Uses
<b><u>MUL Mixed-Use Limited</u></b>	<b><u>CS Service Commercial with a Q Combining District to limit residential, commercial, and public facility uses consistent with site-specific constraints</u></b>	<b><u>To allow the following limited-intensity temporary uses: residential, commercial, and public facilities uses on parcels with coastal resource and/or coastal hazard constraints.</u></b>	<b><u>The following limited-intensity temporary uses: multi-family residential, public utility and public service infrastructure, and commercial uses.</u></b>	<b><u>None.</u></b>



## B. Suggested Modification 2: Changes to the Implementation Program Amendment

### 1. Modify the proposed IP amendment language to amend how the Q Combining District is applied to the subject property as follows:

The Implementation Plan map (zoning map) of the City of Eureka is hereby amended to reclassify parcel 019-271-004, within the City of Eureka, from a Coastal Dependent Industrial (MC) zone district to a Service Commercial (CS) zone district, with the addition of a Qualified (Q) combining district, consistent with the proposed ~~General Service Commercial Mixed-Use Limited~~ land use plan designation. The Qualified (Q) allows the following uses and provides the following limitations:

#### Principally Permitted Uses:

- Multi-family/multi-unit single-story residential uses permitted under permitted uses in the RM Districts, for not more than 40 individual persons.
- Public utility and public service infrastructure, ~~including but not limited to pumping stations, power stations, equipment buildings and installations, drainageways and structures, storage tanks and transmission lines.~~
- ~~Storage yards for commercial vehicles.~~
- Temporary/seasonal uses, such as Christmas Tree lots.
- Towers and other support structures, commercial satellite dishes, antennas, and equipment buildings necessary for the specific facility subject to the provisions of Article 31 (Wireless Telecommunication Facilities).
- Wireless telecommunication facilities located more than 150 feet from an R District, subject to wireless telecommunication facility permit issued pursuant to Article 31 of this chapter (Wireless Telecommunication Facilities).

Life safety and natural hazard limitations on the permitted uses include, but are not limited to, the following:

- All structures will comply with the Flood Hazard Area Regulations contained in the Eureka Municipal Code **and shall be designed to minimize flood risk over the anticipated life of the development taking into account current best available science (at the time of application for development) on projected sea level rise, including minimizing impacts to the development itself and impacts of the development on the surrounding area.**
- Structures will be **designed and** constructed to allow relocation or removal **and permitted for a limited term taking into account increasing flood hazard risk with predicted sea level rise.**
- Prior to commencement of any use, including future uses, the owner/manager of each use will develop a Tsunami Evacuation Plan, and implement and enforce the Tsunami Evacuation Plan for the life of the use. The Tsunami

Evacuation Plan must be approved by the City of Eureka, and a copy of the approved Tsunami Evacuation Plan, and any new or updated Evacuation Plans must be provided to any and all tenants and employees on the site of the use, and to the Development Services Department.

- **The site shall be limited to one principally permitted use at a time except that buried public utilities and buried public service infrastructure may be allowed in combination with other principally permitted uses.**
- **Prior to commencement of construction of any use that involves ground disturbance, a soil and groundwater management plan shall be prepared for construction activities to manage soil and groundwater handling and disposal and evaluate worker protection. Any future residential use of the site shall be designed to prevent future residents from coming into contact with and experiencing any adverse impacts caused by potential subsurface contamination such as by capping of the development footprint.**
- **Coastal development permit applications shall include a project-specific reduced-buffer analysis consistent with LUP Policy 6.A.19 and Coastal Zoning Code §10-5.2942.15.**

The uses listed herein are the only uses that are allowed on the site, and only when the uses comply with the limitations for this site, and any conditions of approval resulting from required Coastal Development Permits.

### **III. PROCEDURAL ISSUES**

#### **A. Standard of Review**

Pursuant to Coastal Act Section 30512(c), to certify the proposed amendment to the LUP portion of the City of Eureka LCP, the Commission must find that the LUP as amended meets the requirements of, and is in conformity with, the policies of Chapter 3 of the Coastal Act. Pursuant to Coastal Act Section 30513, to certify the proposed amendment to the IP portion of the City of Eureka LCP, the Commission must find that the IP as amended would be in conformity with and adequate to carry out the policies of the certified LUP.

#### **B. Public Participation**

Section 30503 of the Coastal Act requires public input in preparation, approval, certification and amendment of any LCP. The City of Eureka's Planning Commission held public hearings on the proposed amendment on October 14 and November 13, 2019, and the City Council held a public hearing on January 7, 2020. 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, a local government's resolution for submittal to the Coastal Commission may specify that a LCP amendment will either require formal local government adoption after Commission approval, or state that it is an amendment that will take effect automatically upon the Commission's approval. In this case, the City's resolution of transmittal of the LCP amendment to the Commission for certification (Resolution No. 2020-13) indicates that the amendment will take effect immediately upon certification by the Coastal Commission (Exhibit 3). Therefore, if the Commission certifies the LCP amendment as submitted, no further City action will be necessary to formally adopt the amendment. Should the Commission certify the LCP amendment subject to suggested modifications, final approval by the City and a determination by the Executive Director of compliance with Section 13544 of the Commission's regulations will be required in order for the amendment to take effect. Should the Commission deny the LCP amendment as submitted without suggested modifications, no further action is required by either the Commission or the City, and the proposed LCP amendment will not become effective.

## **IV. AMENDMENT DESCRIPTION & BACKGROUND**

### **A. Amendment Description**

The City of Eureka is proposing to amend the land use and zoning maps of the City's certified Local Coastal Program (LCP) to change the land use designation and zoning classification of a single parcel located west of Highway 101 (the first public road) along the southern Eureka shoreline of Humboldt Bay (APN 019-271-04). The 6.1-acre parcel, known as the Crowley Site, is currently designated Public/Quasi-Public (PQP) and zoned Coastal Dependent Industrial (MC).<sup>1</sup> Under the proposed amendment, the parcel would be redesignated General Service Commercial (GSC) and rezoned Service Commercial with a Qualifying Combining District (CS-Q).

The purpose of the proposed GSC land use designation is to provide appropriately located areas for retail and wholesale commercial establishments that offer commodities and services required by residents of the city and its surrounding market area; the GSC land use designation is intended to be carried out by the CS District.

To address concerns about public safety and coastal hazard risks at the parcel, the City is proposing to add a Q Combining District to the proposed CS zoning of the parcel. The Q Combining District can be combined with any base zone to apply parcel-specific limitations on the types of development allowed, and the conditions under which projects may be developed and operated. The City is proposing the Q Combining District at the Crowley Site to significantly reduce the number of CS uses allowed on the parcel and add three hazard-related requirements for future development of the parcel.

The proposed application of the Q Combining District to the Crowley Site would limit permitted uses to multi-family housing for up to 40 people, public utility and public service infrastructure, storage yards for commercial vehicles, temporary/seasonal uses such as Christmas tree lots, and wireless telecommunication facilities. In addition to significantly narrowing the CS District uses allowed on the parcel, the proposed Q Combining District would also require that all structures built on the parcel comply with the City's flood hazard area regulations and be constructed to allow relocation or removal; and that a tsunami evacuation plan be developed prior to the commencement of any use of the parcel, and be implemented and enforced for the life of the use.

### **B. Background**

The subject amendment is not project-specific but is project-driven. The Betty Kwan Chinn Homeless Foundation is in need of a space to utilize eleven donated construction

---

<sup>1</sup> The current pairing of a PQP land use designation with an MC zoning classification is a discrepancy in the certified LCP as the MC District is not intended to carry out the PQP land use designation. The purpose of the PQP designation is to protect sites appropriate for the development of public and private sector civic service facilities; this designation is typically carried out by the Public District. In contrast, the purpose of the MC District (the current zoning of the site) is to reserve and protect parcels adjacent to the sea for coastal-dependent and coastal-related uses; the MC District is intended to carry out the Coastal Dependent Industrial land use designation.

trailers as short-term rental housing to help people in need of housing establish rental history and ultimately transition to long-term permanent housing. The City owns the Crowley Site (as well as the land to the north, south, and west of the parcel) and wants to allow the Foundation use of the parcel for the housing project. The current land use and zoning of the parcel does not allow for housing, while the proposed land use and zoning would allow such a project as multi-family housing.<sup>2</sup>

The subject parcel is located on the east side of Hilfiker Lane, immediately south of a temporary training center for the Humboldt Bay Fire Department and immediately north of the City's wastewater treatment plant (WWTP) and the Elk River Wildlife Sanctuary. The California Coastal Trail (CCT; known locally as the Hikshari' Trail) is located across Hilfiker Lane to the west of the parcel, along with a trailhead parking lot<sup>3</sup> (across from the southern end of the parcel) and recently restored salt marsh habitat.<sup>4</sup> The mouth of the Elk River is located to the west of the trail, with Humboldt Bay further west across the Elk River spit.<sup>5</sup> The former Northwestern Pacific Railroad corridor is located directly to the east of the parcel, separating the parcel from a row of commercial properties that front Highway 101 to the east of the parcel. See Exhibit 2 for a map of the project vicinity.

The Crowley Site is currently vacant with no public or private utilities serving the parcel and no improved driveways or sidewalks between the parcel and Hilfiker Lane. The parcel was formerly owned and operated as a bulk fuel storage facility by Crowley

---

<sup>2</sup> The Commission notes that the proposed amendment would amend the LCP as described above to facilitate the specific development project it was intended to facilitate. However, a local CDP that would be appealable to the Commission must still be acted on by the City of Eureka before any particular development could go forward. Whether or not the anticipated development is ultimately granted the necessary permits and constructed, certification of the LCP Amendment would permanently change the land use and zoning designations applicable to the site. Therefore, the Commission must consider the change in the range of uses that could be developed on the subject parcel under the proposed amendment.

<sup>3</sup> The paved trailhead parking lot can accommodate 19 vehicles and is known as the Elk River Wildlife Area parking lot.

<sup>4</sup> The City restored 35,900 square feet of salt marsh from upland fill on the stretch of shoreline directly north of the Elk River Wildlife Area parking lot as mitigation for wetland fill resulting from the development of the Hikshari' Trail (CDP 1-11-037).

<sup>5</sup> The Elk River Spit is a sand spit with a shoreline comprised of vegetated fore dune that has developed at the mouth of the Elk River on Humboldt Bay. While the parcel is currently west of the Elk River and Elk River spit, historical aerial photographs indicate the parcel was historically at the edge of Humboldt Bay, just north of the mouth of the Elk River. The construction of the jetties at the entrance to the bay (first completed in 1899) eroded the eastern shoreline of the bay across from the entrance creating a new spit at the mouth of the Elk River that grew in length by 6,000 feet from 1897 to 1954.



Marine Services from the 1950s until 1990.<sup>6</sup> The tank farm and associated appurtenances were removed from the parcel in 1999.

The subject parcel has a number of coastal resource and hazard constraints. The parcel is located within the 100-year flood zone and tsunami inundation zone, and its high flood risk is expected to worsen in the coming decades with projected sea level rise. Extensive wetlands cover a significant portion of the parcel and are part of a larger wetland complex adjoining the parcel that drains to Elk River and Humboldt Bay. The parcel also has potential soil and groundwater contamination that requires capping the pervious ground surface before the site can be converted to residential use.



The City's resolution of transmittal of the amendment to the Commission acknowledges that hazards may impact this parcel to a greater degree than other parcels in the CS zone, and as a result, the full range of uses that could be allowed on a CS-zoned property should be limited on the Crowley Site to uses that (1) are easily relocated, (2) can be developed to withstand certain natural hazards, and (3) have limited numbers of residents or employees. According to the resolution of transmittal, the uses proposed to be retained as permitted uses (in addition to housing for 40 people) are intended to allow viable options for use of the parcel after the anticipated housing project is no longer located on the parcel without necessitating a zone reclassification and LCP amendment.

The Crowley Site is located between the first public road (Highway 101) and the sea so all coastal development permit (CDP) approvals for development at the site would be appealable to the Commission. The site is not within the City's mapped categorical exclusion area so all development at the site not otherwise exempted by Coastal Act Section 30610 requires a CDP.

---

<sup>6</sup> Although the bulk fuel storage containers were located on the subject parcel, the entire facility included other parcels to the north of the subject parcel.



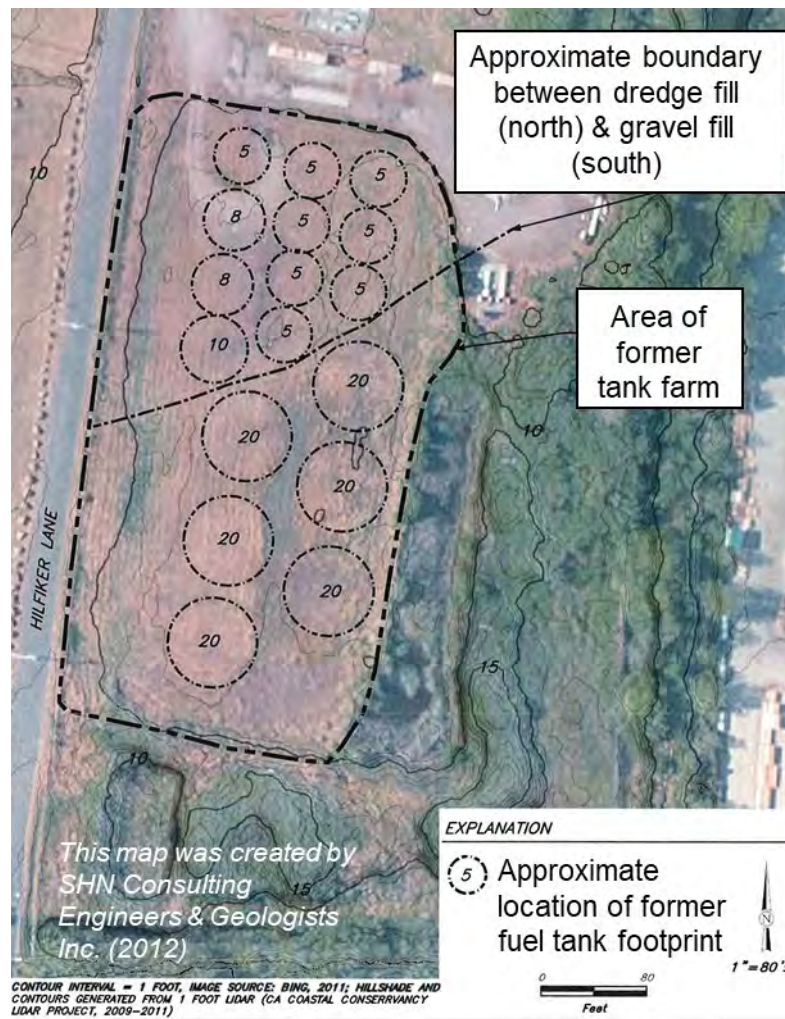
## V. CONSISTENCY ANALYSIS

### A. Hazards

#### 1. Background

##### Groundshaking, Liquefaction, and Differential Settlement

The northwestern portion of the subject parcel was previously filled and used as a bulk fuel storage facility. Subsurface investigations of the filled portion of the parcel were conducted in 2012 (for an unrelated project that was never constructed),<sup>7</sup> indicating that the parcel is underlain by six to seven feet of uncontrolled fill material overlying five to thirteen feet of native bay-margin sediment. The bay-margin deposits, in turn, overlie denser Hookton Formation sediments that occur at depths ranging from 12 to 20 feet



below ground surface (generally deeper beneath the southern end of the parcel).

The former bulk fuel terminal originally consisted of eleven above-ground fuel storage tanks at the northern end of the subject parcel. In 1979, six larger bulk storage tanks were added to the south end of the tank complex (for a total of 17 tanks). According to the 2012 geotechnical investigation, the fill materials are distinctly different in the northern and southern parts of the former tank farm area, and appear to reflect the placement of different materials, at different times, due to the two-stage development of the tank farm. The fill material on the northern end of the parcel consists of loose, poorly graded sand, likely dredged from the bay, while the fill material on the southern

<sup>7</sup> The investigation was conducted for a proposed food waste digester project that was never built. SHN Consulting Engineers & Geologists, Inc. (2012, June). Geologic hazard evaluation and geotechnical engineering report for proposed food waste digester project on a portion of the "Crowley Property," Hilfiker Lane, Eureka, California (APNs 019-271-004 and 019-331-002). Prepared for Humboldt Waste Management Authority.

portion of the former tank farm area consists of tight, compacted sandy gravel, likely standard “river-run” fill typically imported to sites throughout the area as structural fill. According to the 2012 geotechnical investigation report, the fill materials on the northern end of the parcel have less shear strength and more compressibility than the fill materials to the south, and thus are not suitable as bearing material in their existing condition. However, the report indicates that it would be feasible to remove/replace the upper part of the material; install a reinforced gravel blanket and cover with structural fill; and use this area for light structures and parking.<sup>8</sup>

The 2012 geotechnical investigation report also indicates that the soft soil conditions identified in the bay-margin sediments at depths ranging from approximately 7-19 feet below ground surface present a settlement hazard. The underlying bay sediment is expected to exhibit differences in density and consistency where tanks previously consolidated the sediment and where there was no loading influence on the soil. The implication of these conditions is that differential settlement may be significant where new structures span previously loaded ground and areas where no load existed in the past.

Strong ground shaking is anticipated at the parcel during the anticipated life of any typical residential, commercial, or industrial structure. Northwestern California is one of the most seismically active regions in the continental United States. An active segment of the Little Salmon fault zone is located approximately 1.5 miles to the southwest of the subject parcel, and there are several other local sources capable of producing strong seismic shaking at the parcel, including the Gorda plate, the Mendocino fault, the Mendocino triple junction, the northern end of the San Andreas fault, other faults within the North American plate, and the Cascadia Subduction Zone (CSZ).

According to the 2012 geotechnical investigation report, the site has a low to moderate potential for liquefaction and other seismically-induced ground failures, except during long-duration strong ground shaking associated with a rare, great earthquake (a CSZ event, for example), when the potential for liquefaction would be moderate to high. The report indicates that the risks associated with liquefaction can be reduced through appropriate foundation design.

### Tsunami Hazard

The subject parcel is located within the mapped tsunami inundation area on the Tsunami Inundation Map for Emergency Planning<sup>9</sup> (California Geological Survey,

---

<sup>8</sup> These recommendations were made in 2012 for a food waste digester project that was proposed for the site but never constructed.

<sup>9</sup> The inundation area on this map represents the maximum considered tsunami runup from several extreme, infrequent, and realistic tsunami sources. A 975-year average return period tsunami model (with a 5% probability of exceedance in 50 years) was used as a basis for the maximum inundation extent for inundation mapping in conjunction with data from an earlier 2009 mapping effort. The 2009 maps were not probabilistic and instead used a suite of tsunami source events for modeling, representing realistic local and distant earthquakes and hypothetical extreme undersea, near-shore landslides.

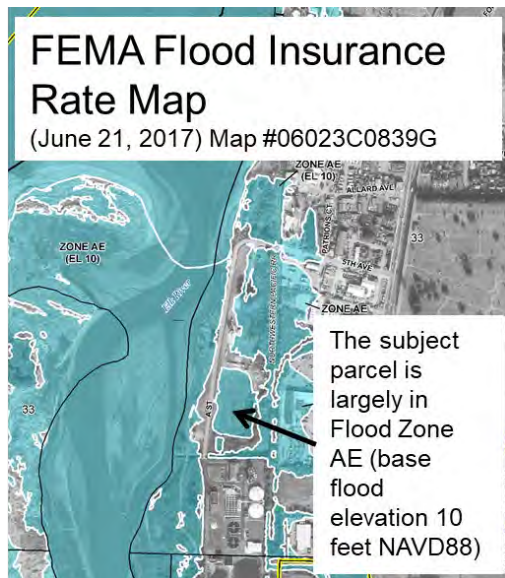


August 13, 2020) and is at risk of tsunami inundation from waves generated from a variety of local and distant sources. Based on available inundation modeling, the subject parcel would not be inundated by smaller, more frequent tsunamis,<sup>10</sup> but would be inundated by more infrequent and extreme events, such as a CSZ event.<sup>11</sup>

In the Humboldt Bay area, the time window between tsunami generation and local inundation could be on the order of only minutes due to proximity to the CSZ, a local source for tsunami waves. In the case of a locally-generated tsunami, the only warning residents or employees of the site would receive would be a natural warning (e.g., strong or long-lasting shaking from an earthquake) approximately 10-15 minutes before inundation by the tsunami, originating from the CSZ source.

Tsunami inundation loads and effects include hydrostatic and hydrodynamic forces, waterborne debris accumulation and impact loads, subsidence, and scour effects. The parcel's location adjacent to the City's WWTP (which holds chemicals for water treatment as well as large volumes of human waste) and proximity to a number of heavy commercial and industrial uses (with heavy equipment, motor vehicles, lumber, above-ground liquid and solid storage containers, various forms of solid waste, etc.) adds to the parcel's risk of impacts from debris and hazardous materials as a result of a tsunami.

### Other Flooding Hazards



The subject parcel is a low-lying, relatively flat parcel within the mapped 100-year floodplain with a base flood elevation of ten feet (NAVD88). The parcel is located approximately 70 feet west of the confluence of the Elk River and Humboldt Bay, separated from the river channel by salt marsh habitat, the Hikshari' Trail, and Hilfiker Lane. The river channel in turn is separated from Humboldt Bay by the Elk River Spit. Because this stretch of Eureka Bay shoreline is not fortified by hard armoring (e.g., rock, dike, bulwark, etc.), it has been ranked as highly vulnerable in the "Humboldt Bay Shoreline Inventory, Mapping, and Sea Level Rise Vulnerability Assessment" prepared for the California Coastal Conservancy (2013).<sup>12</sup>

<sup>10</sup> Such as during a 475-year average return period event (with a 10% probability of exceedance in 50 years) or smaller event.

<sup>11</sup> A CSZ event has an approximately-515-year average return period. Evidence suggests the last major subduction zone quake occurred on January 27, 1700.

<sup>12</sup> Available at: <https://scc.ca.gov/webmaster/ftp/pdf/humboldt-bay-shoreline.pdf>

Future development accommodated by the proposed land use and zoning change would likely be constructed on the filled northwestern portion of the parcel that ranges in elevation from approximately nine to eleven feet (NAVD88).<sup>13</sup> The trail and road that separate the subject parcel from the Elk River are at 10.82 and 11.23 feet in elevation, respectively (NAVD88). The current mean monthly maximum water (MMMW) elevation on Humboldt Bay is 7.74 feet (NAVD 88, as measured at NOAA’s North Spit Tide Gage), and the average annual king tide elevation is 8.8 feet (NAVD 88). Extreme tides (100-year events) and abnormally high king tides and/or storm surges can reach up to two feet above MMMW. Without the protection of the intervening trail and road, the filled northwestern portion of the parcel would be vulnerable to yearly tidal inundation (MAMW) from the west with just 0.2 feet of sea level rise, and monthly inundation (MMMW) with just 1.26 feet of sea level rise.

With approximately 2.4 feet of sea level rise, the intervening roadway between the parcel and the shoreline would be overtopped, and the parcel would be flooded on a yearly basis during large storms and king tides (MAMW). According to current best-available science, 2.4 feet of sea level rise could occur before 2050 (within 30 years) under an extreme risk aversion scenario, before 2060 (within 40 years) under a medium-high risk aversion scenario, and between 2060 and 2080 (between 40 and 60 years from now) under a low-risk aversion scenario.<sup>14</sup>

	<b>Low Risk Aversion (ft.)</b>	<b>Medium-High Risk Aversion (ft.)</b>	<b>Extreme Risk Aversion (ft.)</b>
2040	1.1	1.6	2
2050	1.5	2.3	3.1
2060	1.7-1.9	2.8-3.1	4.3
2070	2-2.4	3.5-4	5.6

<sup>13</sup> Because of extensive wetlands on the remainder of the site, the northwestern portion of the site is the only portion of the site that could potentially accommodate the general public facility, commercial, and residential uses that would be allowed under the subject land use and zoning reclassification, given that the Coastal Act and the City’s certified LCP only allow wetland fill for a limited number of prescribed uses including mostly resource-dependent and coastal-dependent uses [see LUP Policies 6.A.9 and 6.A.14 and IP §§10-5.2942.6 and 10-5.2942.10]. Because the proposed permitted uses for the site do not fall into any of these enumerated use categories, no wetland fill may be permitted for future development of the site. The City’s LUP defines fill as “earth or other substance of material, including piling, placed for the purpose of erecting structures thereon.”

<sup>14</sup> These projections are from the Ocean Protection Council (OPC)’s State of California Sea-Level Rise Guidance 2018 Update for the Humboldt Bay North Spit tide gage (considered by the Commission as the current best available science). The projections for relative sea level rise on Humboldt Bay take into account the combined effects of regional eustatic sea level rise and vertical land motion (tectonic uplift and subsidence). The low-risk aversion scenario has an approximately 17% chance of being exceeded, and the medium-high risk aversion scenario has a 1 in 200 chance, or a 0.5%, chance of being exceeded. The extreme risk accounts for the extreme ice loss scenario and does not have an associated probability at this time. Given the range of many uncertainties incorporated into the models, these projections are not precise, but are intended to reflect a precautionary approach. While uncertainty will remain with regard to exactly how much sea levels will rise and when, the direction of sea level change is clear.

	<b>Low</b> Risk Aversion (ft.)	<b>Medium-High Risk</b> Aversion (ft.)	<b>Extreme</b> Risk Aversion (ft.)
2080	2.4-2.9	4.4-5.1	7.2
2100	3.1-4.1	6.3-7.6	10.9

Table 1. Projected Sea Level Rise (in feet) on Humboldt Bay

While Hilfiker Lane and the CCT are at a higher elevation than the parcel and prolong the amount of time the potential development footprint will be protected from direct tidal inundation from the shoreline to the west, flooding could occur earlier from the east and south. The unfilled portions of the parcel to the east and south of the former tank farm area are largely covered by wetlands and a tidally-influenced ditch is located along the eastern boundary of the parcel. During the operation of the tank farm, stormwater runoff from the tank farm was drained eastward through a series of small surface ditches, a French drain system, and ponds, where the water was then eventually released to a surface ditch that discharged to the Elk River. Today, runoff from the former tank farm area continues to flow west to east across the site towards these wetlands and eventually discharges to the Elk River and Humboldt Bay. Because of this drainage connection to the bay, higher tides associated with sea level rise will impair the drainage of the parcel, increasing the risk of backwater flooding of the developable portion of the parcel over time.

In addition, groundwater at the site is shallow, and, according to a tidal study conducted in 1994, hydraulically connected to Humboldt Bay. Monitoring wells installed around the former tank farm in 1994 encountered groundwater between 1.5 and 4 feet below ground surface, while groundwater was encountered at depths between 2.25 and 6.75 in March 2012 (in the test pits dug during the geotechnical investigation of the tank farm site).<sup>15</sup> As sea levels rise, groundwater will also rise and will eventually emerge at ground surface, flooding the parcel. Prior to emerging at the ground surface, rising groundwater can also impair buried utilities, mobilize soil and groundwater contamination, and destabilize structural foundations.<sup>16</sup> These impacts would adversely affect human health and safety, and populations with less capacity to adapt and increased sensitivity to pollution and hazards will be more vulnerable to these harms.

## 2. LUP Consistency Analysis

Section 30253 of the Coastal Act states as follows in applicable part:

New development shall do all of the following:

- a. Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

---

<sup>15</sup> Groundwater levels are expected to fluctuate based on the degree of recent precipitation and the height of the tides.

<sup>16</sup> Both rising groundwater and reduced stormwater drainage are also likely to increase the size of the existing permanently and seasonally flooded wetlands onsite, reducing the developable footprint of the parcel over time.

- b. Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs...

Findings for Denial of the LUP Amendment as Proposed

Multiple seismic and flood hazards exist at the subject parcel, including strong ground shaking, liquefaction, differential settlement, and tsunami hazards. The parcel is also within the 100-year floodplain and with sea level rise will be subject to increasing flood risk from direct tidal inundation, from backwater flooding as the result of reduced stormwater drainage, and from the potential emergence of rising groundwater.

Given these hazards, the proposed land use designation change from PQP to GSC is not consistent with Coastal Act Section 30253. The purpose of the existing PQP designation is to protect sites appropriate for the development of civic service facilities, and the designation's principal permitted uses are limited to essential services and public and private facilities (the designation has no conditional uses). In contrast, the purpose of the proposed GSC land use designation is to provide appropriately located areas for retail and wholesale commercial establishments that offer commodities and services required by residents of the city and its surrounding market area. Most of the permitted uses in the GSC designation are commercial, including retail stores, service and amusement establishments, wholesale businesses, restaurants, soda fountains and offices; while conditional uses include drive-in theaters and restaurants, and mobilehome and trailer parks. The GSC designation is the most intense commercial designation in the City, intended for regional (rather than neighborhood-oriented) commercial development. The GSC designation is also intended for general commercial development, as the City has a separate "Waterfront Commercial" designation intended to prioritize recreational, visitor-serving, and commercial fishing industry uses that relate to the presence of coastal resources.

Changing this vulnerable parcel's land use designation to a designation that is intended for high density/intensity general commercial development that does not require a site on or near the shoreline to function does not minimize risk to life and property from significant geologic and flood hazards consistent with Coastal Act Section 30253. While there may be a need to site essential public services and facilities along the waterfront in the floodplain and tsunami inundation zone to serve existing development, and while temporary or short term development could be accommodated safely until projected sea level rise greatly increases flood hazards, accommodating intense general commercial or permanent new development in such a hazardous location does not minimize risks to life and property consistent with Coastal Act Section 30253. The purpose of the GSC designation, to accommodate retail and wholesale commercial establishments serving regional markets, is out of scale with the type of development that can be accommodated on the parcel given the parcel's significant hazard constraints. Regional-level retail and wholesale commercial uses typically draw significant numbers of people (employees and/or visitors) to a site and/or require significant investments in property (structures and/or merchandise) at a site, resulting in greater risk to people and property in an area of high geologic and flood hazard.

LUP Policy 7.B.3 mandates that permitted development not require the construction of protective devices that would substantially alter natural landforms; and LUP Policy 6.A.5 only allows the City to permit armoring when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger of erosion. Therefore, new general commercial development should not be developed with any assumption of future reliance on shoreline protective devices. Typical commercial buildings constructed today are likely to remain in place over the next 75 to 100 years, whereas the potential development footprint on the subject parcel and the intervening trail and road will all be overtopped by average king tides within 30-60 years. Allowing investment in structures at the site that will require future hard armoring to protect them over their anticipated lifetime does not minimize risk and precludes future adaptation options.



The City of Eureka owns the subject parcel and a significant amount of the waterfront in southern Eureka comprised mostly of vacant natural resource lands and wastewater treatment infrastructure. This public ownership facilitates possible future retreat of the CCT and future migration of salt marsh and dune habitat inland as sea levels rise (including the salt marsh mitigation site directly west of the subject parcel).<sup>17</sup> These City-owned lands are mostly former tidelands that could one day become tidal again, providing “soft-armoring” for the urban development inland of the bay, absorbing wave energy and increasing flood capacity. While there is a potential to use the subject parcel for commercial or other development in the short term, it is critical that such development not preclude these future adaptation options. Furthermore, as noted above, shoreline armoring alone would not protect investments at this site from flooding in the long term from rising groundwater and the reduced capacity to drain stormwater runoff without additional interventions to accommodate flooding such as pumping of stormwater, elevation of structures on pilings, etc.

---

<sup>17</sup> Salt marsh habitat that cannot migrate inland because of barriers will eventually be squeezed out and lost, caught between rising tides and immovable shoreline structures. Over 90% of the historic salt marsh habitat in the Humboldt Bay region has already been lost and hard armoring of the shoreline in its existing location will result in the loss of even more salt marsh as a result of this “coastal squeeze”.

The City's resolution of transmittal of the amendment to the Commission (Exhibit 3) acknowledges that hazards may impact this parcel to a greater degree than other commercially zoned parcels, and as a result, the full range of uses that could be allowed on a commercial property should be limited on the Crowley Site "to uses that are easily relocated, can be developed to withstand certain natural hazards, and have limited numbers of residents or employees." The City proposes to set these limitations by adding a Q Combining District to the proposed CS zoning of the parcel as discussed further in the IP consistency analysis below. However, the City proposes to designate the parcel GSC on the LUP land use map without any such limitations.

For all the reasons discussed above, the Commission finds that changing the land use designation of the Crowley Site to GSC does not minimize risk to life and property from significant geologic and flood hazards. As a result, the LUP amendment as proposed is inconsistent with Coastal Act Section 30253 and must be denied.

Findings for Approval of the LUP Amendment if Modified

**Suggested Modification 1** addresses this inconsistency with Coastal Act Section 30253 by adding a new MUL designation to the LUP and applying that designation to the Crowley Site. The purpose of the suggested MUL designation is to allow limited-intensity temporary residential, commercial, and public facility uses on parcels with coastal resource and/or coastal hazard constraints. This designation will limit future development to relatively low density/intensity uses to minimize the amount of life and property at risk in a high-hazard environment that will only become more hazardous with sea level rise. This designation will also limit future development to temporary development, signaling the need to remove any future development before risk can no longer be minimized due to the increasing rate, magnitude, and likelihood of flooding overtime with sea level rise.

In addition, any future proposed development at the parcel will require a CDP and will be subject to the hazard minimization policies of the certified LCP, including IP §10-5.2943.1, which requires development to minimize risk to life and property in areas of high geologic and flood hazard and assure stability and structural integrity consistent with Coastal Act Section 30253. As modified, the Commission thus finds the proposed LUP amendment consistent with Coastal Act Section 30253.

**3. IP Consistency Analysis**

LUP Policy 6.A.5:

The City shall permit revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes only when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion.

LCP Policy 7.B.2 states:

The City shall ensure that development on or near the shoreline of Elk River, Humboldt Bay, and Eureka Slough neither contributes significantly to, nor is subject to, high risk of damage from shoreline erosion over the life span of the development.

LCP Policy 7.B.3 states in applicable part:

...Permitted development shall not require the construction of protective devices that would substantially alter natural landforms.

LCP Policy 7.B.5 states:

For all development proposed within areas subject to significant shoreline erosion, and which is otherwise consistent with the policies of this General Plan, the City shall, prior to project approval, require a geology and soils report prepared by a registered geologist, professional civil engineer with expertise in soil mechanics or foundation engineering, or by a certified engineering geologist, and shall consider, describe, and analyze the following:

- a. Site topography, extending the surveying work beyond the site as needed to depict unusual conditions that might affect the site;
- b. Historic, current and foreseeable shoreline erosion, including investigation of recorded land surveys and tax assessment records in addition to the use of historic maps and photographs where available and feasible changes in shore configuration and sand transport;
- c. Geologic conditions, including soil, sediment and rock types and characteristics in addition to structural features, such as bedding, joint and faults;
- d. Impact of construction activity on the stability of the site adjacent area;
- e. Potential erodibility of site and mitigating measures to be used to ensure minimized erosion problems during and after construction;
- f. Effects of marine erosion on shoreline areas;
- g. Potential effects of seismic forces resulting from a maximum credible earthquake;
- h. Any other factors that might affect slope stability.

The report shall evaluate the off-site impacts of development and the additional impacts that might occur due to the proposed development. The report shall also detail mitigation measures for any potential impacts and outline alternative solutions. The report shall express a professional opinion as to whether the project can be designed so that it will neither be subject to nor contribute to significant onsite or offsite geologic instability throughout the life-span of the project.

LCP Policy 7.D.1 states:

The City shall prohibit high density residential and other high occupancy development, including new hospitals, schools, residential development with a gross density of 8 units per acre or more, office buildings 10,000 square feet in size or larger, or visitor-serving structural developments 5,000 square feet in size or larger, from locating in flood hazard areas, as designated on the Federal Emergency Management Agency Flood Insurance Rate Maps (FIRM), dated June 1, 1982, unless they are constructed with a finished foundation that extends above the 100-year flood level and meet all applicable drainage policies of this General Plan. Other development in flood hazard areas shall incorporate mitigation measures that minimize the potential for flood damage, including development siting and use of flood proofing techniques and materials, consistent with other land use plan policies.



Findings for Denial of the IP Amendment as Proposed

Consistent with Coastal Act Section 30253, the LUP policies listed above require minimization of risk of damage due to flooding and erosional hazards over the lifespan of developments. The proposed IP amendment proposes to address the significant geologic and flood hazards at the Crowley Site by adding a Q Combining District with development limitations added to the proposed CS District of the parcel. The Q Combining District can be combined with any base zone to apply parcel-specific limitations on the types of development allowed, and the conditions under which projects may be developed and operated.

The CS District has 197 principally permitted uses and 28 conditional uses. Similar to the GSC designation discussed above, many of the uses in the CS District are of too great an intensity and anticipated duration to minimize hazard risk at the parcel given projected sea level rise. However, the proposed Q Combining District would greatly reduce the number of CS uses allowed on the parcel. Uses would be limited to multi-family/multi-unit single-story residential uses for not more than 40 individual persons, public utility and service infrastructure, storage yards for commercial vehicles, temporary/seasonal commercial uses like Christmas tree lots, and wireless telecommunication facilities. These proposed uses do not necessarily require high occupancy of the parcel or significant structural investments with long anticipated lifespans. For instance, certain types of public utility and service infrastructure and wireless telecommunication facility uses are smaller scale, easily removable, and do not require many employees.

Although the proposed permitted use categories are generally limited to low-intensity uses, these use categories do not preclude hazardous development. For instance, certain types of public utility and service infrastructure have long lifespans and could be significantly damaged by anticipated flooding from sea level rise, leading to major public health, public safety, and/or environmental impacts. In addition, any CS uses at the site would be impacted to a greater degree than at many other CS lands throughout the City as most CS lands are located further inland of the waterfront. Residential uses on the subject parcel would also be impacted to a greater degree than most residentially-zoned parcels, most of which are outside of the mapped tsunami inundation zone and floodplain. Any individuals with greater sensitivity to and less ability to adapt to the adverse impacts of coastal hazards will be more vulnerable to the impacts and require additional resources and precautions to minimize risk to life (See Section VII below for a further discussion of environmental justice considerations). Ultimately all development at the site must be carefully sited, designed, and operated to minimize risk to life and property.

To ensure that permitted uses on the subject parcel are limited to development that minimizes risks to life and hazards, the proposed Q Combining District on the Crowley Site would require that (1) all structures built on the parcel comply with the City's flood hazard area regulations; (2) all structures be constructed to allow relocation or removal; and (3) a tsunami evacuation plan be developed prior to the commencement of any use of the parcel that would be implemented and enforced for the life of the use.



As noted above, only larger and rarer tsunami events would affect the site. It is generally not feasible to design smaller-scale, removable/relocatable structures to be resilient to such tsunami forces. However, the proposed Q Combining District standards adequately minimize tsunami risk consistent with the certified LUP hazard policies. The standards limit the number of residents allowed and restrict uses to those that can be accommodated with removable structural development, minimizing exposure of life and property to tsunami risk. In addition, the proposed requirement for a tsunami evacuation plan will help ensure that future occupants are aware of the tsunami threat, warning signals, and the planned evacuation route and to ensure that procedures are in place to evacuate less-mobile occupants. The plan must be developed prior to commencement of any uses and enforced for the life of the use, with a copy provided to all tenants and employees on the site. While this proposed requirement does not specify the necessary content of the evacuation plan, City staff has separately provided a document that details the City's required contents for any tsunami evacuation plan, which include, but are not limited to, procedures for (1) evacuating, assembling, and accounting for all occupants during an evacuation; (2) notifying new occupants of evacuation plans, and (3) training for tsunami response (this document would be given to anyone wishing to undertake develop at the site). Thus, the requirement for a tsunami evacuation plan minimizes tsunami hazard risk at the site consistent with the hazard minimization policies of the certified LUP.

In contrast, the City's proposed requirement that all structures comply with the City's flood hazard area regulations (Chapter 153 of the Eureka Municipal Code) raises LUP consistency concerns because the referenced flood hazard regulations are not part of the certified LCP, do not address all types of potential structural development that could be accommodated on the parcel, and do not fully account for increased flooding with sea level rise. For instance, Chapter 153 requires residential development, including manufactured homes, to be anchored and elevated to a height equal to or exceeding the 10-foot base flood elevation specified on the flood insurance rate map but does not require additional elevation to account for projected sea level rise over the anticipated life of the development.

In addition, the City's proposed requirement that structures be constructed to allow relocation or removal doesn't actually require structures to be removed or relocated if necessary to minimize hazard risk as flooding worsens at the site overtime.

Therefore, the City's proposed Q Combining District flood hazard and relocation or removal requirements are not adequate to carry out the City's certified LUP hazard policies, and the proposed IP map amendment must be denied as submitted.

#### Findings for Approval of the IP Amendment if Modified

Regarding the requirement that all structures comply with the City's flood hazard area regulations, **Suggested Modification 2** adds language to the proposed standard to require that all structures be designed to minimize flood risk over the anticipated life of the development taking into account current best available science on projected sea level rise, including minimizing impacts to the development itself and impacts of the development on the surrounding area. This broad language will allow flexibility in siting

and design of future structures while ensuring evaluation and minimization of all types of flood risk at the site, including sea level rise.

Regarding the requirement that structures be constructed to allow relocation or removal, **Suggested Modification 2** adds language specifying that future structures will only be permitted for a limited term taking into account increasing flood hazard risk with projected sea level rise. This suggested modification will ensure that the life of any structure developed at the site, and its design to be removable or relocatable, will be dictated by how long the structure can ensure minimization of flood hazard risk.

Finally, the Q Combining District limitations proposed for the Crowley Site allow for “public utility and public service infrastructure, including but not limited to pumping stations, power stations, equipment buildings and installations, drainageways and structures, storage tanks and transmission lines” (*emphasis added*). Some of the infrastructure mentioned in this partial list could have long lifespans and could be significantly threatened by anticipated flooding from sea level rise. If permitted on the subject parcel, some of this infrastructure could also expose large numbers of people and/or large amounts of property to coastal hazards, either from direct exposure at the site or indirectly through community reliance on the infrastructure for essential services. To ensure that this list is not misconstrued as a list of infrastructure types that are necessarily appropriate for the subject parcel and consistent with the hazard policies, **Suggestion Modification 2** would remove the list (while retaining the broader use category “public utility and public service infrastructure”).

The Commission finds that the proposed IP map amendment, only as suggested to be modified, conforms with and is adequate to carry out the hazard minimization policies of the certified LUP.

## **B. Wetland ESHA**

### **1. Background**

As described above in previous background sections, from the 1950s until the late 1990s, a bulk fuel storage tank farm occupied this currently vacant parcel.<sup>18</sup> Based on subsurface investigations of the parcel, six to seven feet of fill was placed on the northwestern portion of the parcel to accommodate this tank farm. The tank farm was also surrounded by a three- to four-foot-high berm, which directed storm water runoff to a system of drainage ditches and holding ponds located on the remainder of the parcel to the east and south. Stormwater runoff from the tank farm historically drained (through a series of small surface ditches and a French drain system) east to a large rectangular pond with a concrete berm on the eastern side of the parcel, where the water was then pumped to another pond on the southern end of the parcel (between the former tank

---

<sup>18</sup> The Commission issued a CDP waiver in 1998 (CDP 1-98-016-W) for the removal of the seventeen above-ground storage tanks and associated above-ground piping and fuel racks that comprised the tank farm.

farm and current WWTP) and eventually released to a surface ditch that discharged to the Elk River.

Wetland delineations prepared for the subject parcel in 2007,<sup>19</sup> 2010,<sup>20</sup> and 2017<sup>21</sup> indicate that the aforementioned eastern and southern ponded areas continue to exist and delineate as three-parameter wetlands. These ponds are contained by upland berms (created by soil removed to form the ponds) and remain flooded throughout the year, supported mainly by groundwater.

The 2007 and 2010 delineations (which covered the entire parcel) also indicate that there are drainage ditches along the southern and eastern parcel boundaries and significant freshwater wetlands on the southern and eastern portions of the parcel (in addition to the ponds) comprising a mix of emergent, scrub-shrub, and forested communities that range from seasonally to permanently flooded.<sup>22</sup> These freshwater wetlands are part of a larger wetland complex extending to the north, south, and east of the parcel.

---

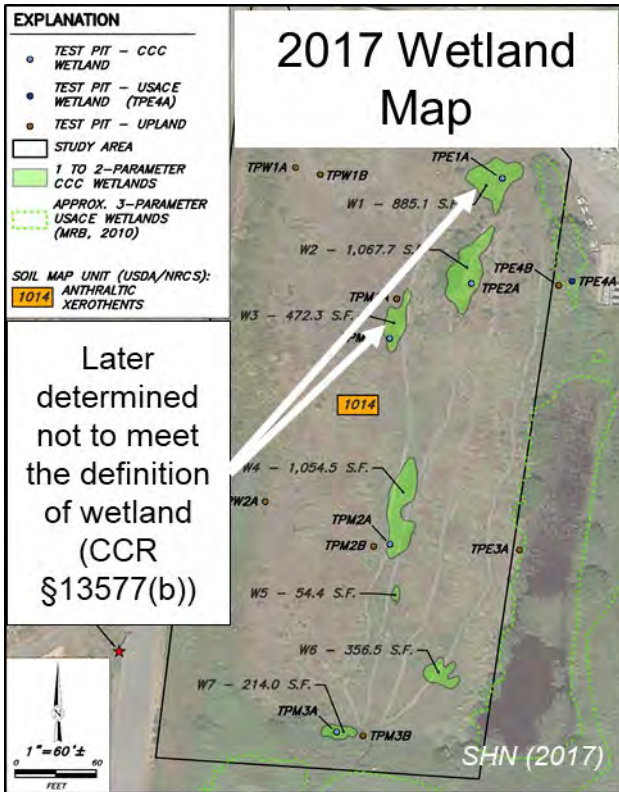
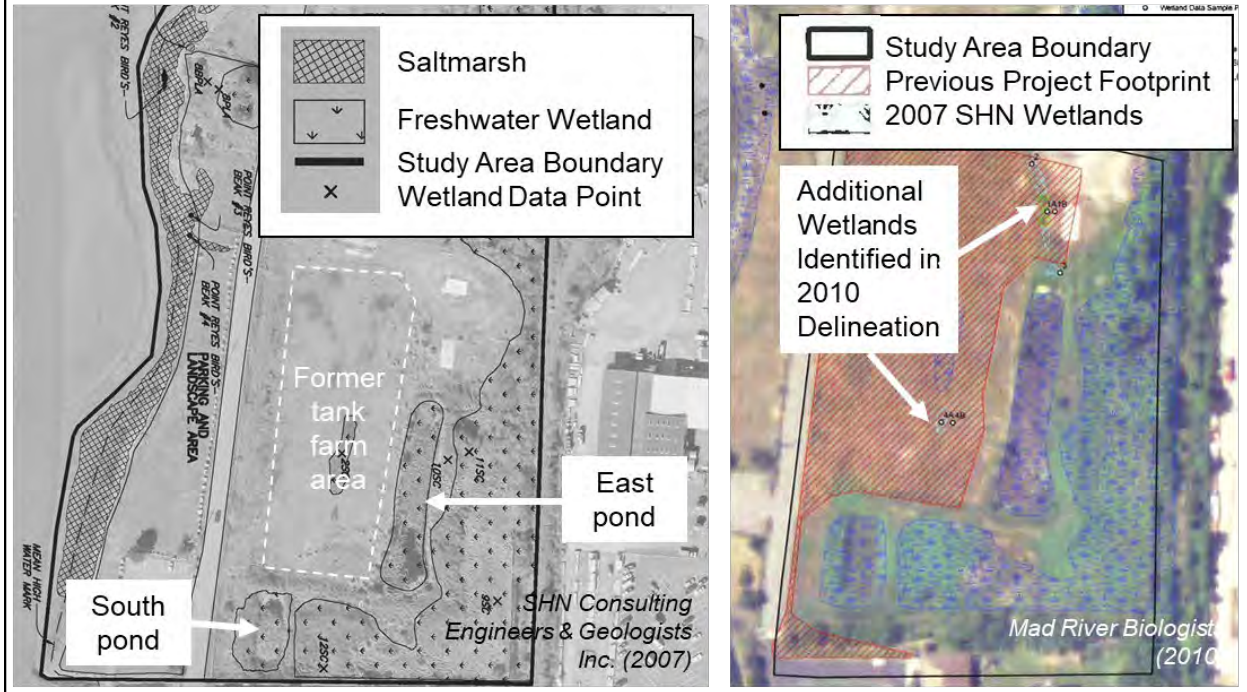
<sup>19</sup> SHN Engineers & Geologists. (2007, January 30). Wetland Delineation for the Proposed Elk River Trail Improvement Project, Eureka, California. Prepared for the City of Eureka.

<sup>20</sup> Mad River Biologists. (2010, August 27). Biological Resources Evaluation and Wetlands Verification/Delineation for the Humboldt Waste Management Authority Waste Digester Project. Prepared for Planwest Partners, Inc.

<sup>21</sup> SHN Engineers & Geologists. (2017, November). Wetland and Other Waters Delineation Report for the Hilfiker Lane Site, APN 019-271-004, Eureka, California. Prepared for the City of Eureka.

<sup>22</sup> According to the 2007 delineation, the forested wetland area is represented by a small stand of red alder (*Alnus rubra*) that transitions into scrub-shrub wetlands dominated by a mix of native willow (*Salix sitchensis*, *S. lucida*, *S. lasiolepis*), wax myrtle (*Myrica californica*) and cascara (*Rhamnus purshianus*) with scattered red alder. The understory of the forested and scrub-shrub wetlands and the adjacent freshwater emergent wetlands are characterized by a predominance of herbaceous hydrophytes such as slough sedge (*Carex obnupta*), common rush (*Juncus effuses*), pacific silverweed (*Potentilla anserina* ssp. *pacifica*), Himalaya berry (*Rubus discolor*), creeping bentgrass (*Agrostis stolonifera*), and buttercup (*Ranunculus repens*).

## 2007 & 2010 Wetland Delineation Maps



A 2017 wetland delineation focused on the footprint of the former tank farm indicates that the former tank farm area is covered with vegetation consisting of a mix of native and non-native species typical of disturbed industrial yards and is underlain by compacted fill composed of rock, gravel, chunks of fiberglass, and rusted iron. According to the delineation, a number of pocket wetlands have formed in depressions in the former tank farm area, largely within the footprint of a former gravel road that was used to access the fuel tanks and bisects the parcel from north to south.

Commission staff ecologist Dr. John Dixon reviewed the wetland delineations and visited the parcel on March 23, 2020. He determined that, although man-made, five wetlands identified within the tank farm

area meet the Commission's definition of wetlands [Coastal Commission's regulations 14 CCR §13577(b)].<sup>23</sup>

Because all wetlands are treated as environmentally sensitive habitat areas (ESHA) by the City's LUP and the subject parcel is within the City's LCP jurisdiction, none of the wetland delineations and biological reports to date have made a determination of whether individual wetlands onsite and in the surrounding area rise to the level of ESHA. Given that the wetlands may constitute ESHA and are treated as such by the certified LCP, this report makes the assumption that implicated wetlands are ESHA.

## 2. LUP Consistency Analysis

Section 30233 of the Coastal Act provides, in applicable part, as follows:

- 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.

---

<sup>23</sup> Dr. Dixon determined that two areas identified as wetlands did not meet the Commission's wetland definition. These two areas are seasonally ponded areas that only have evidence of hydrology but not signs of hydric soils or any vegetation. Section 13577(b) of the Commission's regulations define wetlands in part as "land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate." According to Dr. Dixon, this definition is meant to capture such things as salt ponds that naturally have little or no vegetation but are still valuable habitat. This definition however does not include seasonal puddles where lack of hydric soils and hydrophytes is not due to frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate (such as at the project site).

- b. Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for these purposes to appropriate beaches or into suitable longshore current systems.
- c. In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary...

Section 30240 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.

#### Findings for Denial of the LUP Amendment as Proposed

To approve the proposed land use designation change to GSC, the Commission must find that the parcel is developable for the proposed range of allowable uses in the GSC designation in a manner that limits wetland fill consistent with Coastal Act Section 30233. Coastal Act Section 30233 only allows wetland fill for seven enumerated uses; none of the permitted or conditional uses in the GSC designation are an allowable use of wetland fill. Thus, future development under the GSC designation must avoid wetland fill. Although extensive wetlands cover the unfilled southern and eastern thirds of the parcel, and five pocket wetlands dot the eastern half of the former tank farm area, a relatively narrow strip of land with large enough contiguous uplands to be developed without wetland fill exists along the parcel's northwestern boundary. As described in more detail in Section VI-E below, the City has also demonstrated that future development in the northwestern portion of the parcel can be connected to offsite utilities in a way that avoids fill in wetlands, partly through directional drilling under wetlands. Thus, future GSC uses can be developed in a way that avoids wetland fill consistent with Coastal Act Section 30233.

In addition to wetland fill avoidance, a physical buffer is necessary between potential development under the GSC designation and wetland ESHA to ensure that development prevents impacts which would significantly degrade the wetland habitat and is compatible with the continuance of the habitat consistent with Coastal Act Section 30240.

Buffers are intended to create a spatial separation between wetland habitat and potentially disruptive activity typically associated with development, such as noise, dust, light, and human (and pet) activity, which can disrupt feeding, nesting, and behavior patterns of wildlife inhabiting the wetlands. Buffer areas also provide transitional habitat between development and wetland habitat, including necessary habitat for organisms that spend only a portion of their life in the wetlands, such as northern red-legged frogs

(*Rana aurora aurora*). Additionally, buffers are often required to provide a vegetated area to slow, capture, infiltrate, and/or treat drainage and stormwater runoff from development to minimize the development's adverse impacts on the hydrology of the wetlands and the amount of pollutants potentially entering the wetlands.

To determine whether proposed buffers are sufficient to reduce anticipated disturbances to a level that will be protective of the wetland habitat, information is needed on (1) the proposed development (specifically, potential disturbances associated with the construction and operation of the development); (2) the resources of the habitat area; (3) the susceptibility of these resources to the various types of anticipated disturbances caused by the development; and (4) any existing site features or proposed mitigation measures that will shield these resources from disturbances to achieve the purposes of a physical buffer.

The City has provided a site map (Exhibit 6) showing the possible future location of a housing development comprised of eleven trailers on 0.6 acres in the northwestern corner of the parcel providing for buffers of varying widths between the development and the wetlands surrounding the site. To approve the proposed land use designation change for the parcel, the Commission must find that the range of potential uses in the GSC designation could feasibly be accommodated with these buffer widths in a way that is consistent with Coastal Act Section 30240.

The City's site plan for the anticipated housing development provides for a minimum 30-foot-wide buffer from the nearest pocket wetlands (See Exhibit 6). The site plan also shows a 10 to 15-foot-wide vegetated swale between the potential housing development and the buffer area (for a total width of 40-45 feet of permeable ground between the paved development and the wetlands). According to a April 24, 2020 buffer analysis prepared by SHN, these one-to-two parameter wetlands are located on an existing fill prism, include ruderal vegetation and significant bare (gravel) ground, are limited in terms of hydrological retention, do not have a functional relationship with the surrounding wetlands, and are unlikely to be utilized by sensitive species due to their disturbed nature. Biological surveys conducted in 2007 and 2010 (by SHN and Mad River Biologists (MRB), respectively) did not identify any special-status plant or wildlife species in these pocket wetlands, but the accompanying SHN and MRB reports do indicate that ground-nesting birds could use the gravel fill base in the footprint of the former tank farm for nesting. The 2010 MRB biological assessment also indicates that northern red-legged frogs, a state-listed species of special concern, may utilize the seasonal wetlands and uplands located within the former tank farm area for foraging, but the frogs would not be expected to use these areas for breeding owing to the overall high level of disturbance, low vegetative cover, and ephemeral hydrology. Both the SHN and MRB biological assessments indicate that potential impacts to nesting birds and red-legged frogs could be adequately mitigated through pre-construction surveys by a qualified biologist and avoidance/relocation measures.

Future development on the northwestern portion of the subject parcel would also have a limited 60 to 80-foot-wide buffer from the three-parameter estuarine wetlands along Elk River across Hilfiker Lane to the west. The salt marsh habitat on the Elk River directly



west of the parcel was recently restored as mitigation for wetland fill resulting from the development of the CCT (under CDP 1-11-037). Based on recent monitoring reports (from 2013-2016), this salt marsh remains high-quality habitat with relatively high native plant cover and diversity. According to the monitoring reports, both the salt marsh mitigation site and additional salt marsh habitat directly to the north support a number of native plant species, including Point Reyes bird's beak (*Chloropyron maritimum ssp. palustre*), a rare plant.<sup>24</sup> Several listed fish species are also known to occur in the adjacent Elk River estuary.<sup>25</sup> The future development footprint on the parcel is separated from these wetlands by a paved trail and roadway with raised elevation, but noise, light, traffic, and other disturbances from future development of the parcel could affect these wetlands, adding to the cumulative impact of the adjacent urban development on the habitat.

The remaining wetlands of concern are the extensive freshwater wetlands located on the unfilled eastern and southern portions of the subject parcel (including emergent, scrub-shrub, and forested wetland communities as well as two ponds), over 100 feet from the potential development footprint. The 2007, 2010, and 2017 wetland delineations and 2020 buffer analysis all attest to the high-quality habitat provided by these wetlands.<sup>26</sup> SHN documented a variety of songbirds and waterfowl, red-shouldered hawk and great blue heron utilizing these habitats on the Crowley Site during their 2007 biological assessment, and MRB observed waterfowl foraging in the ponds and several species of songbirds utilizing the forested and scrub-shrub communities at the site during their 2010 surveys. According to the 2010 MRB biological assessment, the scrub-shrub and forested wetlands along the eastern side of the site may offer suitable nesting habitat for songbirds and possibly raptors and herons. The freshwater wetlands on the subject parcel also provide breeding habitat for northern red legged frog, and the two ponds provide marginal habitat for northwestern pond turtle (*Emys marmorata*).

The SHN buffer analysis for the anticipated housing development suggests that the proposed buffers are adequate for that specific housing development. For the purposes

---

<sup>24</sup> California Rare Plant Rank 1B.

<sup>25</sup> Listed fish species known to occur in the Elk River estuary include federally threatened Chinook salmon (*Oncorhynchus tshawytscha*), federally and state-endangered Coho salmon (*Oncorhynchus kisutch*), federally threatened Northern California steelhead (*Oncorhynchus mykiss irideus*), Coastal cutthroat trout (*Oncorhynchus clarkia clarkii*), a state species-of-concern, federally endangered Tidewater goby (*Eucyclogobius newberryi*), state-threatened Longfin smelt (*Spirinchus thaleichthys*), federally threatened Eulachon (*Thaleichthys pacificus*), federally threatened Green sturgeon (*Acipenser medirostris*), and Pacific lamprey (*Entosphenus tridentatus*), a state species-of-concern.

<sup>26</sup> California Department of Fish and Wildlife staff (Michael Van Hattem) visited the subject parcel with the City in early 2020 to discuss the anticipated housing project's impacts on onsite wetlands and was primarily concerned with the development of strong vegetated buffers and stormwater management features between any proposed development and these onsite three-parameter wetlands to the south and east of the filled former tank farm area.



of this LCP amendment, the Commission is not evaluating whether this buffer analysis adequately demonstrates that the proposed buffers are sufficient for the anticipated housing project; the Commission is only considering whether the parcel could feasibly accommodate the range of uses permitted under the GSC designation. Given the limited buffer width available, understanding the details of any proposed development will be critical in determining the adequacy of the buffers, including but not limited to details about anticipated levels of exterior lighting and noise, potential for human and/or pet encroachment into wetlands, and pollutants of concern associated with the construction and operation of the development, as well as proposed impervious surfaces, vegetation, and stormwater management.

It is important to note that a Phase I and a limited Phase II Environmental Site Assessment (ESA) prepared for the parcel by SHN in 2019 identifies a number of soil and groundwater contamination risks that affect the parcel and, as a result, recommends capping the site for any future residential use of the site to protect residents from impacts from subsurface contamination. To evaluate the impact of this recommendation on the ability of future residential development to avoid and buffer from wetlands, Commission staff requested (in a letter dated February 3, 2020) that the City explain (1) what capping the parcel for residential development would entail; (2) whether capping would be feasible given the regulatory requirement to avoid fill in and buffer from onsite wetlands; and (3) whether the North Coast Regional Water Quality Control Board Site Cleanups Program (Regional Board) staff is supportive of this capping strategy. In response to this request, the City has submitted the site plan for the anticipated housing project (Exhibit 6) that shows that capping would involve paving the development footprint and would not require paving in wetlands or wetland buffers. The City has also provided an email from Regional Board staff (Cody Walker, an engineering geologist) dated May 21, 2020, indicating that Regional Board staff has reviewed the Phase I and II ESA and the anticipated housing development proposal. The email states that the City's proposal to install an asphaltic cap and above-grade housing units is compatible with the site given potential contamination concerns. Thus, this capping requirement does not affect the feasibility of wetland avoidance or the size of feasible wetland buffers on the site.

Although the adequacy of the buffer width will ultimately be determined taking into account the specific details of future proposed development, based on the site conditions discussed in the background section above, including the limited habitat value of the pocket wetlands in the former tank farm area, it is clear that some amount of general residential, commercial, or public facilities development could be accommodated at the parcel consistent with the wetland habitat protection policies of the Coastal Act. However, given the limited uplands and buffer width available and the extensive high-quality wetlands surrounding the former tank farm footprint, it is also clear that the parcel can only accommodate smaller-scale, lower-intensity developments where potential impacts could be relatively easily shielded from surrounding wetlands.

As discussed above, the stated purpose of the proposed GSC land use designation is to provide appropriately located areas for retail and wholesale commercial establishments that offer commodities and services required by residents of the city and its surrounding

market area. The GSC designation is the most intense commercial designation in the City, intended for regional (rather than neighborhood-oriented) commercial development.

This designation is out of scale with what the parcel can accommodate given the wetland constraints. Many of the allowable uses under the GSC designation, such as typical regional-serving restaurants, retail stores, and service and amusement establishments, are high density/intensity uses that would produce significant levels of light, noise, human activity, traffic, pollutants, etc. that could degrade the adjacent wetland habitat inconsistent with Coastal Act Section 30240. As a result, the LUP amendment as proposed is inconsistent with Coastal Act Section 30240 and must be denied.

#### Findings for Approval of the LUP Amendment if Modified

To address this inconsistency, **Suggested Modification 1** adds a new Mixed Use Limited (MUL) designation to the LUP and apply that designation to the Crowley Site. The purpose of the suggested MUL designation is to allow limited-intensity temporary residential, commercial, and public facility uses on parcels with coastal resource and/or coastal hazard constraints. Unlike the GSC designation, this MUL designation signals to future property owners and developers that the parcel has significant resource constraints that will limit development potential at the site. This designation will limit future development to relatively low density/intensity uses that could potentially fit within the limited upland area of the parcel and could avoid degradation of the surrounding wetlands even with limited space for physical buffering. Thus, as modified, the Commission finds the proposed LUP land use designation change consistent with Coastal Act Sections 30233 and 30240.

### **3. IP Consistency Analysis**

LUP Policy 6.A.6 states in part (emphasis added):

The City declares the following to be environmentally sensitive habitat areas within the Coastal Zone:

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

LUP Policy 6.A.7 states (emphasis added):

Within the Coastal Zone, the City shall ensure that environmentally sensitive habitat areas are protected against any significant disruption of habitat values, and that only uses dependent on such resources shall be allowed within such areas.

The City shall require that development in areas adjacent to environmentally sensitive habitat areas be sited and designed to prevent impacts which would significantly degrade such areas, and be compatible with the continuance of such habitat areas.

LUP Policy 6.A.8 states (emphasis added):

Within the Coastal Zone, prior to the approval of a development, the City shall require that all development on lots or parcels designated Natural Resources on the Land Use Diagram or within 250 feet of such designation, or development potentially affecting an environmentally sensitive habitat area, shall be found to be in conformity with the applicable habitat protection policies of the General Plan. All development plans, drainage plans, and grading plans submitted as part of an application shall show the precise location of the habitat(s) potentially affected by the proposed project and the manner in which they will be protected, enhanced, or restored.

LUP Policy 6.A.9 states (emphasis added):

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

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

LUP Policy 6.A.14 states:

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

- a. Port facilities.
- b. Energy facilities.
- c. Coastal-dependent industrial facilities, including commercial fishing facilities.
- d. Maintenance of existing or restoration of previously dredged depths in navigation channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.
- e. Incidental public service purposes which temporarily impact the resources of the area, such as burying cables or pipes, inspection of piers, and maintenance of existing intake and outfall lines.
- f. Restoration projects.
- g. Nature study, aquaculture, or similar resource-dependent activities.
- h. New or expanded boating facilities in estuaries, consistent with the demand for such facilities.
- i. Placement of structural piling for public recreational piers that provide public access and recreational opportunities.

LCP Policy 6.A.19 states (emphasis added):

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

LCP Policy 6.A.20 states:

To protect urban wetlands against physical intrusion, the City shall require that wetland buffer areas incorporate attractively designed and strategically located barriers and informational signs.

LCP Policy 6.A.24 states:

Within the Coastal Zone where there is a question regarding the boundary, buffer requirements, location, or current status of an environmentally sensitive area identified pursuant to the policies of this General Plan or which is designated on Figure 6-1, the City shall require the applicant to provide the City with the following:

- a. Base map delineating topographic lines, adjacent roads, location of dikes, levees, of flood control channels and tide gates, as applicable;
- b. Vegetation map, including identification of species that may indicate the existence or non-existence of the sensitive environmental habitat area;
- c. Soils map delineating hydric and non-hydric soils; and
- d. Census of animal species that may indicate the existence or non-existence of the sensitive environmental habitat area.

The City shall transmit the information provided by the applicant pursuant to this policy to the Department of Fish and Game for review and comment. Any comments and recommendations provided by the Department shall be immediately sent to the applicant for his or her response. The City shall make its decision concerning the boundary, location, or current status of the environmentally sensitive habitat area in question based on the substantial evidence in the record and shall adopt findings to support its actions.

Eureka LUP Policy 6.A.6 declares that among other habitats, wetlands constitute ESHA. Consistent with Coastal Act Section 30240, LUP Policy 6.A.7 requires that development in areas adjacent to ESHA be sited and designed to prevent impacts which would significantly degrade such areas, and be compatible with the continuance of such habitat areas. LUP Policy 6.A.19 specifically requires the establishment of a buffer for permitted development adjacent to all ESHA with a minimum buffer width of 100 feet,

unless site and project-specific information demonstrates that a smaller buffer will protect the resources of the habitat area.

Findings for Denial of the IP Amendment as Proposed

The proposed amendment would change the parcel's zoning district to CS with a Q Combining District. As discussed above, the proposed CS District includes a wide variety and intensity of commercial, industrial, public facility and residential uses. However, the City is proposing to use the Q Combining District to greatly reduce the 197 principally permitted and 28 conditional CS uses allowed on the parcel to address parcel-specific constraints. Under the proposed amendment, the Q Combining District would limit CS District uses to multi-family/multi-unit single-story residential uses for not more than 40 individual persons, public utility and service infrastructure, storage yards for commercial vehicles, temporary/seasonal commercial uses like Christmas tree lots, and wireless telecommunication facilities.

To approve the proposed zoning change for the parcel, the Commission must find that the range of potential uses in the CS-Q District could feasibly be accommodated at the Crowley Site in a manner that prevents impacts that would significantly degrade the surrounding wetlands, and is compatible with the continuance of the wetland habitats consistent with the certified LUP policies listed above. While there is a feasible location on the parcel that can accommodate future development in a way that avoids wetland fill, the potential development footprint can only accommodate a narrow 30-foot-wide buffer from freshwater wetlands to the east (along with a 10 to 15-foot-wide drainage swale) and a 60 to 80-foot-wide buffer from salt marsh habitat across Hilfiker Lane to the west of the parcel. As discussed in detail in the LUP consistency findings above, given the limited uplands and buffer width available and the extensive high-quality wetlands surrounding the former tank farm footprint, the parcel can only accommodate smaller, low-intensity developments where potential impacts could be relatively easily shielded from surrounding wetlands.

The proposed allowable uses in the CS-Q District are mostly either inherently small-scale uses (like temporary/seasonal commercial uses and housing for 40 or less individuals) or encompass smaller, less-intense types of development. For instance, certain types of public utility and service infrastructure and wireless telecommunication facilities are small and don't generate a level of light, noise, traffic, etc. that would necessarily degrade adjacent wetlands with a relatively narrow buffer in combination with other feasible mitigation measures. The exception is the proposed use "storage yards for commercial vehicles."

Among other potential impacts, parking lots generate high pollutant loads, and commercial vehicle storage facilities necessitate high levels of security lighting. The maximum feasible wetland buffer widths at the parcel are likely too narrow to address these impacts, even with additional mitigations such as the proposed 10-15-foot-wide vegetated drainage swale. Allowing car storage in an area across the street from the river/bay surrounded by extensive wetlands is inconsistent with and inadequate to carry out the wetland habitat protection policies of the certified LUP cited above.

For the reasons described above, the IP map amendment as proposed is inconsistent with the ESHA and wetland policies of the certified IP and must be denied.

Findings for Approval of the IP Amendment if Modified

To ensure that future development does not degrade adjacent wetland ESHA inconsistent with the ESHA protection policies of the certified LUP, **Suggested Modification 2** removes “storage yards for commercial vehicles” from the allowable uses on the parcel.

Although the other proposed allowable uses are not inherently too intense for the site, they are broad enough use categories that they do encompass certain uses that could not be feasibly accommodated on the site in a way that avoids wetland ESHA and prevents habitat degradation. The City’s certified LUP calls for a minimum 100-foot-wide buffer, “unless the applicant for the development demonstrates on the basis of site specific information, the type and size of the proposed development, and/or proposed mitigation (such as planting of vegetation) that will achieve the purposes(s) of the buffer, that a smaller buffer will protect the resources of the habitat area.” Because the potential upland development footprint on the subject parcel is directly adjacent to wetlands and less than 100 feet wide, there is no way to develop the parcel with a 100-foot-wide buffer. Even with a reduced buffer of 30 feet, the total developable upland area is only 1.77<sup>27</sup> acres of this 6.1-acre parcel. Future development of this vacant parcel will require installation of utility connections, vehicular access and parking, stormwater management facilities, and potentially landscaping and screening that will further limit the area of the parcel available for proposed permitted uses. Without project and site specific information demonstrating a reduced buffer will be adequate, the broad proposed allowable uses in the CS-Q District may create expectations that this site can accommodate more intense and expansive uses than what is feasible consistent with the wetland ESHA protection policies of the certified LUP.

Given the significant wetland constraints affecting future development of the site and limited area available for necessary wetland buffers, the reduced-buffer analysis required by LUP Policy 6.A.19 will be a critical determinant of the scope of development that can be accommodated at the site consistent with the certified LCP. Therefore, **Suggested Modification 2** also adds a reference to LCP Policy 6.A.19 (the requirement for a project-specific reduced-buffer analysis) into the parcel-specific limitations established by the Q Combining District. Adding the reduced-buffer analysis requirement to the Q Combining District limitations for the Crowley Site will ensure that current and future property owners and developers are aware of both the prohibitions on development within onsite wetlands and the need for adequate buffers from wetlands, eliminating expectations that permitted uses may expand throughout this 6.1-acre parcel.

---

<sup>27</sup> This number was provided by the City and has not been verified by Commission staff.

The Commission finds that the proposed IP map amendment, only as suggested to be modified (to remove vehicle storage as an allowable use on the parcel and to add requirements for a reduced-buffer analysis), conforms with and is adequate to carry out the wetland and ESHA protection policies of the certified LUP.

## **C. Water Quality**

### **1. LUP Consistency Analysis**

Section 30230 of the Coastal Act states as follows:

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

Section 30231 of the Coastal Act states as follows:

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.

#### Findings for Denial of the LUP Amendment as Proposed

The developable portion of the subject parcel is 30 feet from pocket wetlands within the tank farm footprint, 60-80 feet from the Elk River salt marsh habitat across Hilfiker Lane to the west of the parcel, and as close as 100 feet from the extensive emergent wetlands on the unfilled eastern and southern portions of the subject parcel. Due to this location, erosion and stormwater runoff from future development of the site has the potential to negatively affect the water quality and hydrology of onsite wetlands and nearby Elk River and Humboldt Bay waters inconsistent with Coastal Act Sections 30230 and 30231.

In addition, a Phase I and a limited Phase II ESA prepared for the parcel by SHN in 2019 identifies a number of soil and groundwater contamination risks that affect the parcel,<sup>28</sup> including the presence of a former railroad corridor, the presence of

---

<sup>28</sup> Since ceasing operation as a fuel storage facility, the Crowley Site has been the subject of several environmental studies commencing with a 1992 Phase I Environmental Site Assessment (ESA), followed by numerous subsurface investigations which ultimately identified the need for remediation. Corrective actions and monitoring activities were completed culminating with a 2005 Regional Water Quality Control Board determination of "No Further Action" required. The identified contamination was remediated to the satisfaction of the Regional Board without subjecting the parcel to any required controls, such as property-use restrictions, activity and use limitations, institutional controls, and/or engineering controls.

uncharacterized fill, the historic use of the site as a bulk fuel terminal, and the presence of upgradient petroleum hydrocarbon and fuel oxygenate plumes.<sup>29</sup> Construction of development at the site and post-construction use of the site could mobilize and spread this potential soil and/or groundwater contamination, threatening the quality and biological productivity of nearby wetlands and coastal waters.

Runoff from the development footprint will flow to the east, away from the Elk River/Humboldt Bay, and will only reach the Elk River after passing through any proposed stormwater management features and existing wetlands on the eastern and southern portions of the parcel. Whether any future stormwater management features are adequately sized, designed, and managed to infiltrate, retain, and/or treat anticipated runoff depends on the specific development proposed at the parcel (the quantity of runoff the development generates, the pollutants of concern that may be present, how the swales will be maintained over the life of the development, etc.). As detailed in the ESHA section above, many of the allowable uses under the proposed GSC designation, such as typical regional-serving restaurants, retail stores, and service and amusement establishments, are high density/intensity uses that would produce significant levels of light, noise, human activity, traffic, runoff, and pollutants, etc. that could not be adequately shielded from nearby wetlands and waters given the limited area for stormwater management and undeveloped buffers. As a result, the LUP amendment as proposed would not protect the biological productivity and quality of coastal waters, streams, wetlands, and estuaries consistent with Sections 30230 and 30231 of the Coastal Act and must be denied.

#### Findings for Approval of the LUP Amendment if Modified

To address these inconsistencies with Sections 30230 and 30231, **Suggested Modification 1** adds a new MUL designation to the LUP and applies that designation to the Crowley Site. As discussed in the ESHA LUP Consistency Findings above, under Suggested Modification 1, the purpose of the MUL designation will be to allow limited-intensity temporary residential, commercial, and public facility uses on parcels with coastal resource and/or coastal hazard constraints. Unlike the GSC designation, this new MUL designation signals to future property owners and developers that the parcel has significant resource constraints that will limit development potential at the site. The new MUL designation will limit future development to relatively low density/intensity uses that could potentially fit within the limited upland area of the parcel without

---

However the recent Phase I and a limited Phase II ESA attest that a number of soil and groundwater contamination risks continue to affect the parcel.

<sup>29</sup> Regarding upgradient contamination plumes, the ESA states: "several agency-listed sites have experienced unauthorized hazardous materials releases; these sites are situated within a ¼ mile of the subject property in presumed upgradient and crossgradient locations. To date, none of these agency-listed sites is known to have impacted the subject property from a hazardous materials perspective. However, there is the potential for groundwater at the subject site to be impacted by the metals and petroleum hydrocarbon groundwater plumes associated with these upgradient and cross-gradient sites due to the proximity of these properties to the subject site, the documented COCs in groundwater, and the associated groundwater plumes."



impairing the biological productivity and quality of nearby wetlands and waters even with limited space for physical buffering and stormwater management. The City's site plan for the anticipated housing development shows that a 10- to 15-foot wide vegetated stormwater swale could be accommodated outside of the proposed 30-foot buffer to slow, retain, infiltrate, and/or treat runoff from any proposed development on the subject parcel before it reaches the wetland buffer area. The site plan also shows how the development footprint could be capped to prevent post-construction ground disturbance and surface erosion that could mobilize contamination.

Furthermore, any future development of the parcel will require a CDP, and the City's certified LUP contains Coastal Act Sections 30230 and 30231 as LUP Policies 6.A.1 and 6.A.3. To maintain consistency with these LUP policies, future development of the site will need to ensure that stormwater management (both during and post-construction) is protective of the biological productivity and quality of nearby wetlands and waters, and that potential soil and groundwater contamination is not mobilized and spread by construction or post-construction use of the site. Thus, as modified, the Commission finds the proposed LUP land use designation change consistent with Coastal Act Sections 30230 and 30231.

## **2. IP Consistency Analysis**

LUP Policy 6.A.1 states:

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

LUP Policy 6.A.3 states:

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

### Findings for Denial of the IP Amendment as Proposed

Consistent with Coastal Act Sections 30230 and 30231, LUP Policies 6.A.1 and 6.A.3 also require the maintenance, enhancement, and where feasible, restoration of aquatic resources and the biological productivity and quality of coastal waters including for the protection of human health. As discussed in the ESHA Wetland IP Consistency Findings, the use restrictions that would be included in the proposed CS-Q District and

applied to the site greatly limit the range of allowed uses at the site to address site constraints. However, as proposed, the CS-Q District would allow “storage yards for commercial vehicles.” Among other potential impacts, parking lots generate high pollutant loads. Given the extensive wetlands surrounding the developable area of the property, it would be infeasible to sufficiently control these pollutant loads in a manner that would protect the biological productivity and quality of the surrounding wetlands and the IP map amendment as proposed is inconsistent with and inadequate to carry out LUP Policies 6.A.1 and 6.A.3 and must be denied.

As mentioned in the LUP consistency findings above, another threat to the biological productivity and quality of coastal waters at the site is potential soil and groundwater contamination that could become mobilized and spread by future development. Without proper mitigation, exposure from these contaminants may also adversely impact human health and result in a disproportionate impact for any future residents from underserved communities with less capacity to avoid harm (See Section VII below for a further discussion of environmental justice concerns). To address potential soil and groundwater contamination, the 2019 ESA prepared for the parcel recommends (1) preparation of a soil and groundwater management plan prior to construction and (2) capping the site for future residential use to protect residents from surficial soil impacts. Regional Board staff (Cody Walker, an engineering geologist) has reviewed the 2019 ESA and the anticipated housing development proposal and concurs with the recommendations of the ESA to prepare a soil and groundwater management plan and cap the site prior to placement of the housing units. He also indicates that any excavation of soil or extraction of groundwater should be profiled and disposed of properly.

The Q Combining District as proposed does not address this significant site constraint, and, as a result, the potential mobilization and spread of contamination may not be adequately mitigated for in future development consistent with LUP Policies 6.A.1 and 6.A.3. Thus, the IP map amendment as proposed is inconsistent with and inadequate to carry out LUP Policies 6.A.1 and 6.A.3 and must be denied.

#### Findings for Approval of the IP Amendment if Modified

As discussed in the ESHA Wetland IP Consistency Findings above, the IP amendment as modified by **Suggested Modification 2** to remove vehicle storage as an allowable use does not allow any use that is inherently too intense given the limited area available for wetland buffers and stormwater management features on the subject parcel. Also as discussed above, the IP amendment as modified to add a requirement for a reduced-buffer analysis will ensure that adequate buffers and other mitigation measures are imposed on future projects to protect the biological productivity and quality of nearby wetlands and coastal waters.

To further ensure surrounding marine resources and water quality are protected consistent with LUP Policies 6.A.1 and 6.A.3, **Suggested Modification 2** amends the proposed Q Combining District language for the parcel to require that a soil and groundwater management plan be prepared prior to any ground disturbance at the parcel and to require that any future residential use of the parcel be designed to prevent

future residents from coming into contact with potential subsurface contamination, such as by capping of the development footprint. This suggested modification helps ensure that future property owners and developers are aware of the potential contamination and the recommendations of the ESA to avoid mobilization of contaminated soil and groundwater.

The Commission finds that the proposed IP map amendment, only as suggested to be modified to (1) remove commercial vehicle storage as an allowable use on the parcel, (2) add requirements for a reduced-buffer analysis, and (3) add mitigation requirements for potential soil and groundwater contamination, conforms with and is adequate to carry out the water quality protection policies of the certified LUP.

## **D. Priority Uses**

### **1. LUP Consistency Analysis**

The Coastal Act prioritizes certain land uses over other competing uses. Priority uses under the Coastal Act include visitor-serving facilities and particularly lower-cost visitor-serving facilities (§§30213 and 30222), recreational facilities (§§30213, 30220, 30221, 30222, 30223, 30234 and 30254), coastal-dependent uses (§§30222, 30222.5 and 30254) and agriculture (§§30212, 30222, 30241 and 30242). The City of Eureka's LCP implements this prioritization in part through restrictive land use designations and zoning districts that reserve lands for priority uses, including the Coastal Agricultural, Waterfront Commercial, Coastal Dependent Industrial, and Public Facility/Marina designations/districts, which reserve lands for agricultural, visitor-serving commercial recreational, coastal-dependent industrial, and commercial fishing and recreational boating uses respectively.

The City is proposing to redesignate the Crowley Site from PQP to GSC. Neither of these designations are intended to reserve lands for priority uses, although the GSC designation would allow for visitor-serving commercial development. As discussed in the consistency findings above, to address wetland and hazard constraints on the site, Suggested Modification 1 would change the land use designation of the site to MUL. This new district would also not reserve lands for priority uses but would allow limited-intensity temporary commercial and public facility uses, which could potentially include visitor-serving, recreational, or coastal-dependent industrial uses.

Because of the priority use provisions of the Coastal Act, the Commission must consider whether the subject parcel should instead be redesignated under a priority use land use designation.

#### Visitor-Serving and Recreational Facilities

The Core – Commercial Waterfront (C-WFC) and Waterfront Commercial (WFC) land use designations prioritize visitor-serving and commercial recreational uses by only allowing visitor-serving, commercial recreation, and commercial fishing industry facilities as permitted uses (with offices and residences permitted as conditional uses above the first floor). The City's C-WFC and WFC lands are concentrated in the Old Town/Downtown waterfront area in northern Eureka, which is the traditional center of the City and the focus of tourism. The City's certified LUP discusses how retail

competition from outlying shopping areas has in part caused the decline of the Old Town/Downtown waterfront and calls for the focused revitalization of that area. Given the location of the subject parcel, far from the City's Old Town/Downtown waterfront, and the fact that the City already has significant lands designated waterfront commercial (139 parcels totaling 80 acres of CW District lands), including many vacant and underutilized parcels, the subject parcel does not need to be reserved for visitor-serving and commercial recreational uses.

As the subject parcel has immediate access to the CCT and views of the Elk River and bay, a visitor-serving or commercial recreational use may be able to thrive at the site. However, to address onsite hazards, such a use would have to have a relatively short lifespan and little permanent infrastructure. As mentioned above, the proposed land use designation as modified would allow for such limited visitor-serving and commercial recreational development.

As for public recreational uses, as discussed in the public access findings below, abundant access exists nearby. The CCT and a trailhead parking lot are located across the street and the Elk River Wildlife Area is located directly to the southwest. The waterfront extending south to Herrick Avenue and extending north to Del Norte Street (except the Chevron Terminal) is open space accessible to the public via the CCT. Given the abundant public open space in the area, the subject parcel is not currently needed for public recreational access. However, as described in the hazard findings above, the subject parcel may be important in the future to accommodate retreating public infrastructure including the CCT, and the limited term nature of development in the MUL District does not preclude this future adaptation scenario.

#### Coastal Dependent Industry (CDI)

As discussed in detail in the IP consistency findings below, adequate land is reserved in CDI designations in Eureka and around Humboldt Bay without the subject parcel, and the parcel is not particularly suitable for CDI use given that the parcel is landlocked, is far from a deep-water channel, has no existing industrial facilities/infrastructure, and is not in close proximity to an existing dock or other lands in current CDI use.

#### Agriculture

The subject parcel is located within the urban boundary and is not located adjacent to any lands designated for agriculture or in current agricultural use. The 6.1-acre parcel would not be large enough to accommodate an agricultural use given the need to avoid onsite wetlands (bringing the developable footprint below two acres), unless the agricultural use was also coastal-dependent (e.g., aquaculture), but as described above and discussed in detail in the IP findings below, there are adequate better-suited sites for CDI uses.

For all the reasons discussed above, the proposed LUP amendment as modified is consistent with Coastal Act Sections 30212, 30213, 30220, 30221, 30222, 30222.5, 30223, 30234, 30241, 30242, and 30254.

## 2. IP Consistency Analysis

LUP Policy 1.A.5 states:

Within the coastal zone, the City shall ensure that coastal-dependent developments have priority over other developments on or near the shoreline. Except as provided elsewhere in this General Plan, coastal-dependent development shall not be sited in a wetland. Coastal-related developments shall generally be accommodated proximate to the coastal-dependent uses they support.

LUP Policy 1.L.11 states in applicable part:

The City shall protect and, where feasible, upgrade facilities serving the commercial fishing and recreational boating industries...

LUP Policy 1.M.7 states:

The City shall encourage coastal-dependent industrial facilities to locate or expand within existing sites. Non-coastal-dependent uses located along the waterfront shall, if feasible, be relocated to other more appropriate areas within the city.

The certified LUP also has a number of policies encouraging coastal-dependent and industrial developments in certain areas of the City,<sup>30</sup> but none of these policies are directed at the area where the subject parcel is located.

The City sits on the eastern shore of Humboldt Bay, California's second largest coastal estuary and the only deep-water port between San Francisco and Coos Bay, Oregon. The certified LUP prioritizes coastal-dependent development on or near the shoreline, including coastal-dependent industrial facilities, commercial fishing, recreational boating, and aquaculture. The subject parcel is near the shoreline and is currently zoned Coastal Dependent Industrial (MC). The main purpose of the MC District is to ensure coastal-dependent industrial (CDI) developments have priority over other developments on or near the shoreline consistent with the priority-use provisions of the Coastal Act and the City's certified LCP. The current MC District limits principally permitted uses to those developments that require a site on, or adjacent to, the Bay in order to be able to function at all (as well as incidental accessory uses), and largely limits conditional uses to other coastal-dependent and coastal-related uses.<sup>31</sup>

---

<sup>30</sup> For instance, LUP Policy 1.M.2 calls for developing and upgrading the Westside Industrial Area to accommodate industrial growth; LUP Policy 1.M.3 calls for the retention of existing and establishment of new fishing facilities and related uses between the area north of the railroad tracks between Commercial and C Streets; LUP Policy 1.M.4 calls for the development of a modern multiple-purpose dock at Dock B; LUP Policy 1.M.5 calls in part for the retention of the Dock A area for a possible long-term cargo terminal development; and LUP Policy 3.G.2 calls for new or expanded berthing facilities to be limited to sites at the Woodley Island Marina, the Eureka Small Boat Basin, or the Eureka Channel Inner Reach.

<sup>31</sup> The full lists of principal and conditional permitted uses in the MC District are as follows: Principal permitted uses: Boat repair and ship building; Commercial fishing facilities; Docks, Piers and wharves; Marine services; Mobile vendors incidental to an existing permitted use; Marine oil terminals; OCS service

The proposed amendment would change the zoning to CS with a Q Combining District where permitted uses would be limited to multi-family housing for up to 40 people, public utility and public service infrastructure, storage yards for commercial vehicles, temporary/seasonal uses such as Christmas tree lots, and wireless telecommunication facilities. While certain coastal-dependent and related developments may fall under these new permitted use categories and thus be allowed on the parcel, under this new zoning classification, the parcel would no longer be reserved for coastal-dependent uses, and CDI uses would not be prioritized over general commercial, industrial, and residential uses at the site.

Given the project's location near the shoreline and the priority use provisions of the LUP, the Commission must consider whether the Crowley Site needs to be reserved for CDI uses and thus retained in the MC District.<sup>32</sup> To make this determination, the Commission must consider (1) whether adequate land will continue to be reserved for CDI uses without the subject parcel, and (2) what the relative suitability of the subject parcel is for CDI uses as compared to other MC-zoned parcels within the City.

Historically, two of the largest industries in the Humboldt Bay region were forest products and commercial fishing, but both of these industries have seen significant long-term declines resulting in significant vacancy of CDI lands along the Humboldt Bay shoreline. Comprehensive market studies analyzing current and long-term supply and demand for CDI land on Humboldt Bay were produced in 2003<sup>33</sup> and 2018.<sup>34</sup> According to the 2018 market analysis, Humboldt Bay currently has 1,100 acres of land zoned for coastal-dependent industry but only 121 of these acres are currently in CDI use.<sup>35</sup> The

---

bases and offshore pipelines; Seafood processing; and Water borne carrier import and export facilities. Conditional permitted uses: Access support facilities; Boat launching and berthing facilities; Electrical generating or other facilities which require intake, outfalls, or pipelines; Fish waste processing plants; Fishing piers; Ice and cold storage facilities; OCS oil and/or gas processing and treatment facilities; Oil and gas pipelines; Onshore petroleum production; Outfalls; and Warehouses serving permitted uses; Wireless telecommunication facilities; and Mobile vendors not incidental to an existing permitted use.

<sup>32</sup> It is important to note that while the site is zoned MC, the site has a PQP land use designation. The current pairing of a PQP land use designation with an MC zoning classification is a discrepancy in the certified LCP as the MC District is not intended to carry out the PQP land use designation. When there are discrepancies between a site's land use and zoning, the land use provisions prevail. Despite the fact that the site's land use designation is not a priority use designation, given the subject site's location near the shoreline and MC zoning, it is still necessary to consider whether the site should be reserved for coastal-dependent industry.

<sup>33</sup> PB Ports & Marine, Inc. (in association with Winzler & Kelly & BST Associates). (2003, February). Port of Humboldt Bay Harbor Revitalization Plan Final Report. Prepared for the Humboldt Bay Harbor, Recreation and Conservation District.

<sup>34</sup> BST Associates. (2018, May 31). Humboldt Bay Maritime Industrial Use Market Study Final Report. Prepared for Humboldt County.

<sup>35</sup> Nearly half of existing CDI uses are related to marine cargo and half to fishing and recreational boating. A smaller share is used for mariculture. The 2018 market analysis discusses how existing

2018 market analysis projects future demand for CDI use on Humboldt Bay to range from 120 to 492 acres.<sup>36</sup> The study concludes that even after accounting for the fact that projected sea level rise may impact as much as 400 acres of CDI land by 2100, there would still be a surplus of CDI land in excess of 200 acres under the highest future demand estimate. As a result, adequate land will continue to be reserved for coastal-dependent industrial uses on Humboldt Bay even with the loss of the subject 6.1-acre parcel from the stock of CDI land.

The suitability of current Humboldt Bay CDI land for CDI uses varies significantly, and the lands most suitable for current and future potential CDI uses should be retained in CDI zoning. Variables that affect parcel suitability include but are not limited to direct access to the bay, access to a deep-water channel, presence of a dock and other existing industrial facilities/infrastructure, and current use of the site and surrounding parcels for coastal-dependent industry.<sup>37</sup> The subject parcel does not have direct access to the bay, is adjacent to shallow waters, is vacant, and is not in close proximity to an existing dock or other lands in current use for coastal-dependent industry.

City of Eureka planning staff has recently conducted an inventory of CDI properties in the incorporated City and determined there are 59 parcels<sup>38</sup> totaling 131 acres of land zoned MC in the City, with only 11 parcels (totaling approximately 34 acres) predominately in current CDI use. The City of Eureka's MC lands are congregated along an approximately mile-long stretch of the City's western shoreline. The subject parcel is located at the very southern end of these MC-zoned lands.

---

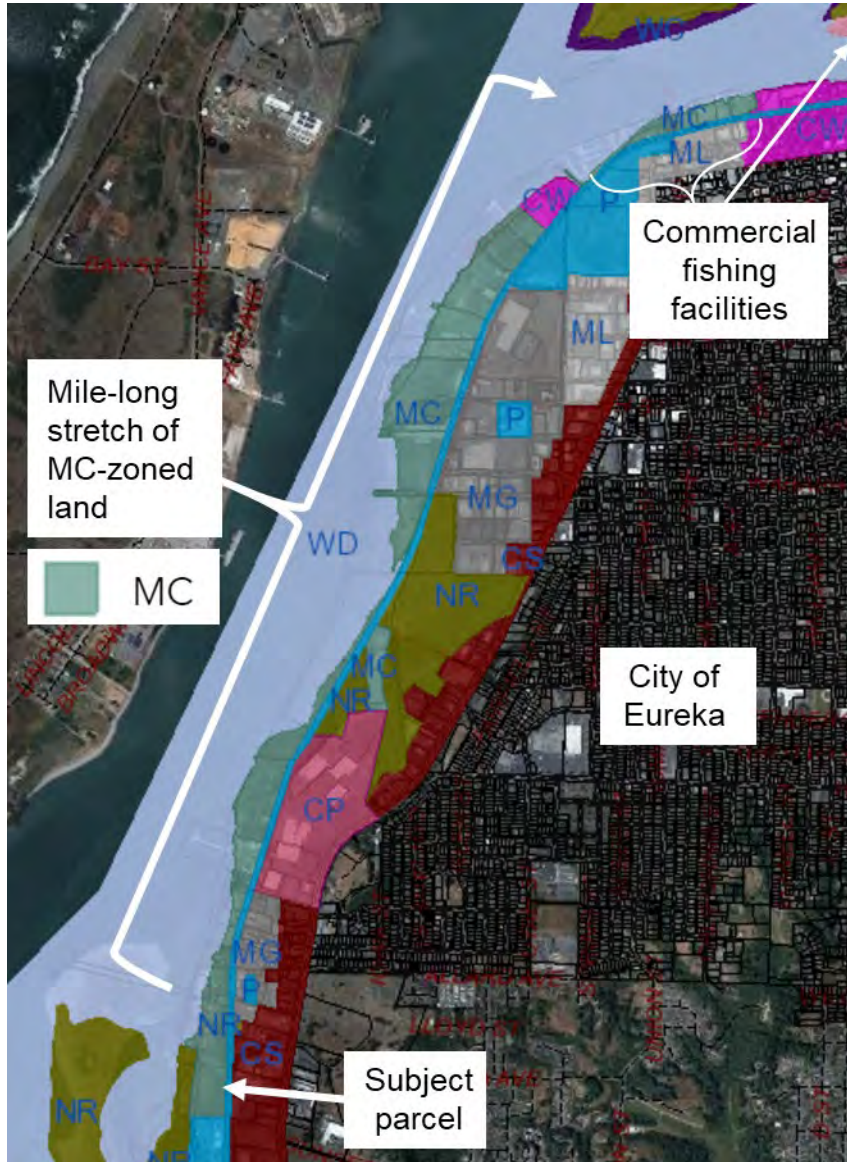
industries most likely to show growth in demand are local marine cargo, commercial fishing, mariculture, marine research, and recreational boating.

<sup>36</sup> Humboldt Bay's competitive limitations for future additional CDI uses include a small local market size, lack of proximity to a large metropolitan market, limited inland truck and rail access, lack of maintained existing CDI infrastructure, and limitations on deep draft-vessels due to relatively shallow navigation channels with shoaling issues. The large range for the projection of future potential demand is due to the potential need for large areas of land for offshore wind energy support facilities if the federal government leases waters offshore of Humboldt for wind development. Offshore wind support facilities are most likely to be located on CDI lands on the Samoa Peninsula in the unincorporated County.

<sup>37</sup> Other variables include but are not limited to: direct access to an existing road, width of waterfront and depth of backland, presence of upland areas large enough to accommodate immediate CDI use without significant wetland fill, ownership of the site and surrounding parcels, and presence of encumbrances on the site that limit or preclude CDI use (i.e., open space easements).

<sup>38</sup> These parcels are combined into roughly 25 properties.





Unlike other MC-zoned parcels to the north, the subject parcel is not located directly on the shoreline, but instead is separated from the shoreline by Hilfiker Lane and land zoned for natural resource conservation (the NR District). This land bayward of the parcel includes the CCT, a trailhead parking lot, and recently restored salt marsh habitat. Any access to the water installed to serve a coastal-dependent use on the Crowley Site would have to traverse these adjacent NR-zoned parcels and would conflict with the NR zoning and likely disrupt coastal access and sensitive salt marsh habitat.

In addition, unlike other MC-zoned parcels to the north that are located adjacent to a deep-water

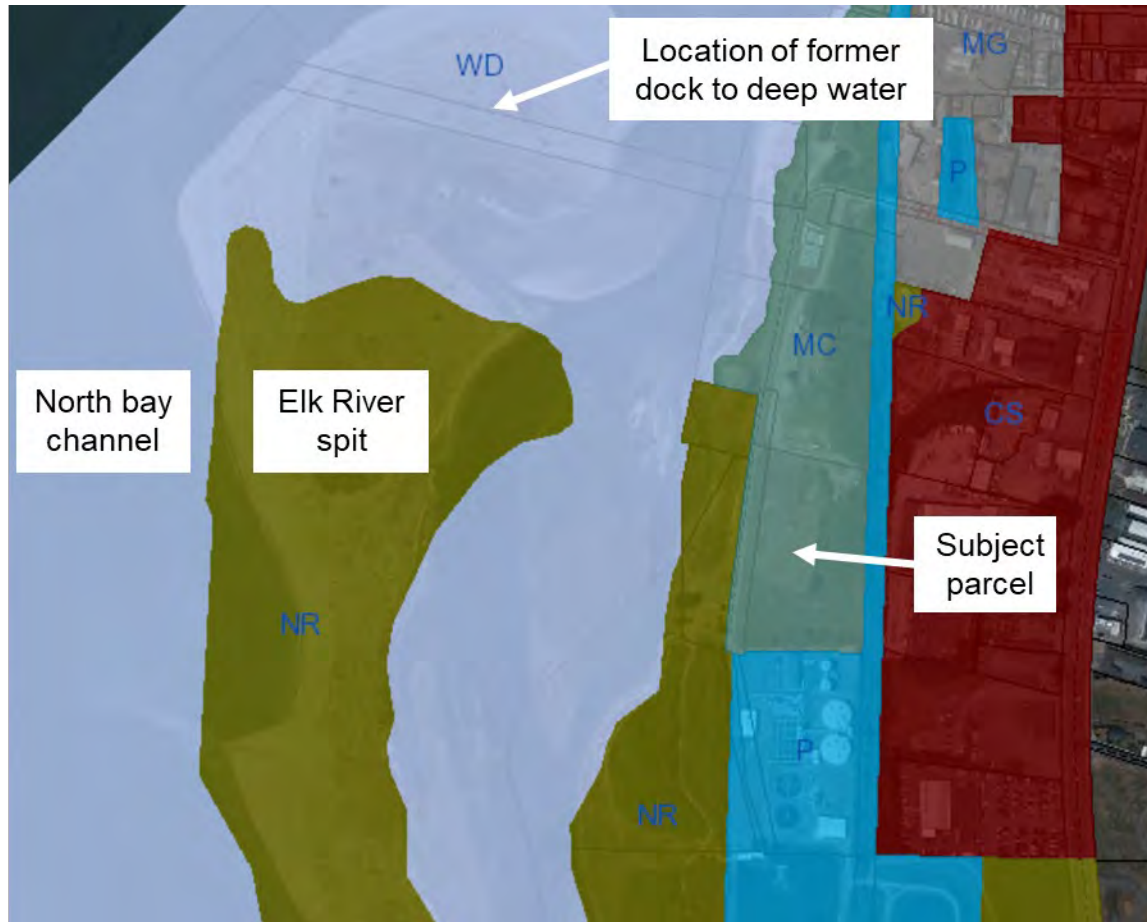
channel,<sup>39</sup> the Crowley Site is located at the mouth of the Elk River and is separated from the deep-water channel by the Elk River spit. Although the lack of direct deep-water access did not preclude CDI use of the Crowley Site in the past when the parcel was used to store bulk fuel shipped via water,<sup>40</sup> the infrastructure that connected the parcel to the deep-water channel no longer exists and redevelopment of such a

<sup>39</sup> This deep-water channel is known as the North Bay Channel and is authorized to be dredged to a depth of 38 feet.

<sup>40</sup> The tank farm that was historically located on the parcel was part of a larger bulk fuel terminal that included a long pier that extended past the Elk River spit into the deep channel of Humboldt Bay northwest of the subject parcel. Bulk fuel (primarily diesel and gasoline) arrived at the site via ship through a series of pipes which extended to the end of the pier.



connection would be costlier than improving or developing new dock facilities at a number of vacant CDI parcels that are located directly adjacent to the channel.



While coastal-related use of the Crowley Site could potentially be possible, no coastal-dependent or related uses have been proposed for the parcel since the bulk oil terminal closed in the early 1990's. The closest existing CDI use to the parcel is the Chevron Terminal located approximately one-half mile to the north.<sup>41</sup> There are approximately 19 acres of MC-zoned lands between the subject parcel and the Chevron Terminal, none of which are utilized for CDI uses. Given forecasts that statewide demand for gasoline has peaked<sup>42</sup> and that the Humboldt Bay region is not expected to experience

---

<sup>41</sup> The Chevron Eureka Terminal is a 10.4-acre property (3.4 acres of land) that contains a dock and bulk fuel storage facility. The facility receives petroleum products by barge and ships them out by truck. Approximately 80% of the fuel used by the greater Eureka area is delivered via barge to the Chevron Terminal.

<sup>42</sup> The Humboldt Bay Maritime Industrial Use Study referencing the California Energy Commission, Transportation Energy Demand Forecast, 2017-2030, June 20, 2017.

significant growth, it is unlikely that there will be any demand to expand the Chevron terminal or add an additional bulk fuel terminal on the subject parcel in the future.

The other two existing CDI uses of MC-zoned uplands in the City of Eureka are commercial fish processing (Fisherman's Terminal, Coast Seafood, Pacific Choice) and forest products shipping (Schneider properties and Eureka Forest Products). Commercial fishing facilities are clustered between the Eureka Boat basin and C Street (north of the railroad tracks) and on Woodley Island, and LUP Policies 3.G.2 and 1.M.3 call for berthing and fishing facilities to be retained and expanded in those areas. As for the forest products industry, any expansion in Eureka is likely to occur along the central Eureka waterfront where there are paved and filled parcels with docks on the deep-water channel (and where the CCT is located inland of the waterfront MC parcels). Development of any new marine terminal is most likely to occur on the Samoa Peninsula in the unincorporated County where there are CDI properties larger than 25 acres located on a 38-foot-deep navigation channel.

Although the subject parcel is large and adjacent to additional MC-District parcels, given the landlocked nature of the subject parcel, the presence of the CCT bayward of the parcel, the presence of extensive wetlands on and surrounding the parcel, and the lack of any nearby CDI activity, the subject parcel is relatively less suitable for the expansion of existing CDI uses or the accommodation of new CDI uses than other MC-zoned parcels in the City.

In conclusion, given the large amount of vacant and underutilized CDI land around Humboldt Bay which greatly exceeds projected demand for sites for CDI uses and the relative unsuitability of the subject parcel for CDI uses, the proposed removal of the Crowley Site from the MC-District is consistent with and adequate to carry out certified LUP policies that protect and prioritize coastal-dependent industry.

## **E. Siting New Development**

### **1. LUP Consistency Analysis**

Section 30250 of the Coastal Act states 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...

Under Coastal Act Section 30250, the Commission is charged with evaluating whether the LCP as amended would concentrate new development in existing developed areas able to accommodate it while avoiding significant individual and cumulative adverse effects on coastal resources. The Crowley Site is currently vacant with no public or private utilities serving the parcel and no improved driveways or sidewalks between the parcel and Hilfiker Lane.

While the Crowley Site is located firmly within the City's certified urban/rural boundary, the parcel is truly located at an urban/rural interface with lands zoned for industrial, commercial, and public facilities uses to the north, east, and south; and lands designated for natural resource preservation to the west and southwest. Consistent with Section 30250, the parcel is located contiguous with existing developed areas including the WWTP directly to the south, the commercial strip adjacent to Highway 101 to the east, and the temporary fire training facility directly to the north.

Although there are no utilities currently serving the parcel, a buried City water line and sewer main and an overhead PG&E power line run parallel to and directly bayward of the parcel along Hilfiker Lane. The City has provided a site map (Exhibit 6) showing how future development on the parcel could be connected to the existing City water main that runs under Hilfiker Lane, and how sewer could be provided through a new sewer line and pump station connecting directly to the City's WWTP immediately to the south of the parcel. Wetlands exist south of the parcel, between the parcel and the WWTP, but the City has indicated that the new sewer force main would be installed utilizing directional drilling to avoid impacts to wetlands.<sup>43</sup>

There is also currently no improved accessways onto the parcel from Hilfiker Lane, but the aforementioned map provided by the City shows the potential location of a future driveway that would avoid onsite wetlands and wetland buffer areas. Development of the access drive will require encroachment over an adjacent narrow linear parcel (APN 019-331-002) that is located between Hilfiker Lane and the subject parcel, but this adjacent parcel is also owned by the City, so obtaining such an encroachment is feasible.

The City has also indicated that mobilization of soil contaminants for driveway construction and utility installation will be avoided through incorporation of Best Management Practices (BMPs) into the conditions of approval of any future development of the parcel. According to the City, these BMPs would include, but not be limited to, installation of a construction entrance designed to inhibit offsite tracking of soil, and silt fences and straw wattles to contain any sediment laden runoff.

Given that the subject parcel is located within the City's urban/rural boundary adjacent to existing development, and the parcel can be connected to adequate services, the proposed LUP amendment will concentrate development at the site within an existing developed area that can accommodate the new development consistent with Coastal Act Section 30250. In addition, as discussed in the other consistency analysis findings of Section VI of this report regarding hazards, wetland ESHA, water quality, priority uses, visual resources, public access, and archaeological resources, the future development on the parcel that would be accommodated by the proposed LUP

---

<sup>43</sup> The new force main would connect to the existing administration building sump at the WWTP approximately 130 feet to the south of the parcel.

amendment as modified can feasibly avoid significant individual and cumulative adverse effects on coastal resources consistent with Coastal Act Section 30250.

## **2. IP Consistency Analysis**

LUP Policy 4.A.6 states:

The City shall ensure that new or expanded public works facilities within the Coastal Zone will be designed and limited to accommodate needs generated by permitted uses and development consistent with the provisions of this General Plan.

LUP Policy 4.A.7 states in applicable part:

Within the Coastal Zone, the City shall prohibit the extension of urban services (sewer and water) beyond the urban limit line as designated in the Local Coastal Program or into areas with Open Space designations (i.e., Agricultural, Timberland, Natural Resources, Water-Development, and Water-Conservation)...

LUP Policy 4.A.6 requires that the City's public works capacity match the development potential allowed under the LCP. The IP amendment as proposed is consistent with the intent of this policy in that any future development that would be accommodated by the proposed IP amendment could be served by the City's existing water and sewer capacity. The IP amendment as proposed is also consistent with Policy 4.A.7 in that the subject parcel is within the urban boundary of the City and thus any future development accommodated by the proposed amendment will not involve an extension of urban services beyond the urban limit line. The proposed IP map amendment is therefore consistent with and adequate to carry out certified LUP Policies 4.A.6 and 4.A.7.

## **F. Visual Resources**

### **1. Background**

The subject parcel is located on the east side of Hilfiker Lane, immediately south of a temporary training center for the Humboldt Bay Fire Department and immediately north of the City's WWTP and the Elk River Wildlife Sanctuary (See Exhibit 2). The CCT is located across Hilfiker Lane to the west of the parcel, along with a trailhead parking lot (across from the southern end of the parcel) and recently restored salt marsh habitat (across from the northern end of the parcel). The mouth of the Elk River is located to the west of the trail, with Humboldt Bay further west across the Elk River spit. The parcel is currently separated from Hilfiker Lane with a chain link fence, with no improved driveways or sidewalks between the parcel and Hilfiker Lane. As only the fencing, road, and CCT separate the subject parcel from the adjacent coastline, the parcel is afforded expansive scenic views of the mouth of the Elk River and Humboldt Bay.

The former Northwestern Pacific Railroad corridor is located directly to the east of the subject parcel, separating the parcel from a row of commercial properties that front Highway 101 to the east of the parcel. The intense commercial development along Highway 101 to the east of the parcel is hidden from view by intervening wetlands and associated vegetation.

The Crowley Site was previously used for bulk fuel storage but is currently vacant. Although the tanks have been removed, the area of the former tank farm differs from the remainder of the parcel by the placement of fill and resulting several foot higher elevation. This former tank farm area is the only place onsite with a large enough area of contiguous uplands to accommodate future development allowed by this LCP amendment.<sup>44</sup> The 2017 wetland delineation report prepared for the parcel indicates that this former tank farm area is covered with vegetation consisting of a mix of native and non-native species typical of disturbed industrial yards.

The unfilled portions of the parcel to the east and south of the former tank farm area are largely covered by wetlands including two cattail dominated ponds (created for stormwater management at the tank farm), two drainage ditches, and freshwater emergent, scrub-shrub, and forested wetland communities that range from seasonally to permanently flooded.

## **2. LUP Consistency Analysis**

Section 30251 of the Coastal Act states 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....

Coastal Act Section 30251 requires in part that permitted development be sited and designed to protect views to and along the ocean and scenic coastal areas. Hilfiker Lane and the CCT provide public views to and along the scenic bayfront. Because the Crowley Site is located inland of these public accessways, development on the parcel will not block these views. Views of the bay from Highway 101 to the east of the Crowley Site are already blocked by the intervening commercial properties and wetland vegetation to the east of the developable portion of the Crowley Site.

In addition to protecting views, Coastal Act Section 30251 requires that permitted development minimize the alteration of natural landforms. As the developable portion of the subject parcel is virtually flat, future development can minimize the alteration of natural landforms.

Coastal Act Section 30251 also requires that permitted development be visually compatible with the character of the surrounding area. The Crowley Site is located at an urban/rural interface between urban Eureka and the Elk River Wildlife Area, surrounding City-owned open space lands, and the bay. The area truly exhibits a mixed urban/rural

---

<sup>44</sup> Given that the Coastal Act and the City's certified LCP only allow wetland fill for mainly coastal dependent and natural resource-related activities, the general public facility, commercial, and residential uses that would be allowed under the subject land use and zoning reclassification would only be allowed in uplands.

character with extensive wetlands and associated vegetation interspersed with public facilities and fill pads of former industrial developments. Despite the current public facility uses (the WWTP, trail parking, firefighter training facility, etc.) and proximity to the commercial strip along Highway 101 to the east, portions of the surrounding area exhibit a surprisingly open and natural visual character as a result of the waterfront location, vacancies, and abundant adjoining habitat areas.

The Crowley Site currently has a PQP land use designation that allows for (1) essential services, including sewage treatment facilities, fire and police stations, hospitals and schools; and (2) public and private facilities, including offices, libraries, cemeteries, and clinics. The proposed amendment would change the parcel's land use designation to GSC, which as discussed above, would allow a wide variety of commercial and other uses. Both the existing and proposed land use designations would allow for a wide variety of uses with a resulting wide variety of potential visual impacts.

While the subject parcel is 6.1-acres in size, the developable portion of the parcel is only approximately 1.77<sup>45</sup> acres in size, so that any future development enabled by this amendment would be limited to a small portion of the parcel with the remainder of the parcel retained in extensive vegetated wetlands. As a result, future development is not likely to affect the mixed urban/rural character of the setting. In addition, the developable portion of the parcel is located on the disturbed fill pad of a former tank farm and thus future development would not displace any natural features. As a result, future development allowed under the proposed change in designation could be found to be visually compatible with the character of the surrounding area.

Additionally, any future development on the subject parcel will be subject to the visual resource protection policies of the certified LCP. LUP Policy 5.B.1(d) requires the City to consider and protect the scenic and visual qualities of coastal areas that are visible from scenic public vista points and waterfront walkways, and IP §10-5.2944.3 requires that views from scenic vista points be protected by insuring that adjacent permitted development does not obstruct views to and along the scenic coastal areas. These standards will ensure that the visual impacts of future development on the adjacent public road and coastal trail are analyzed and views and visual character are protected.

For all the reasons described above, the proposed LUP amendment as submitted is consistent with Coastal Act Section 30251.

### **3. IP Consistency Analysis**

LUP Policy 5.B.1 states in applicable part:

The City shall provide public open space and shoreline access throughout the Coastal Zone, particularly along the waterfront First Street, through all of the

---

<sup>45</sup> This number was provided by the City and has not been verified by Commission staff.

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

The CCT is located parallel to and less than 80 feet from the subject parcel, across Hilfiker Lane to the west. Because the parcel is highly visible from the adjacent CCT, a waterfront walkway with scenic public vista points, LUP Policy 5.B.1 requires that any future development of the parcel protect the scenic and visual qualities of the surrounding coastal area.

The Crowley Site currently has a MC zoning classification. The current MC District limits principally permitted uses to those industrial developments that require a site on, or adjacent to, the Bay in order to be able to function at all such as marine oil terminals, commercial fishing facilities, and boat repair and ship building, as well as incidental accessory uses. The MC District largely limits conditional uses to other coastal-dependent and coastal-related uses. The proposed CS District with a Q Combining District would limit allowable uses to multi-family housing for up to 40 people, public utility and public service infrastructure, storage yards for commercial vehicles, temporary/seasonal uses such as Christmas tree lots, and wireless telecommunication facilities. Comparing the allowable uses of the current and proposed districts, the change in district does not represent an increase in the potential density and intensity of future development of the parcel.

Furthermore, none of the uses in the proposed CS-Q District would be allowed to fill wetlands, so any future development under the proposed amendment would only be able to utilize one quarter of the parcel's acreage, with the remaining parcel acreage retained in extensive wetlands and vegetation. While none of the proposed allowable uses under the CS-Q District would be permitted to fill wetlands under the City's certified LCP, many of the uses under the MC District would, as LUP Policy 6.A.14 and IP §10-5.2942.10 allow wetland fill for port, energy, coastal-dependent industrial, and boating facilities among other uses. Thus the change in district decreases the potential footprint of future development of the parcel.

Additionally, the CS District has a current development height limit of 35 feet, while the MC District has no certified height limit. Both districts have separate maximum height standards for wireless telecommunication facilities including freestanding cell towers,<sup>46</sup> and the maximum height limit for such facilities is 50 feet higher in the MC District.<sup>47</sup> Thus the change in district represents a decrease in the potential height of future development of the parcel.

---

<sup>46</sup> Wireless telecommunication facilities are a conditional use in the MC District.

<sup>47</sup> IP §10-5.3106.4 establishes a maximum facility height of 100 feet in the CS District and 150 feet in the MC District for freestanding wireless telecommunication facilities. Facilities located on top of a building are allowed to be 25 feet above the height of the building, not to exceed 100 feet in the CS District and 150 feet in the MC District.

As described in the LUP consistency findings above, given the mixed urban/rural character of the area, the limited potential development footprint, and the location of that development footprint in a currently filled and disturbed area, development accommodated by the proposed change in zoning district is not likely to have a significant impact on the character of the area. In addition, the requirement that any future development obtain a CDP will ensure that the scenic and visual qualities of the coastal area as viewed from the CCT are considered and protected consistent with LUP Policy 5.B.1. For all the reasons described above, the proposed IP map amendment as submitted is consistent with and adequate to carry out the visual resource protection policies of the LUP.

## **G. Public Access**

### **1. LUP Consistency Analysis**

Coastal Act Sections 30210, 30211, 30212 and 30214 require the provision of maximum public access opportunities, with limited exceptions.

Coastal Act Section 30210 requires in applicable part that maximum public access and recreational opportunities be provided when consistent with public safety, private property rights, and natural resource protection. Section 30212 requires in applicable part that public access from the nearest public roadway to the shoreline and along the coast be provided in new development projects, except in certain instances, such as when adequate access exists nearby or when the provision of public access would be inconsistent with public safety or the protection of fragile coastal resources.

The subject parcel is located bayward of the first through public road (Highway 101) and the sea, but is separated from the bay shoreline by Hilfiker Lane and the existing CCT, located parallel to and directly west of the parcel (See Exhibit 2 for a visual of the project vicinity). In addition, a trailhead parking lot that can accommodate 19 vehicles is located across Hilfiker Lane from the southern end of the Crowley Site, and another public parking lot that can accommodate eight vehicles is located approximately 1,000 feet north along the trail (this second facility is intended to be used for nonmotorized boat access to the bay).

Uses and development at the Crowley Site that would be facilitated by the proposed LUP amendment would increase sanctioned use of the area and, as a result, may better maximize public access. Currently the only developed uses along the waterfront in the vicinity of the subject parcel are the trail and trailhead, the WWTP, and the temporary fire training facility. As the fire training facility only gets occasional use and the WWTP is largely enclosed, the trail and trailhead feel somewhat isolated, which can deter access by the broader public. Adding a sanctioned use with daily employees and/or residents could increase the sense of security in the area, encouraging greater use of the CCT.

Section 30211 requires, in applicable part, that development not interfere with the public's right of access to the sea where acquired through use (i.e., potential prescriptive rights or rights of implied dedication) or legislative authorization. Any future development of the Crowley Site accommodated by the proposed development will not directly interfere with the nearby coastal access described above as the development



will be located inland of the existing public access. Any additional demand for public access generated by the potential increase in density of development of the Crowley Site under the LUP amendment as proposed would be readily accommodated by the existing CCT. In addition, as future development of the Crowley Site would be required to provide on-site parking pursuant to the parking standards of Eureka's certified IP, the proposed LUP amendment would not create overflow parking demand that would interfere with use of the existing trailhead parking lot across Hilfiker Lane.

Finally, the need for any additional public access will be reassessed at the time any new development is proposed on the parcel, taking into account the density of the development and the additional demand for public access created by the proposed development. To be approved, a CDP for any future development must be found consistent with the coastal access policies of the certified LUP and the public access and recreation policies of the Coastal Act.

For all the reasons discussed above, the proposed LUP amendment as submitted is consistent with Coastal Act Sections 30210, 30211, 30212, and 30214.

## **2. IP Consistency Analysis**

LUP Policy 5.B.4 states:

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

- a. Accepting offers of dedication that will increase opportunities for public access and recreation and the availability of necessary staff and funding to improve and maintain access ways and assume liability for them;
- b. Actively seeking other public, community non-profit, or public agencies to accept offers of dedications and having them assume liability and maintenance responsibilities; and,
- c. Allowing only such development as will not interfere with the public's right of access to the sea, where such right was acquired through use or legislative authorization.

LUP Policy 5.B.5 states:

For new development between the first public road and the sea, the City shall require the dedication of a vertical access easement to the mean high tide line unless:

- a. Another more suitable public access corridor is available within 500 feet of the site; or
- b. Access at the site would be inconsistent with other General Plan coastal policies, including existing, expanded, or new coastal-dependent industry, agricultural operations, or the protection of environmentally sensitive habitat areas; or,
- c. Access at the site is inconsistent with public safety, environmental protection, or military security needs.

LUP Policy 5.B.6 states:

For new development between the first public road and the sea, the City shall require a lateral access easement along the shoreline unless:

- a. Lateral access at the site would be inconsistent with other General Plan coastal policies, including existing, expanded, or new coastal dependent industry, agricultural operations, or the protection of environmentally sensitive habitat areas; or,
- b. Access is inconsistent with public safety or military security needs.

LUP Policy 5.B.7 states:

The City shall establish a coordinated continuous public access system throughout its Coastal Zone, consisting of pedestrian walkways, nature walks, and bikeways with necessary support facilities, as described in Table 5-2 and shown in Figure 5-1.

LUP Policy 5.B.9 states:

The City shall ensure that public access support facilities are distributed throughout the Eureka Coastal Zone. Off-street parking shall be provided in the waterfront area; however, it shall not be located immediately adjacent to the shoreline, unless there is no feasible alternative.

LUP Policy 5.B.10 states:

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

LUP Policies 5.B.7, 5.B.9, and 5.B.10 require maximization of public access through the establishment of a coordinated continuous public access system throughout the City's coastal zone and the provision of public access support facilities including facilities providing universal public access to the waterfront. The City has largely achieved these policy directives in the project vicinity through the construction of an ADA-compliant paved portion of the CCT and trailhead parking lot with ADA parking spaces for public access users. By allowing future use of the site for multi-family/multi-unit housing including potential housing for previously unsheltered individuals, the proposed IP amendment could improve coastal access for underserved communities that now could have the opportunity to reside adjacent to the CCT and waterfront.

Vertical or lateral public access across the subject parcel itself is not needed because of the existing public access provided by Hilfiker Lane and the CCT and would be inconsistent with the protection of ESHA and thus is not necessary to ensure consistency with LUP Policies 5.B.5 and 5.B.6. As also discussed in greater detail in the LUP consistency analysis above, consistent with LUP Policy 5.B.4, development on the subject parcel will not interfere with the public's right of access to the sea because the subject parcel is located inland of the CCT and trailhead, because the proposed zoning limitations will ensure development of the parcel is not so intense to overburden nearby public access, and because greater sanctioned use of the area accommodated by the

proposed rezoning of the subject parcel will encourage broader public use of the existing ample public access facilities and open space in the area.

For all the reasons discussed above, the proposed IP map amendment as submitted is consistent with and adequate to carry out the public access policies of the certified LUP.

## **H. Archaeological Resources**

### **1. Background**

The subject parcel is located within the ethnographic territory of the Wiyot people, who lived in villages along the protected shores of Humboldt Bay, the mouth of the Elk River, and at other sheltered sites inland of the open coast. Today, representatives of the Wiyot Tribe are the Table Bluff Reservation Wiyot Tribe, the Blue Lake Rancheria, and the Bear River Band of the Rohnerville Rancheria.

In August 2019, the Humboldt State University Cultural Resources Facility (CRF) produced an archeological survey report on behalf of the City of Eureka for the subject parcel for the anticipated housing project. In order to complete this investigation, the CRF conducted a review of regional archaeological and ethno-geographic literature and historical maps, performed a records search at the California Historical Resources Information System's Northwest Information Center, corresponded with the local Tribal Historical Preservation Officers (THPOs), and conducted a pedestrian field survey and subsurface investigation that included four trench sites on the subject parcel.

The THPOs of the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and the Blue Lake Rancheria were contacted by CRF in January 2019. The THPOs responded with a request that subsurface investigations be conducted given the proximity of known archaeological deposits. Field investigations conducted in 2019 included a Wiyot tribal monitor and identified no cultural or historic resources on the subject parcel.

Commission staff also sent a referral to the aforementioned THPOs regarding this LCP amendment (in February 2020 with a follow-up email in March 2020). The Blue Lake Rancheria THPO and Wiyot Chairman/Cultural Director both responded indicating that they have no concerns about the proposed land use and zoning change.

### **2. LUP Consistency Analysis**

Section 30244 of the Coastal Act states as follows:

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

The parcel that is the subject of this LCP amendment is located in an archaeologically sensitive area in close proximity to known archaeological deposits. As discussed above, a recent field investigation did not discover any archaeological resources on the subject parcel. Archaeological resources could still be present and could be adversely impacted by future development of this vacant parcel for any of the proposed allowable uses that may require ground disturbance, including excavation for trenching for water and sewer lines for any development requiring utilities. However, development of the site could be

conditioned to require excavations to be monitored and development to be halted if previously unknown archaeological resources are discovered and not recommenced unless reasonable mitigation measures are employed to protect the resource. Therefore, the proposed LUP amendment as submitted is consistent with Coastal Act Section 30244.

### **3. IP Consistency Analysis**

LUP Policy 1.A.4 states:

To promote the public safety, health, and welfare, and to protect private and public property, to assure the long-term productivity and economic vitality of coastal resources, and to conserve and restore the natural environment, the City shall protect the ecological balance of the coastal zone and prevent its deterioration and destruction.

LUP Policy 1.A.4 calls for the protection of coastal resources. In addition, IP §10-5.2946.9<sup>48</sup> of the certified IP echoes Coastal Act Section 30244, requiring adequate mitigation for adverse impacts to archaeological resources. Any future development of the parcel will require a CDP from the City of Eureka, with the City's certified LCP as the standard of review. If evidence of archaeological artifacts is discovered during the course of grading, excavation, or any other development activity, IP §10-5.2946.9 also requires that development activity cease and the State Historic Preservation Officer be contacted. Thus, the requirement for a CDP ensures that any future proposed development will be reviewed for potential adverse impacts to archaeological resources and that reasonable mitigation measures will be imposed where necessary consistent with LUP Policy 1.A.4 and Coastal Act Section 30244. Therefore, the Commission finds that the IP map amendment as submitted is consistent with and adequate to carry out the archaeological resource protection policies of the LUP and Coastal Act Section 30244.

---

<sup>48</sup> IP §10-5.2946.9 "Archaeological areas" states:

- (a) When development is proposed within a known archaeological area, project design shall avoid or minimize impacts to the resource.
- (b) When development in archaeological sites cannot be avoided, adequate mitigation measures shall be required. Mitigation shall be designed in accord with guidelines of State Office of Historic Preservation and the State of California Native American Heritage Commission. When, in the course of grading, excavation, or any other development activity, evidence of archaeological artifacts is discovered, all work which could damage or destroy such resources shall cease and the City Planning Director shall be notified immediately of the discovery.
- (c) The City Planning Director shall notify the State Historic Preservation Officer and the Sonoma State University Cultural Resources Facility of the find. At the request of the State Historic Preservation Officer, development of the site may be halted until an archaeological survey can be made and appropriate and feasible mitigation measures are developed.

## **I. Conformity of the Zoning District with the Land Use Designation**

The proposed amendment would change the parcel's land use designation to GSC and the parcel's zoning district to CS with a Q Combining District. The purpose of the GSC land use designation is not aligned with the purpose of the CS-Q zoning proposed for the parcel. The stated purpose of the GSC land use designation in the certified LUP is "to provide appropriately located areas for retail and wholesale commercial establishments that offer commodities and services required by residents of the city and its surrounding market area." In contrast, the purpose of the CS-Q zoning for the subject parcel is to accommodate the anticipated housing project as well as to allow other relatively low-intensity uses. The site is too constrained by hazards and wetlands for the type of regional retail and wholesale commercial establishments envisioned for the GSC designation. Anticipated use of the parcel (for housing in the near term and public facilities in the long term) is not consistent with the purpose of the GSC land use designation to provide appropriately located areas for retail and wholesale commercial establishments.

However, as previously discussed under **Suggested Modification 1**, the proposed GSC land use designation would be replaced by a new MUL designation that would be intended to carry out the CS-Q District. Under Suggested Modification 1, the purpose of this new MUL designation (to allow for limited-intensity temporary multi-family housing, commercial, and public facility uses on parcels with coastal resource and/or coastal hazard constraints) would align with the City's purpose for the parcel and the Q Combining District limitations applied to the parcel. In addition, the permitted uses of the designation (multiple-family housing; public utility and public service infrastructure; and commercial uses) would encompass the proposed permitted uses for the CS-Q zoning. As a result, the proposed IP map amendment is consistent with and adequate to carry out the LUP designation as modified.

## **J. Conclusion**

The proposed LCP amendment is limited to changing the land use and zoning classifications of one parcel and does not lessen or otherwise affect existing coastal development permitting requirements, development standards, and coastal resource protections of the certified LCP. Any future development at the subject parcel will require a CDP that will be appealable to the Commission.

The City's proposal to rezone and redesignate a single parcel along the southern Eureka waterfront results in a number of Coastal Act and LUP consistency concerns regarding the subject parcel's ability to accommodate the proposed range of allowable uses given the site's significant hazard and coastal resource constraints. **Suggested Modification 1** would change the land use designation to MUL to limit future uses on the site to limited-intensity temporary uses in order to (1) minimize the amount of life and property at risk in a high-hazard environment, (2) signal the need to remove any future development before risk can no longer be minimized due to sea level rise, and (3) ensure allowed uses can be feasibly shielded from adjacent wetlands given the minimal development footprint and wetland buffer width available at the site. **Suggested Modification 2** would amend the proposed Q Combining District restrictions for the site

to (1) remove an inherently intense use (commercial vehicle storage) from the allowable uses, (2) add language to the hazard requirements to address increasing flooding with sea level rise, and (3) add site-specific requirements to ensure future development adequately buffers from wetlands and addresses potential soil and groundwater contamination. It is only through the inclusion of these revisions that the City's LUP amendment can be found in conformance with the Coastal Act and the City's IP amendment can be found consistent with and adequate to carry out the certified policies of the LUP.

## VI. ENVIRONMENTAL JUSTICE CONSIDERATIONS

Coastal Act Section 30604(h) gives the Commission, or the issuing agency, the authority to explicitly consider environmental justice, or the equitable distribution of environmental benefits throughout the state, in its permit decisions. Specifically:

30107.3 defines Environmental Justice as follows:

- (a) “Environmental justice” means the fair treatment and meaningful involvement of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.
- (b) Environmental justice” includes, but is not limited to, all of the following:
  - (1) The availability of a healthy environment for all people.
  - (2) The deterrence, reduction, and elimination of pollution burdens for populations and communities experiencing the adverse effects of that pollution, so that the effects of the pollution are not disproportionately borne by those populations and communities.
  - (3) Governmental entities engaging and providing technical assistance to populations and communities most impacted by pollution to promote their meaningful participation in all phases of the environmental and land use decision making process.
  - (4) At a minimum, the meaningful consideration of recommendations from populations and communities most impacted by pollution into environmental and land use decisions.

30604(h) states:

When acting on a coastal development permit, the issuing agency, or the Commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state.

In March 2019, the Commission adopted an environmental justice policy (EJ Policy)<sup>49</sup> to guide and inform its implementation of Section 30604(h) in a manner that is fully consistent with the standards in, and furthers the goals of, the Coastal Act and certified LCPs. Recognizing that the elimination of affordable residential neighborhoods has resulted in many underserved communities, including low-income communities, communities of color, and other historically marginalized communities, living farther from the coast, the EJ Policy calls for the Commission to increase efforts to encourage affordable housing and “work with local governments to adopt local coastal program policies that allow for a broad range of housing types, including affordable housing, ADUs, transitional/supportive housing, homeless shelters...in a manner that protects coastal resources consistent with Chapter 3 of the Coastal Act.”

---

<sup>49</sup> California Coastal Commission. (2019). Environmental Justice Policy. [https://documents.coastal.ca.gov/assets/env-justice/CCC\\_EJ\\_Policy\\_FINAL.pdf](https://documents.coastal.ca.gov/assets/env-justice/CCC_EJ_Policy_FINAL.pdf)

The subject amendment raises environmental justice concerns related to affordable and transitional housing and adverse exposure to coastal hazards and soil and groundwater contamination. Because the City's LCP was certified by the Commission many years ago, it does not contain an explicit EJ policy or any policies addressing disproportionate impacts to underserved communities. However, benefits and burdens for environmental justice communities<sup>50</sup> that may result from the subject LCP amendment can be evaluated for consistency with the Commission's EJ Policy to ensure the equitable distribution of environmental benefits consistent with the Chapter 3 policies of the Coastal Act and Eureka's certified LCP.

As previously discussed, the subject amendment is project-driven to provide a site to allow people struggling to obtain housing to establish rental history in order to transition to long-term permanent housing. As a very low-income segment of the population that is acutely struggling to attain some of society's most basic needs, including safe housing, unsheltered individuals are an environmental justice community to which the Coastal Act's EJ provisions and the Commission's EJ Policy apply. In Governor Newsom's February 2020 State of the State address, he stated that California is experiencing a homelessness and housing affordability crisis. In the January 2019 "Point in Time" (PIT)<sup>51</sup> estimate of homelessness in the United States, California accounted for nearly one-third (27%; 151,278 people) of all people experiencing homelessness in the country and more than half (53%; 108,432 people) of all unsheltered<sup>52</sup> people, despite the fact that California accounts for just 12 percent of the US population.<sup>53</sup> Based on the 2019 PIT estimate, Humboldt County, the location of the subject LCP amendment, has a rate of homelessness over three times the state average.<sup>54</sup> It is important to note that this homelessness count occurred prior to the current pandemic and therefore likely

---

<sup>50</sup> "Environmental justice community" and "undeserved community" are used interchangeably throughout this section and refer to low-income communities, communities of color, and other populations with higher exposure and/or sensitivity to adverse project impacts due to historical marginalization, discriminatory land use practices, and/or less capacity to mitigate adverse impacts.

<sup>51</sup> The Department of Housing and Urban Development (HUD) requires biennial homeless counts for federal homeless fund eligibility. These PIT counts are widely considered to be low.

<sup>52</sup> HUD defines the unsheltered homeless as "an individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport or campground." This excludes homeless people living in motels, jails, or with friends or relatives, etc.

<sup>53</sup> US Department of Housing and Urban Development. (2020, January). The 2019 Annual Homeless Assessment Report (AHAR) to Congress; Part 1: Point-in-Time Estimates of Homelessness. file:///E:/Eureka%20LCPA/Crowley%20Site/Single%20parcel%20CDI%20rezone/Shelter%20Crisis/2019-AHAR-Part-1.pdf

<sup>54</sup> During the local January 2019 PIT count, volunteers reported that 1,473 people in Humboldt County had experienced unsheltered homelessness the night before, with 653 unsheltered homeless counted in the greater Eureka area. For context, the City of Eureka has an estimated population of approximately 27,000.



underrepresents the current state of the problem given the current ongoing health and economic crisis.

The subject amendment would help address the housing and homelessness crisis by making a new site available for multi-family housing (housing is prohibited by the parcel's currently certified zoning and land use designation). In addition, although the amendment would allow housing as one of five permitted uses, given the underlying intent of the amendment and City ownership of the parcel, there is a real chance this amendment could directly lead to affordable housing. According to a 2019 Humboldt County Civil Grand Jury report, many of Humboldt's homeless are employed or otherwise have income (e.g., are relying on social security or disability payments) but simply cannot find affordable housing.<sup>55</sup> The anticipated housing project is meant to directly address this issue by allowing people who are ready to transition to long-term rental housing but who are unable to secure a lease the ability to establish rental history.

By allowing multi-family housing where such a use is currently not allowed, the intent of the proposed land use designation and zoning district change is to reduce homelessness in the greater Eureka area by creating additional space for affordable housing for vulnerable populations, a goal that is aligned with the Commission's EJ Policy. However, the hazardous nature of the parcel to be redesignated and rezoned raises questions of whether the proposed LCP amendment will perpetuate disproportionate exposure to environmental impacts inconsistent with the Commission's EJ Policy, Coastal Act Chapter 3 policies, and LUP policies.

The parcel that the City has selected for this critical housing project is situated in a hazardous area (100-year flood zone and tsunami inundation zone), between a WWTP and a temporary fire training facility,<sup>56</sup> with potential soil and groundwater contamination that requires capping the site for residential use. As discussed in the consistency

---

<sup>55</sup> This information is from the 2019 Humboldt County Civil Grand Jury report "Like, Home? There's No Place..." This grand jury report also discussed how in the 2017-2018 school year, 1,493 of the County's K-12 students were identified by the Humboldt County Office of Education as homeless, comprising over 8% of the student population. The highest concentration of homeless students were identified in Eureka, where an estimated 10-12% of the student population was homeless. In addition, approximately 11% of College of the Redwoods (the local community college) students lacked housing and 19% of Humboldt State University students reported being homeless at some point during that school year.

<sup>56</sup> Commission staff reached out to City staff requesting information on the fire training facility, including how often fires occur at the site and whether such fires generate smoke that would be a nuisance to adjacent residents. City staff responded that they spoke with the Humboldt Bay Fire Chief, who indicated that fire trainings occur regularly at the site, and that prevailing winds usually move the smoke southeast, east of the subject parcel's development footprint (K. Goetz, personal communication, September 15, 2020). The fire chief attested that he has not had any complaints about smoke conditions or impacts from employees of the WWTP, any of the other residences/businesses on Hilfiker Lane, or any of the businesses or hotels/motels along Highway 101. He indicated that, in most cases, when the smoke moves southward, it's more likely to rise and flow over and above the Crowley Site, as opposed to through the site at ground level.

analysis in Section VI-A (Hazards), the coastal hazards at this site present several threats to health and safety at the parcel. In the City's resolution of transmittal of the amendment to the Commission, the City acknowledges that hazards may impact this parcel to a greater degree than other parcels in the CS zone. Additionally, potential soil and groundwater contamination at the site could result in disproportionate exposure to contaminants that may affect the health of future residents at the site. According to CalEnviroScreen's groundwater threat indicator, the census tract for the subject parcel has groundwater threat that ranks in the top 17% of census tracts in California (83 percentile).<sup>57</sup> If not addressed, future residents would be placed at greater risk of exposure to coastal hazards and soil and groundwater contamination, resulting in disproportionate impacts.

Providing for affordable housing does not allow the Commission to disregard the Coastal Act and LCP requirements, but rather instead must be accomplished consistent with those requirements. The subject amendment therefore must not just reduce hazard exposure and coastal resource impacts but must minimize hazard risk and fully protect coastal wetlands and maintain the biological productivity and quality of coastal waters consistent with the Coastal Act and LCP. In addition, because low-income populations have less access to resources, they are more likely to become displaced or possibly homeless again if their housing is lost to coastal hazards or adequate protections are not considered for proposed development at the site.

The City has provided a hypothetical site plan for the anticipated housing project that demonstrates it is feasible to make this parcel suitable for residential development, at least in the short term, by extending utilities, capping the development footprint, adding vegetated drainage swales and wetland buffers, and anchoring the trailers and elevating them a foot and a half to two feet above current flood level. Furthermore, the consistency findings of this report, particularly Sections VI-A, B, & C, outline how the subject amendment as modified by Suggested Modifications 1 and 2 will ensure that future development is consistent with the Coastal Act and certified LUP policies with respect to wetlands, water quality, and coastal hazards. In particular, the proposed application of the Q Combining District to the parcel, as modified by the Commission's suggested modifications, would add parcel-specific requirements that will ensure that structures are not damaged or lost to storm flooding over their anticipated lifetime, that occupants will be prepared for safe evacuation in the event of a tsunami, that wetland habitat will not be degraded by activities on the parcel, and that construction workers, visitors, and occupants will not be exposed to soil and groundwater contamination and other unnecessary safety risks. Thus, these modifications address the adverse impacts from coastal hazards and potential soil and groundwater contamination that may

---

<sup>57</sup> The groundwater threat indicator in CalEnviroScreen uses data from the State Water Resources Control Board's GeoTracker database, which contains information on locations and water quality of wells that could be contaminated as well as potential sources of groundwater contamination. The indicator takes into account information about the type of site, its status, and its proximity to populated census blocks. For more information see <https://oehha.ca.gov/calenviroscreen/indicator/groundwater-threats>

disproportionately burden an environmental justice community, including unsheltered individuals, in a way that is fully consistent with the policies of the Coastal Act and fully consistent with and adequate to carry out the certified LUP.

What is currently before the Commission is whether to approve or deny an amendment that would allow the City to accommodate transitional housing at the subject parcel; the Commission is unable to separately require such housing elsewhere through its review of this LCP submittal. Nevertheless, Commission staff has reached out to both City staff and a representative of the Betty Kwan Chinn Homeless Foundation (“the project proponent”)<sup>58</sup> expressing concerns that the coastal resource constraints of the parcel, while not insurmountable, will cause avoidable limitations, costs, and delays upon the anticipated housing project (e.g., added costs from capping the parcel, connecting to utilities, addressing stormwater management and other wetland buffer issues, meeting flood hazard zone requirements, generating a tsunami evacuation plan, etc.), and asking whether any feasible alternative sites have been identified for affordable housing with fewer environmental burdens or greater environmental benefits.

In response, City staff and the project proponent have both conveyed to Commission staff the difficulty of finding a location for the anticipated housing project that is both beneficial from the user’s perspective (e.g., near social services, public transportation, medical facilities, and employment opportunities) and does not generate significant pushback from nearby property owners and the larger community.<sup>59</sup> The project proponent has also pointed out that the subject parcel would expose future residents to a number of environmental benefits, including access to public trails, recreational open space, and beautiful waterfront views. The parcel is also sheltered from intense commercial development along Broadway by the intervening forested wetlands and has great bicycle and pedestrian access to the City’s urban core via the adjacent CCT. The project proponent also made it clear that she is aware of the site constraints and the mitigations necessary to address identified potential environmental burdens.

Additionally, the Eureka City Council identifies that providing housing for unsheltered individuals will address ongoing adverse coastal resource impacts in Eureka’s coastal zone. As discussed in a letter from the Eureka City Council to Commission staff,<sup>60</sup> homelessness is an acutely visible challenge in the City of Eureka that is causing ongoing degradation of coastal resources. The lack of housing causes people to camp

---

<sup>58</sup> Reaching out to environmental justice groups and communities is part of the Commission’s commitment under the EJ Policy as part of meaningful engagement.

<sup>59</sup> The City originally identified and analyzed twelve other potential (largely City-owned) sites for the project considering proximity to utilities and coastal resources, site topography, and available area for the trailers. While a number of these sites have fewer resource constraints and are located closer to services and/or in residential areas further from commercial and industrial activities, the City staff and the project proponent have both attested that no other sites are feasible at this time for the trailer village given pushback from members of the public.

<sup>60</sup> The letter, dated January 31, 2020, urged Commission staff to expedite the subject amendment.

overnight on vacant lots and open spaces along the Eureka waterfront often directly in sensitive habitats such as willow swamps and other forested wetlands. This results in wetland fill, loss of rare plants and other vegetation important for fish and wildlife, water pollution, and deterrence of coastal access by the broader public, among other coastal resource impacts.

Additionally, according to the Eureka City Council, the inability of persons to obtain shelter is also an imminent threat to the life and health of those persons. As a result, the City asserts that accommodating housing for homeless at the subject parcel won't increase their exposure to hazards but will markedly improve safety. The amendment provides for sanctioned housing in uplands that must be found consistent with the City's certified LCP and its other health and safety codes such as the City's building code and flood ordinance. Any such housing will be an improvement over the current situation in terms of both hazard exposure and coastal resource impacts. This is consistent with the Commission's EJ Policy which calls for the reduction of environmental burdens for environmental justice communities.

Given that there is a critical need for affordable housing in Eureka and the proposed amendment as modified addresses exposure and risks from the coastal hazards and potential soil and groundwater contaminants present at the site, the Commission ultimately finds the overall LCP amendment as modified consistent with the Commission's EJ Policy, as well as finding the LUP amendment as modified in conformity with the Chapter 3 policies of the Coastal Act and the IP amendment as modified consistent with and adequate to carry out the certified LUP as amended.

## **VII. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

As set forth in Section 21080.9 of the California Public Resources Code, CEQA exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a 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 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, 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 that 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 City's LCP amendment consists of both LUP and IP amendments. The Commission incorporates its findings on Coastal Act and LUP conformity into this CEQA finding as if set forth in full herein. As discussed throughout the staff report and hereby incorporated by reference, the LUP amendment as originally submitted does not meet the requirements of or conform with the Chapter 3 policies of the Coastal Act, and the IP amendment does not conform with and is not adequate to carry out the policies of the certified LUP. The Commission, therefore, has suggested modifications to bring the LUP and IP amendments into full conformance with the Coastal Act and LUP, respectively. These modifications represent the Commission's detailed analysis and thoughtful consideration of all public comments received, including with regard to potential direct and cumulative impacts of the proposed LCP amendment, as well as potential alternatives to the proposed amendment, including the no project alternative.

As modified, the Commission finds that approval of the LCP amendment will not result in significant adverse environmental impacts within the meaning of CEQA. Further, future individual projects on the subject parcel would require CDPs. 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 substantially lessen any significant adverse impact which the activity may have on the environment [14 CCR §§ 13542(a), 13540(f), and 13555(b)].

## **VIII. APPENDIX A – SUBSTANTIVE FILE DOCUMENTS**

Amendment Application No. LCP-1-EUR-20-009-1, Part C and associated file documents.

BST Associates. (2018, May 31). Humboldt Bay Maritime Industrial Use Market Study Final Report. Prepared for Humboldt County.

California Coastal Commission. (2015, August 12; including October 2018 Science Update adopted November 7, 2018). California Coastal Commission sea level rise policy guidance: Interpretive guidelines for addressing sea level rise in local coastal programs and coastal development permits.

California Regional Water Quality Control Board. Geotracker files for Case No. 1NHU012 (Oregon Coast Towing, 2401 Hilfiker Lane, Eureka, California). Accessed February 6, 2020. <https://geotracker.waterboards.ca.gov/>

City of Arcata. City of Arcata Web GIS Mapping System Website. Accessed February 6, 2020. [https://gis01.cityofarcata.org/web/COA\\_Parcel\\_finder/](https://gis01.cityofarcata.org/web/COA_Parcel_finder/)

City of Eureka Certified Local Coastal Program.

City of Eureka. City of Eureka Web GIS Mapping System Website. Accessed February 6, 2020. [http://www.ci.eureka.ca.gov/depts/development\\_services/gis\\_\\_mapping.asp](http://www.ci.eureka.ca.gov/depts/development_services/gis__mapping.asp)

Cortes-Rincon, M., Angeloff, N., Barrios-Gonzalez, A., King, B., Heuer, S., Hughes, K., McDermott, M. (Humboldt State University Cultural Resources Facility). (2019, August). Archaeological Survey Report for the L047000 City of Eureka Hilfiker Lane Community Housing Project. Prepared for the City of Eureka.

File for CDP No. 1-11-037.

Laird, A., & Powell, B. (2013). Humboldt Bay shoreline inventory, mapping, and sea level rise vulnerability assessment; with an addendum: Shoreline vulnerability ratings. Prepared for the State Coastal Conservancy.

Mad River Biologists. (2010, August 27). Biological Resources Evaluation and Wetlands Verification/Delineation for the Humboldt Waste Management Authority Waste Digester Project. Prepared for Planwest Partners, Inc.

Northern Hydrology & Engineering. (2015, April). Humboldt Bay: Sea level rise, hydrodynamic modeling, and inundation vulnerability mapping – Final report. Prepared for the State Coastal Conservancy and Coastal Ecosystems Institute of Northern California.

OPC State of California Sea-Level Rise Guidance, 2018 Update: [http://www.opc.ca.gov/webmaster/ftp/pdf/agenda\\_items/20180314/Item3\\_Exhibit-A OPC\\_SLR\\_Guidance-rd3.pdf](http://www.opc.ca.gov/webmaster/ftp/pdf/agenda_items/20180314/Item3_Exhibit-A OPC_SLR_Guidance-rd3.pdf)

PB Ports & Marine, Inc. (in association with Winzler & Kelly & BST Associates). (2003, February). Port of Humboldt Bay Harbor Revitalization Plan Final Report. Prepared for the Humboldt Bay Harbor, Recreation and Conservation District.

SHN. (2020, February 20). Coastal Development Permit Supplemental Application Form Request for Reduced Buffer. Prepared for the City of Eureka.

SHN. (2019, July). Phase I Environmental Site Assessment for APNs 019-271-004 and 019-331-002. Prepared for the City of Eureka Economic Development Division.

SHN. (2019, July). Limited Phase II Environmental Site Assessment for APNs 019-271-004 and 019-331-002. Prepared for the City of Eureka Economic Development Division.

SHN Engineers & Geologists. (2017, November). Wetland and Other Waters Delineation Report for the Hilfiker Lane Site, APN 019-271-004, Eureka, California. Prepared for the City of Eureka.

SHN Consulting Engineers & Geologists, Inc. (2012, June). Geologic hazard evaluation and geotechnical engineering report for proposed food waste digester project on a portion of the “Crowley Property,” Hilfiker Lane, Eureka, California (APNs 019-271-004 and 019-331-002). Prepared for Humboldt

LCP-1-EUR-20-0009-1, Part C (Crowley Site Redesignation)

Waste Management Authority. SHN Engineers & Geologists. (2007, January 30). Wetland Delineation for the Proposed Elk River Trail Improvement Project, Eureka, California. Prepared for the City of Eureka.

US Department of Housing and Urban Development. (2020, January). The 2019 Annual Homeless Assessment Report (AHAR) to Congress; Part 1: Point-in-Time Estimates of Homelessness. <file:///E:/Eureka%20LCPA/Crowley%20Site/Single%20parcel%20CDI%20rezone/Shelter%20Crisis/2019-AHAR-Part-1.pdf>