

# Exhibit H

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# County of Monterey Planning Commission

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

## Agenda Item No. 8 Legistar File Number: PC 22-102

December 07, 2022

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**Current Status:** Agenda Ready

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**Matter Type:** Planning Item

### **PLN160401 - MOSS LANDING COMMERCIAL PARK, LLC**

Public hearing to consider a General Development Plan and after-the-fact approval of existing commercial cannabis activities in 23 structures, the establishment of commercial cannabis activities in 5 existing structures, and the allowance of on-going multi-tenant commercial, industrial, and commercial cannabis use within 34 structures.

**Project Location:** 7697 Highway 1, Moss Landing, North County Land Use Plan/Moss Landing Community Plan area (APN: 133-172-013-000).

**Proposed CEQA Action:** Consider and adopt a Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Plan.

### RECOMMENDATION

It is recommended that the Planning Commission:

1. Consider and adopt a Mitigated Negative Declaration pursuant to Section 15074 of the CEQA Guidelines; and
2. Approve a Combined Development Permit consisting of:
  - a. After-the-fact Coastal Development Permit to allow existing commercial cannabis activities in 23 existing structures to continue and to partially clear Code Enforcement Case Nos. 15CE00050 to allow commercial cannabis activities Building No. 20;
  - b. Coastal Development Permit to allow the establishment of commercial cannabis activities in 5 existing structures; and
  - c. General Development Plan to allow existing multi-tenant commercial, industrial, and commercial cannabis uses to continue in 29 structures, establish commercial cannabis activities in 5 existing structures, and allow ongoing reuse of 6 structures for multi-tenant commercial and industrial use and 28 structures for multi-tenant commercial cannabis activities (cultivation, processing, manufacturing [non-volatile and volatile], and self-distribution); and
3. Adopt a Condition Compliance and Mitigation Monitoring and Reporting Plan.

A draft resolution, including findings and evidence, is attached for consideration (**Exhibit A**). Staff recommends approval subject to fourteen (14) conditions, including one (1) mitigation measure.

### PROJECT INFORMATION

**Property Owner:** Moss Landing Commercial Park, LLC

**Agent:** Paul Hart, Hart and Associates

**APN:** 133-172-013-000

**Zoning:** Heavy Industrial, Coastal Zone [HI (CZ)]

**Parcel Size:** 183.74 acres

**Flagged and Staked:** No

### SUMMARY

The subject property is located at the intersection of Dolan Road and Highway 1, in Moss Landing. From the mid-1900s until 2002, the subject property was used by Kaiser Aluminum Refractories and then the National Refractories and Minerals Corporation to produce magnesium oxide, specialties containing magnesium oxide and refractory brick. In 2003, the parcel was purchased by the Moss Landing Commercial Park, LLC. The Moss Landing Cement Company, LLC, a subsidiary of Calera Corporation, operates the cement plant. The project site contains 34 existing industrial and warehouse structures. The existing structures were used for research and the production of “green” cement. HCD-Chief of Planning Resolution No. 14-010 approved a Minor and Trivial Amendment to a previously approved Combined Development Permit (PLN060559). The amendment made two changes: 1) removes the construction of a 70,000 square foot industrial warehouse, and 2) replaces the previously approved General Development Plan (GDP) with an interim GDP that limits development and uses to coastal-dependent and coastal-related development and uses. Interim GDP was intended to remain in effect until such such time as the Moss Landing Community Plan update is certified as part of the Local Coastal Program by the California Coastal Commission. The interim GDP required all changes in use, intensity and placement to require a Coastal Development Permit in each case. However, in 2015, commercial cannabis operations began to occur within 23 of the existing 34 structures without the benefit of a Coastal Development Permit. These existing cannabis operations are currently operating under Department of Cannabis Control provisional licenses. The remaining 11 structures are vacant warehouses (7), used for office space (1), industrial workshops (1), or research and development facilities (2). The proposed project includes legalizing the existing cannabis operations, allowing commercial cannabis activities in 5 vacant buildings, and establishing multi-tenant commercial, industrial, and commercial cannabis activities to occur within the existing structures, as detailed below and in the attached proposed General Development Plan (**Exhibit A**). The proposed GDP reflects the existing uses, including the unpermitted cannabis activities, and therefore replaces and supersedes the 2014 interim GDP.

### DISCUSSION

In February 2018, the California Coastal Commission certified a Local Coastal Program Amendment to Monterey County Zoning Ordinance (Title 20), the North County Land Use Plan (Policies 4.3.6.F.1, 5.2.1.A.2, and 5.5.2.10) and the North County Coastal Implementation Plan (Section 20.144.160.C.1.k) to allow commercial cannabis activities at in certain coastal Zoning Districts and at the Kaiser National Refractories site (subject property). Following certification, the Monterey County Board of Supervisors approved a resolution and adopted Ordinance No. 5299 in March 2018 to amend Title 20 of the Monterey County Code to regulate commercial cannabis activities in the coastal unincorporated. This ordinance defined terms and added Chapter 20.67 to Monterey County Code (MCC) Title 20 to establish regulations governing the issuance of Coastal Development Permits for commercial cannabis activities. This Ordinance also amended the Coastal Implementation Plan (Part 2, Regulations for Development in the North County Land Use Plan Area) to allow limited commercial cannabis activities within existing industrial buildings at the subject property, the former Kaiser National Refractories, subject to a Coastal Development Permit (CDP) until a long-range master plan is completed that governs the site (i.e. through an updated certified Moss Landing Community Plan) or

until January 1, 2023, whichever comes first.

In accordance with Ordinance No. 5299, the Applicant/Owner applied for a CDP and GDP to allow commercial cannabis activities within existing structures on the subject site. Due to the existing unpermitted cannabis operations at the site, the project entitlements include a Coastal Development Permit to allow the establishment of commercial cannabis activities in 5 vacant structures and an after-the-fact Coastal Development permit to legalize the existing commercial cannabis activities occurring in 23 structures.

The proposed project also includes a General Development Plan (GDP; **Exhibit A**). The applicant's goal of the GDP is to "redevelop the industrial complex utilizing existing structures into an economically viable multi-tenant agricultural, commercial and industrial lease space." As proposed, the granting of this GDP would allow existing industrial activities to continue in 6 structures, allow existing commercial cannabis activities to continue in 23 structures, and establish commercial cannabis operations in 5 structures. Existing industrial activities include, but are not limited to, research and development laboratories, light manufacturing processing and shipping, storage facilities, and industrial shops for tradesmen. The GDP would allow the industrial and commercial cannabis tenants to change without the need for additional discretionary review, provided the change of use was consistent with GDP and the prepared Initial Study/Mitigated Negative Declaration. For example, because GDP allows commercial cannabis cultivation, processing, manufacturing (non-volatile and volatile), and self-distribution within 28 structures, a tenant who currently only engages in commercial cannabis cultivation may change to commercial cannabis manufacturing, subject obtaining appropriate licensing permits from the County Cannabis Program and the State of California Department of Cannabis Control. Similarly, an existing industrial workshop providing storage of equipment for a plumber may change to the storage of equipment for another tradesman service.

Tenant improvements are anticipated but will be limited to interior changes only. For example, the 5 vacant structures being converted to commercial cannabis activities will likely need the installation of cannabis-related equipment such as ventilation and odor control or interior walls to separate cannabis activities.

#### *Viewshed*

Although the subject property is visible from Highway 1, the existing development does not block views to and along the ocean shoreline from Highway 1, Molera Road, Struve Road, and public beaches. Views of the project site are partially obstructed by berms, fencing, and vegetation on the western and northern boundaries. Structures that are visible from the surrounding area consist of metal-clad industrial buildings and concrete water tanks. Existing exterior lighting on the site as well as from the industrial development to the north is visible from surrounding areas. As proposed and conditioned, use of existing parking areas for the storage of equipment shall be screened from the public right of way and all proposed exterior lighting shall be downlit and unobtrusive; and if security lighting is required for safety purposes, it shall be motion activated.

#### *Biological Resources*

While the project site and its surroundings include high-quality biological habitat, the subject property is an industrial park containing industrial structures, paved parking areas, and ruderal vegetation. The

project will have a less than significant impact on these habitats. No ground-disturbing activities are proposed. Construction would be limited to interior tenant improvements. Implementation of Condition No. 7, requires that any exterior construction activity occurring during the typical bird nesting season (February 22-August 1), the applicant shall submit to HCD-Planning a raptor and migratory bird survey confirming that no nests would be disturbed.

#### *Historical Resources*

In 2004, a Historical and Architectural Evaluation (LIB070067) was prepared for the project site. The subject property is specifically identified under the theme of "The 20th Century 1900-1950" in the 2000 Monterey County Historic Preservation Plan. While the majority of the subject property's existing buildings did not occur during this period of significance (1942-1956), three buildings do represent the early functions and processing of the Permanent Metals/Refractory Plant. These include the Administration/Laboratory Building; the Kiln Feed Building, where the processed raw material came for distribution to the market or for transfer to the brick plant; and the 7 circulate concrete 250-foot wide "Thickeners," where the chemical reaction of seawater with dolomite produced the magnesium hydroxide. As proposed, the Administration/Laboratory Building would be utilized for commercial cannabis activities. The Kiln Feed Building and Thickeners would not be used for cannabis activities. The historical aspect of the 1942-56 Administration/Laboratory Building is not based on the use of the structure and therefore utilizing this structure for commercial cannabis activities would have no impact. No Exterior improvements are proposed, except for replacement exterior lighting (if deemed necessary). Per Condition No. 6, all exterior lighting of Building No. 25 shall be limited to the number of existing fixtures and replacement fixtures shall be consistent with the existing lighting. This will ensure there is no impact to the building's historical integrity. No solar panels are proposed on this building.

#### *Traffic*

A traffic assessment (LIB180254), prepared by Keith Higgins, calculated the existing and proposed trip generation for the Moss Landing Commercial Park. The daily trips generated from the subject property are based on the land use codes and trip generation rates which are established in the 2019 Institute of Transportation Engineers (ITE) newest edition of the Trip Generation Manual. Currently, there are 332,973 square feet of buildings (23) that are occupied by commercial cannabis activities and 52,097 square feet associated with non-cannabis buildings (warehouses, research and development, storage, and industrial shops). The existing daily trip generation is 763, with 589 being commercial cannabis related. The project proposes to repurpose 5 warehouses, or 11,120 square feet, into commercial cannabis operations. Therefore, based on the square footage of these warehouses, the additional commercial cannabis operations would generate approximately 19 daily trips. As proposed, a total of 28 buildings would be occupied by commercial cannabis operations and would generate 608 daily trips. The total daily trip generation associated with the subject project site is 782.

#### *Energy*

Cultivation is considered to be the most energy-intensive cannabis activity. A California Public Utilities Commission (CPUC) workshop report that found in Washington state, indoor cultivators operating year-round were consuming approximately 150 Watts/sf of energy. As such, the proposed cannabis operations (28 structures totaling 341,693 square feet) would require approximately 52,153,950 kWh

of energy per year. When compared to the existing annual energy usage (51,106,707.2 kWh), the proposed project would increase the project site's annual energy demand by 1,047,243 kWh, or 1.02%. In accordance with Monterey County Code (MCC) Section 20.67.050.B.9, roof-mounted photovoltaic solar panels providing approximately 109,000 kilowatts of energy per month are proposed (1,308,000 kilowatts [kW] per year). The preliminary solar panel plan does not propose solar panels on the 1942-56 Administration/ Laboratory Building. Should solar panels be proposed on the 1942-56 Administration/ Laboratory Building, the Applicant/Owner shall seek separate discretionary review and approval.

#### *Potable Water*

The Pajaro Sunny Mesa Community Services District (CSD) currently supplies potable water to the property. Based on 2020 Pajaro Sunny Mesa CSD water service bills, monthly water consumption ranges between 695 to 788 units (1 unit = 748 gallons). Using the average water consumption of 725 units, or 542,300 gallons per month, the property's current average annual water usage is 66,507,600 gallons or 19.97-acre feet per year (AFY). This baseline water use figure accounts for all existing operations (industrial, office space, commercial cannabis activities, etc.). This equates to approximately 0.40 AFY per 10,000 square feet or 1.74 AFY per acre. This is higher than the methodology provided by the Monterey County Agricultural Commissioner's Office which estimates that indoor cannabis grow operations require 0.25-acre AFY of water per 10,000 square feet of canopy or approximately 1.09 AFY of water per acre of cultivation. Therefore, to be conservative, the proposed project's water use was based on the property's existing water use (0.40 AFY per 10,000 square feet). As such, the proposed conversion of 5 structures into cannabis operations (8,720 square feet) would result in a water demand of approximately 0.35 AFY or 114,048 gallons annually. This equates to a 1.75 percent increase in total site water usage (6,621,648 gallons annually or 20.32 AFY). The Pajaro Sunny Mesa Community Services District issued a letter indicating that the District can and will serve the proposed project.

#### *Wastewater*

The subject property contains 7 existing septic tanks with a total maximum capacity to serve 346 onsite employees. The project proposes to convert 5 warehouses, varying from 1,360 square feet to 2,400 square feet, into indoor commercial cannabis operations. This will result in 11 additional employees (273 total). Although the project's resulting employee population would be within the capacity of the on-site wastewater treatment system (OWTS), Septic System 2 is currently over capacity by 20 employees and Septic System 3 is currently over capacity by 33 employees. In accordance with Section 3364 of the General Industry Safety Orders of the Cal/Osha regulations, employees must be within 200 feet of the nearest restroom. The existing employee distribution is assumed to be within 200 feet for most of the operators; however, the radius of employees to accessible restrooms may be over 200 feet for the employees of buildings 10 and 14. In order to ensure the existing and proposed onsite employees have access to restroom facilities within the distance requirement, and the wastewater served by the existing on-site wastewater system remains within the limitation thresholds of the systems, Mitigation Measure 1 has been identified requiring the owner/applicant to submit an Employee & Wastewater Operation Plan for review and approval (see further discussion below and in **Exhibit A**). The plan would identify the assignment of employees per building, to restrooms within 200 feet, and based on the assigned employees, the plan would demonstrate how the respective septic systems would not be overloaded.

### *Commercial Cannabis Activities*

Compliance with applicable Monterey County Code Chapter 20.67 criteria for commercial cannabis cultivation, processing, volatile/non-volatile manufacturing, and self-distribution is detailed in the draft resolution (**Exhibit A**). In summary, commercial cannabis activities (cultivation, processing, manufacturing (non-volatile and volatile), and self-distribution) are allowed uses in the Heavy Industrial Zoning District subject to the granting of a Coastal Development Permit; the existing structures existed prior to January 1, 2016; the subject property is located more than 600 feet from a school, public park, or drug recovery facility; on-site renewable energy in the form of solar panels are proposed; water conservation measures are in effect; improvements such as security lighting is proposed to prevent theft; and all tenants are required to adhere to County and State cannabis operation standards.

### ENVIRONMENTAL REVIEW

Pursuant to Public Resources Code Section 21083 and California Environmental Quality Act (CEQA) Guidelines Sections 15063(a) and 15063(b)(2), Monterey County as Lead Agency completed environmental review to determine if the project may have a significant effect on the environment. The County prepared a draft Initial Study and Mitigated Negative Declaration (IS/MND) for this project (**Exhibit E**). County staff filed the draft IS/MND with the County Clerk on June 6, 2022, and circulated the draft IS/MND for public review and comment from June 6 through July 6, 2022 (SCH No. 2022050130). The draft IS/MND identified potentially significant impacts to aesthetics, air quality, biological resources, energy, geology/soils, greenhouse gas emissions, hazards/hazardous materials, hydrology/water quality, transportation/traffic, and utility/service systems. Staff has proposed one mitigation measure to reduce the identified impact to a level of less than significant. Mitigation Measure No. 1, applied as Condition No. 8, would reduce potentially significant impacts to utilities and service systems to less than significant by requiring the Owner/Applicant to submit an Employee & Wastewater Operation Plan to HCD-Planning and Environmental Health Bureau for review and approval. The plan requires identifying the assignment of employees per building and the number of restrooms within 200 feet of each building, and demonstrating how the respective septic systems would not be overloaded. All other standard topics of environmental analysis were found less than significant or no impact.

During the public review period for the draft Initial Study, the County received one comment letter from the Department of Cannabis Control. Three additional CEQA comment letters were submitted after the public review period. These comments are attached to the December 7, 2022, staff report to the Planning Commission as **Exhibit F**. County staff reviewed the comments received based on the specific circumstances of this project, and determined that the comment does not conflict with or challenge the analysis and/or conclusions of the draft Initial Study. On October 8, 2022, revisions the previously circulated Initial Study commenced in order to provide clarification in response to comments from the California Department of Fish and Wildlife, the Department of Cannabis Control, and Friends, Artists, and Neighbors of Elkhorn Slough. The revisions, as completed, reflect a more accurate project description, clarify the existing and proposed conditions, and amplify the analysis. Due to the incorporation of Condition Nos. 6 and 7 (exterior lighting plan and migratory bird nesting survey), impacts analyzed in Initial Study Sections VI.1 (Aesthetics) and VI.4 (Biological Resource) were raised from no impact to a level of less than significant. No new, avoidable significant effects were identified, and no mitigations measures were added. Therefore, pursuant to Section 15073.5 of

the CEQA Guidelines, recirculation of the revised initial study is not required. A more detailed response to comments is provided in the draft resolution (**Exhibit A**).

#### OTHER AGENCY INVOLVEMENT

The following agencies have reviewed the project, have comments, and/or have recommended conditions:

Environmental Health Bureau  
HCD-Engineering Services  
HCD-Environmental Services  
North County Fire Protection District

#### LAND USE ADVISORY COMMITTEE

Staff referred the proposed project to the North County Land Use Advisory Committee (LUAC) for review (**Exhibit C & D**). The LUAC on September 7, 2016, voted 8-0, with one member absent to deny the project as proposed. The LUAC members had numerous questions which are not specified in the September 7, 2016 minutes. However, their questions could not be answered because County staff nor the applicants were in attendance. Therefore, the LUAC members voted to deny the project. A subsequent LUAC meeting was scheduled for November 16, 2022. On November 16, 2022, the LUAC voted 3-1, with 3 members absent to support the project as proposed. The LUAC members had questions regarding existing and proposed uses, water and wastewater, cannabis-specific requirements (i.e. security and odor), and the open code enforcement case. Staff responded accordingly. The LUAC member voting against the project voiced his general disapproval of property owners seeking after-the-fact approval to rectify a code enforcement case than rather obtaining the necessary entitlements prior to commencement of use or construction.

Prepared by: Fionna Jensen, Associate Planner, Ext. 6407  
Reviewed by: Anna Quenga, AICP, Principal Planner  
Approved by: Craig Spencer, HCD Chief of Planning

The following attachments are on file with HCD:

Exhibit A - Draft Resolution, including:

- Conditions of Approval
- General Development Plan, as amended in October 2018
- Project Plans

Exhibit B - Vicinity Map

Exhibit C - North County LUAC minutes for September 7, 2016

Exhibit D - North County LUAC minutes for November 16, 2022

Exhibit E - Final Initial Study/Mitigated Negative Declaration

Exhibit F - CEQA Public Comments

Exhibit G - Ordinance No. 5299

cc: Front Counter Copy; California Coastal Commission; Craig Spencer, HCD Chief of Planning; Anna Quenga, AICP, Principal Planner; Fionna Jensen, Associate Planner; HCD-Engineering Services; Environmental Health Bureau; HCD-Environmental Services; North County Fire Protection District; Moss Landing Commercial Park, LLC, Applicant/Owner; Paul Hart, Agent; Kevin Ponce;

Department of Cannabis Control; Molly Erickson (Friends, Artists, and Neighbors of Elkhorn Slough); California Department of Fish and Wildlife (Region 4); The Open Monterey Project (Molly Erickson); LandWatch; Project File PLN160401