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CALIFORNIA COASTAL COMMISSION

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February 8, 2018

Craig Spencer
Monterey County Resource Management Agency
1441 Schilling Place
Salinas, CA 93901

Subject: *Monterey County Local Coastal Program (LCP) Amendment Number LCP-3-MCO-18-0004-1 (Commercial Cannabis Ordinance)*

Dear Mr. Spencer:

At the February 7, 2018 California Coastal Commission hearing, the Commission approved Monterey County LCP Amendment number LCP-3-MCO-18-0004-1 (Commercial Cannabis Ordinance) as submitted by the County. A copy of the adopted staff report is enclosed. The amendment is now fully certified and in effect. We appreciate the efforts of County staff in working with Coastal Commission staff to complete the amendment process.

Sincerely,

A handwritten signature in black ink, appearing to read "B. O'Neill", written over a horizontal line.

Brian O'Neill
Coastal Planner
Central Coast District Office

Enclosures



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ADOPTED



W19h

Prepared January 19, 2018 for February 7, 2018 Hearing

To: Commissioners and Interested Persons
From: Susan Craig, Central Coast District Manager
Brian O'Neill, Coastal Planner
Subject: **Monterey County LCP Amendment Number LCP-3-MCO-18-0004-1**
(Commercial Cannabis Ordinance)

SUMMARY OF STAFF RECOMMENDATION

Monterey County proposes to amend its Local Coastal Program (LCP) to regulate commercial cannabis activities within the County. Specifically, the proposed amendment adds to the LCP's Implementation Plan (IP) definitions related to commercial cannabis activities (defined as the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of cannabis or a cannabis product), adds some of these activities as conditional uses within certain zoning districts, and adds Chapter 20.67 to the IP to provide additional regulations specific to commercial cannabis activities. The proposed amendment would also amend the North County Land Use Plan (LUP) to allow for limited commercial cannabis activities within existing industrial buildings at the former Kaiser National Refractories site.

The proposed amendment would allow for commercial cannabis activities within the County and would establish appropriate regulations for such activities. In general, the proposed amendment regulates cannabis in a similar manner to other types of agricultural cultivation and processing, with additional requirements that address the unique issues related to cannabis activities, including product security, odor control, water and electricity consumption, and proximity to at-risk populations such as schoolchildren. The amendment differentiates between the broad subtypes of cannabis activities (e.g., cultivation, processing, and retail sale) and generally targets these specific subtypes to appropriately zoned areas, as opposed to a blanket allowance for all cannabis activities to be allowed throughout the coastal zone. The amendment thus responds to and respects the Monterey County coastal zone's unique geographies and resources. In short, the proposed amendment provides safeguards to ensure that the new cannabis activities will not cause any impacts to coastal resources. As such, the proposed IP changes can be found consistent with and adequate to carry out the certified LUP and the proposed LUP changes can be found consistent with the Coastal Act. Thus, staff recommends that the Commission approve the amendment as submitted. The motions and resolutions are found on page 3 below.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on January 8, 2018. The proposed amendment affects both the LCP's LUP and IP, and the 90-day action deadline is April 8, 2018. (See Pub. Res. Code Sections 30513, 30514(b).) Thus, unless the Commission extends the action deadline (it may be extended by up to one year per Pub. Res. Code Section 30517), the Commission has until April 8, 2018 to take a final action on this LCP amendment.

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EXHIBITS

Exhibit 1: Proposed LCP Amendment

Exhibit 2: Land Use Plan Maps

I. MOTIONS AND RESOLUTIONS

Staff recommends that the Commission, after public hearing, approve the proposed LUP amendment as submitted. The Commission needs to make two motions, one on the LUP amendment and a second on the IP amendment, in order to act on this recommendation.

A. Certify the LUP Amendment As Submitted

Staff recommends a **YES** vote on the motion below. Passage of the motion will result in the certification of the LUP amendment as submitted and adoption of the following resolution and findings. The motion to certify as submitted passes only upon an affirmative vote of the majority of the appointed Commissioners.

***Motion:** I move that the Commission certify Land Use Plan Amendment LCP-MCO-3-18-0004-1 as submitted by Monterey County, and I recommend a **yes** vote.*

***Resolution:** The Commission hereby certifies Land Use Plan Amendment LCP-MCO-3-18-0004-1 as submitted by Monterey County and adopts the findings set forth below on the grounds that the amendment conforms with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment 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 or mitigation measures that would substantially lessen any significant adverse impacts which the Land Use Plan Amendment may have on the environment.*

B. Certify the IP Amendment As Submitted

Staff recommends a **NO** vote on the motion below. Failure of the motion will result in certification of the IP amendment as submitted 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:** I move that the Commission reject Implementation Plan Amendment LCP-MCO-3-18-0004-1 as submitted by Monterey County, and I recommend a **no** vote.*

***Resolution:** The Commission hereby certifies Implementation Plan Amendment LCP-MCO-3-18-0004-1 as submitted by Monterey County and adopts the findings set forth below on the grounds that the amendment is consistent with and adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan amendment 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 or mitigation measures which could substantially lessen any significant adverse impact which the Implementation Plan Amendment may have on the environment.*

II. FINDINGS AND DECLARATIONS

A. DESCRIPTION OF PROPOSED LCP AMENDMENT

The Monterey County LCP is divided into four segments, each with its own LUP¹ and own IP. The IP also includes zoning ordinances (Title 20) and a subdivision ordinance (Title 19) that are applicable within all four segments of Monterey County's coastal zone. The proposed amendment would update the zoning ordinances of Title 20 of the IP by adding definitions and standards for commercial cannabis activities throughout Monterey County's coastal zone.² Specifically, the proposed amendment would add definitions related to commercial cannabis activities (defined as the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of cannabis or a cannabis product), add some of these commercial cannabis activities as conditional uses within certain zoning districts, and add Chapter 20.67 to the IP to regulate commercial cannabis activities, including listing requisite standards for their appropriate use consistent with the certified LCP. The proposed amendment would also amend the North County LUP to allow for limited commercial cannabis activities within existing industrial buildings at the former Kaiser National Refractories site.

The proposed amendment would require a coastal development permit (CDP) for any new commercial cannabis activity within the County. The amendment adds as conditional uses: retail cannabis within General Commercial (GC) and Moss Landing Commercial (MLC) zoning districts; indoor cannabis cultivation within Light Industrial (LI), Heavy Industrial (HI), Agricultural Industrial (AI), Agricultural Conservation (AC), and Coastal Agricultural Preserve (CAP) zoning districts; non-volatile cannabis manufacturing within the MLC, LI, HI, AI, AC, and CAP zoning districts; volatile cannabis manufacturing³ within the HI zoning district; cannabis distribution and transportation facilities within the LI, HI, and AI zoning districts; and cannabis testing facilities within the LI, HI, and AI zoning districts. In addition to requiring all new commercial cannabis activities to be consistent with all applicable LCP policies and standards, the proposed amendment requires additional measures related to product security, odor control, water conservation, and energy conservation due to the unique considerations of resource impacts relating to commercial cannabis activities. For cultivation, the amendment requires that all cultivation occurs indoors within existing greenhouses or buildings legally established prior to January 1, 2016. For manufacturing, the amendment prohibits such facilities within 600 feet of a school or park. For testing and distribution, the amendment limits these uses to industrial zoning districts only.

Please see **Exhibit 1** for the proposed LCP amendment text.

¹ The County's four LUP areas are: North County, Del Monte Forest, Carmel Area, and Big Sur.

² The amendment is intended to carry out and be consistent with the Medicinal and Adult-Use of Cannabis Regulatory and Safety Act (Business and Professions Code Sections 26000, et seq.) that was passed on June 27, 2017, which allows counties and cities to regulate commercial cannabis activities and requires local authorization of a cannabis operation prior to issuance of a state license.

³ Volatile cannabis manufacturing involves the use of volatile solvents, which are liquids that can evaporate at room temperature such as pentane, ethanol, and butyl acetate. Non-volatile cannabis manufacturing does not use volatile solvents.

B. CONSISTENCY ANALYSIS

Standard of Review

The proposed amendment affects both the LUP and IP components of the Monterey County LCP. The standard of review for LUP amendments is that they must be consistent with and adequate to carry out the Chapter 3 policies of the Coastal Act. (See Pub. Res. Code Section 30512(c).) The standard of review for IP amendments is that they must be consistent with and adequate to carry out the policies of the certified LUP. (See Pub. Res. Code Section 30513.)

LUP Consistency Analysis

Coastal Act Section 30250(a) encourages new development within areas that are already developed, and states:

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. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Coastal Act Section 30255 prioritizes coastal-dependent development over other types of development and states:

Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

The North County LUP includes a chapter, known as the Moss Landing Community Plan, which contains development standards and policies specific to the Moss Landing area. The Moss Landing Community Plan includes a land use designation map that identifies much of the industrially zoned land surrounding the Moss Landing harbor as reserved exclusively for coastal-dependent uses (see **Exhibit 2**). The areas designated for light industrial uses are located seaward of Highway 1 and the Moss Landing harbor. The light industrial designated area is currently developed with facilities related to boating, fishing, and research. The areas designated for heavy industrial uses are located on the landward side of Highway 1 adjacent to the harbor. The heavy industrial area is currently developed with the Moss Landing Power Plant, a natural gas powered electricity generation plant, and the National Refractories site, a now-defunct refractory plant and magnesium oxide production facility. The North County LUP reserves the identified coastal-dependent industrial land for uses “dependent for their existence upon a location near the coastline.” The North County LUP explains that such uses include “commercial fishing, aquaculture, energy facilities and manufacturing activities.”

Consistency Analysis

The proposed LUP amendment only impacts allowed uses at the former National Refractories site. Despite the coastal-dependent⁴ designation, the amendment would allow commercial cannabis activities, subject to CDP requirements, to occur within existing industrial buildings at the National Refractories site for a limited period of time. Specifically, commercial cannabis activities would be allowed until the Moss Landing Community Plan is updated or for a period of approximately five years (January 1, 2023), whichever occurs first.⁵ See **Exhibit 1** for the proposed changes to the North County LUP. All other coastal-dependent designated areas within the County remain unchanged with respect to cannabis activities, i.e. such activities would continue to not be allowed.

The National Refractories site is an approximately 200-acre area that consists of existing industrial buildings, storage facilities, parking, and ocean intake pipes that run underneath Highway 1. The refractories plant ceased operations in the 1990s and is now a remediated Superfund site.⁶ Because the National Refractories site was still operational when the Moss Landing Community Plan was certified in 1982, the coastal-dependent heavy industrial designation for this area was appropriate and reflected the use of the site at that time. However, conditions on the ground have changed significantly in the years since the Moss Landing Community Plan was first developed. Much of the site's existing infrastructure remains empty and underutilized. The site has been the subject of numerous proposals that have either been abandoned or have yet to materialize, including general commercial development and a desalination plant.

The County is currently committed to developing a long-range plan in order to determine the best way to utilize this unique site through an update of the Moss Landing Community Plan. Although it may make sense to retain a portion of the site as coastal dependent, such as areas closest to the coast with existing ocean intake pipes, other portions of the 200-acre site may provide a greater public benefit if utilized for wetland restoration, visitor accommodations, or educational/scientific uses. The County has begun to update the Moss Landing Community Plan, although the analysis and public participation necessary to determine the best use for the National Refractories site will take time. Until the update can be completed, much of the site remains vacant and underutilized, including existing industrial buildings.

Coastal Act Section 30250(a) encourages development to occur within existing developed areas in order to limit impacts on coastal resources. Consistent with this policy, the amendment would

⁴ Coastal Act Section 30101 defines "coastal-dependent" as any development or use that requires a site on, or adjacent to, the sea to be able to function at all. Commercial cannabis activities can be undertaken in a wide variety of locations far from the sea and thus are not considered "coastal-dependent." However, to the extent allowance of commercial cannabis activities within the certified coastal-dependent industrial zones raises LUP or Coastal Act consistency issues, any apparent inconsistencies are *de minimis*/less than significant and non-prejudicial for the reasons discussed further in this Staff Report.

⁵ All other coastal-dependent designated areas within the County remain unchanged with respect to cannabis activities, i.e. such activities would continue to not be allowed.

⁶ A Superfund site is an area that has been contaminated by hazardous waste and identified by the United States Environmental Protection Agency as a site that poses a risk to human health and/or the environment. The National Refractories site has been remediated and deemed by the federal government as a site that does not need further cleanup action.

allow for limited commercial cannabis activities in order to utilize existing infrastructure and developed areas at the National Refractories site.

Furthermore, allowance of commercial cannabis activities at the National Refractories site is consistent with Coastal Act Section 30255 because it does not prejudice the policy in 30255 to prioritize coastal dependent developments over other developments on or near the shoreline. This is so because, although commercial cannabis is not a coastal-dependent use and the Coastal Act prioritizes coastal-dependent development, as discussed above the site currently remains unused, under-utilized, and other potential coastal-dependent uses have not come to fruition over a span of many years and thus allowing time-limited commercial cannabis activities will not prejudice coastal-dependent uses at this site. Instead, the amendment would allow for some of the existing infrastructure at the site to be put to a beneficial use while the Moss Landing Community Plan is updated (at which time land uses applicable to the project site, including the coastal-dependent zoning designation, can be re-evaluated) or for five years, whichever occurs first. Any inconsistency with allowing non-coastal dependent commercial cannabis activities on this coastal-dependent heavy industrial zoned site is *de minimis*/less than significant for the following reasons: any actual proposed commercial cannabis activities are still subject to a CDP requirement, at which time coastal resources can be protected on a fact- and case-specific basis; the time-limited allowance of commercial cannabis activities will occur within existing industrial buildings of one specific site zoned for heavy industrial use, so the potential for adverse impacts to coastal resources is not any greater than for the zoned allowed use. Furthermore, the amendment retains the coastal-dependent designation overlay on the site. Thus this amendment will not prejudice the development of long-range planning for the site and will retain the option for coastal dependent uses to occur at the site in the future, if found to be appropriate after further analysis and study.

In sum, the LUP amendment allows for time-limited commercial cannabis development to be located within existing heavy industrial infrastructure in the short term, while still retaining the potential for coastal-dependent uses at the National Refractories in the future, if deemed appropriate through the planning process. Thus the amendment can be found consistent with the Coastal Act.

IP Consistency Analysis

Land Use Plan Policies

The County's LCP has four certified Land Use Plan areas: North County, Del Monte Forest, Carmel, and Big Sur. The proposed amendment impacts land that is designated for commercial, agricultural, or industrial uses. Commercial designations are located throughout the County, while the vast majority of agricultural and industrial designated lands are located within the North County Planning area. Related LUP Policies include:

Del Monte Forest LUP Policy 87. Commercial development may be permitted when integrated with other visitor-serving facilities.

Big Sur LUP Policy 5.4.3.E.1. Development of new commercial uses serving community and visitor needs be directed to the existing Rural Community Centers of the Big Sur Valley, Lucia, Gorda, and Pacific Valley. Several commercial uses including the Rocky

Point Restaurant, Big Sur Inn, and Coast Gallery, are currently found outside the Rural Community Centers designated on the land use map and these are considered conforming uses under the plan. However, gasoline service stations, general stores, or similar highway-oriented commercial structures shall not be allowed outside of the rural community centers.

North County LUP Policy 4.3.1.K. General Commercial. *A wide range of commercial uses including merchandise and service facilities are allowed in this category. Small-scale commercial uses serving local neighborhoods are shown at specific locations on the plan map.*

North County LUP Policy 5.2.1.B.2. General Commercial. *General Commercial uses are shown on the plan map on both sides of Moss Landing Road. This designation provides the opportunity to combine commercial and residential uses. Antique shops, the Moss Landing Post Office and historical buildings such as the Pacific Coast Steamship Company, lend a special character to this area and should be preserved and upgraded. Opportunities for providing a motel, a small neighborhood grocery store and low-cost rental housing units exist on undeveloped or underdeveloped parcels in this area. Appropriate design and setback standards should be applied as a means of providing relief from "strip" development that can be an aesthetic nuisance to the community.*

North County LUP Policy 4.3.1.E. Agriculture Preservation. *Preservation of agricultural land for exclusive agricultural use is required. The designation is applied to the prime and productive agricultural lands where the area does not generally exceed an average 10 percent slope. Major importance is given to the preservation of large, continuous areas of agricultural land capable of long term productivity in order to protect its viability from encroaching conflicting land uses. Development of residences, accessory buildings and uses required for agricultural activities on the parcel is allowed. Development of non-agricultural facilities is not allowed. A minimum parcel size of 40 acres is allowed for land divisions for agricultural purposes.*

North County LUP Policy 4.3.1.F. Agricultural Conservation. *Conservation of viable agricultural land is emphasized. The Agricultural Conservation land use is applied to: a) relatively small pockets of prime agricultural soils (SCS Class I and II) that are not within or adjacent to the more extensive agricultural areas designated under the Agriculture Preservation category; b) upon application, other productive agricultural lands generally characterized by slopes over 10% and erodible soils once an agricultural management plan has been approved; and c) grazing lands where such a low intensity agricultural use is the most compatible use of an area. The Agricultural Conservation category is also applied to lands not in areas designated under the Agriculture Preservation land use category that are placed into agricultural preserve contracts. Agriculture-related uses and very low density residential use at one unit per 40 acres are allowed on the less agriculturally viable areas of the parcel. A minimum parcel size of 40 acres is required for subdivision.*

North County LUP Policy 4.3.1.L. Light Industry. *This includes such industries as fish processing, aquaculture processing, limited-scale boat building, boat repair, agriculture*

processing, and other agriculture-related or coastal dependent operations not engaged in heavy manufacturing or requiring extensive plants for operation.

North County LUP Policy 4.3.1.M. Heavy Industry. This includes such industries as PG&E's power plant and Kaiser Refractories in Moss Landing.

North County LUP Policy 4.3.1.O. Agricultural Industrial. Areas which provide for activities necessary to support agricultural, aquacultural, and farming industries while also maintaining compatibility with the rural agricultural character of the coastal zone. A minimum parcel size of 2.5 acres is required.

North County LUP Policy 5.2.1.A. Coastal Dependent Industry. The industries located in Moss Landing are generally dependent for their existence upon a location near the coastline, and as such are considered "coastal dependent". These industries include commercial fishing, aquaculture, energy facilities and manufacturing activities. Coastal dependent industries are given priority by the Coastal Act over other land uses on or near the coast. The intent of this plan is that these coastal dependent industrial facilities shall be encouraged to expand within existing sites, and shall be allowed reasonable growth consistent with the protection of the area's natural resources. If impacts to sensitive natural habitats cannot be avoided by future expansion of these facilities, then impacts must be mitigated to the maximum extent feasible.

In general, the various LUPs only allow for small scale visitor-oriented commercial businesses within commercial districts. For CAP-designated land, the North County LUP requires protection of productive agricultural land and prohibits development of non-agricultural facilities. (See North County LUP Policy 4.3.1.E.) For AC-designated land, the North County LUP emphasizes agricultural activities, but allows for non-soil-dependent and non-agricultural development within less agriculturally viable areas of a parcel. (See North County LUP Policy 4.3.1.F.) The North County LUP directs industrial activities toward AI, LI, and HI-designated land and demonstrates a preference for agricultural-related facilities within all industrial districts. Within Moss Landing, the North County LUP reserves industrial designated areas exclusively for coastal-dependent uses that rely upon a location near the coast for their existence. (See North County LUP Policy 5.2.1.A.) The North County LUP encourages a mixture of small-scale commercial and residential uses within Moss Landing commercial areas. (See North County LUP Policy 5.2.1.B.2.)

Consistency Analysis

In general, the proposed amendment adds certain commercial cannabis activities as allowable uses within appropriately zoned areas (see **Exhibit 1** for the proposed amendment language). For example, the amendment adds cultivation within the CAP zoning district, which is appropriate given that this district seeks to protect and foster the production of agricultural uses (which cannabis cultivation is essentially akin to). In addition, the amendment adds the retail sale of cannabis within the Coastal GC zoning district as an allowable use, which is an appropriate place to house commercial facilities selling cannabis products. The amendment thus designates specific types of commercial cannabis activities to particular zoning districts so as to ensure their compatibility with the coastal zone's unique geographies and resource considerations, as

opposed to a blanket allowance of all such activities anywhere and everywhere in the entire coastal zone. Furthermore, in addition to all other applicable LCP policies and standards, the amendment includes additional cannabis-specific development standards that must be met for various stages of commercial cannabis activities, including measures related to product security, odor control, water conservation, and energy conservation. The proposed amendment requires a CDP for any new commercial cannabis activity within the County. As part of the CDP process, any new commercial cannabis activity will be individually reviewed for consistency with all LUP policies (as amended) on a case-by-case basis, including those related to agriculture, biological resources, public access, water resources, coastal hazards, and archeological resources. The proposed amendment specifically states that any proposed cannabis activities must be consistent with all applicable land use designations and zoning district requirements. In this particular respect, the proposed amendment is consistent with the LUP because the amendment ensures LUP consistency for all new commercial cannabis activities. The proposed amendment includes a CDP exemption for non-commercial personal cannabis activities, as long as the non-commercial cannabis activities do not otherwise involve or constitute development as defined by the LCP (e.g. construction of a greenhouse or grading activities). Overall, the amendment represents a comprehensive regulatory program intended to be consistent with the recent Statewide legalization of recreational marijuana ensuring that cannabis activities are allowed in appropriate areas and subject to strict standards so as to protect coastal resources.

Cannabis retailers are defined as facilities that offer cannabis products for sale to the general public. The proposed amendment considers this use as similar to other general commercial uses and thus proposes to conditionally allow retailers within the GC and MLC zoning districts. The North County LUP states that a “wide range of commercial uses including merchandise and service facilities are allowed in this category.” (See North County LUP Policy 4.3.1.K.) Considering the broad and open-ended scope of allowable uses qualifying as “commercial” in these zoning districts, allowance of cannabis retail sales as proposed is consistent with the purpose of the GC and MLC zoning districts.

Cannabis cultivation includes the planting, growing, harvesting, curing, grading, or trimming of cannabis. The proposed amendment considers cannabis cultivation to be a “unique” agricultural use that requires specific regulations to address issues that are not typically applicable to other agricultural products, such as concerns related to security, access by underage persons, and odor control. Despite these cannabis-specific issues, the proposed amendment recognizes that cannabis is akin to other agriculture operations and thus allows cannabis cultivation within the LI, HI, AI, AC, and CAP zoning districts. The North County LUP places a high priority on agriculture, stating that agriculture “has contributed substantially to the region's economy, pattern of employment, quality of life, open space, and scenic quality.” The LUP specifically allows for agricultural-related operations, of which cannabis cultivation would qualify, within the LI, HI, and AI zoning districts. To address the unique concerns related to security, access, and odor controls that are specific to cannabis; the proposed amendment limits cannabis cultivation to indoor facilities only (i.e., no outdoor cannabis cultivation would be allowed in these zoning districts).

Although the LUP includes industrial zoning districts, the LUP states that “industrial development within the rural areas of the coastal zone is generally not appropriate” and

encourages the expansion of industrial uses within *existing* facilities. Additionally, the LUP requires land within the CAP zoning district to be reserved for agricultural uses and generally discourages the construction of structures except those necessary to support agricultural production. With respect to greenhouses, the North County LUP states that greenhouses that are “not on-site soil-dependent or which degrade soil capabilities shall not be located on prime and productive agricultural soils in the areas designated for Agricultural Preservation land use.” Because the proposed amendment only allows indoor cannabis cultivation, there is potential for the proposed amendment to encourage the construction of new industrial buildings within industrial zones or greenhouses within CAP land. However, the proposed amendment limits cannabis cultivation to within existing buildings or greenhouses legally established or permitted prior to January 1, 2016. The proposed amendment allows existing structures to be improved for cannabis activities, as long as the footprint of the existing building does not change. Thus, consistent with various LUP policies, the proposed amendment strikes a balance between encouraging agricultural production involving cannabis, limiting security and odor concerns, and ensuring that cannabis production does not lead to a proliferation of industrial buildings or greenhouses. Cannabis cultivation uses as proposed are therefore consistent with the LI, HI, AI, AC, and CAP zoning districts as described in the North County LUP.

Cannabis manufacturing is defined as when raw agricultural product is transformed into a concentrate, an edible product, or a topical product either directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. The proposed amendment considers this use as similar to other agricultural processing uses. The proposed amendment allows cannabis manufacturing within LI, HI, AI, AC, and CAP zoning districts. As described above, the LUP encourages agricultural-related industrial uses within the LI, HI, and AI zoning districts and thus adding cannabis manufacturing as an allowable use in these zoning districts is consistent with the LUP. The proposed amendment does not allow cannabis manufacturing in the MLC zoning district, an area that “provides the opportunity to combine commercial and residential uses” where manufacturing activities are not appropriate.

The amendment also proposes to allow cannabis manufacturing within the AC and CAP zoning districts. However, the CAP zoning district prohibits non-soil-dependent agricultural operations on prime agricultural land. While such uses are allowed within the AC zoning district, they are to be located on the least agriculturally viable areas of a parcel. Therefore, some types of agricultural product manufacturing processes may not be appropriate or allowable in the AC and CAP zoning districts, including large-scale industrial facilities that convert prime soils.⁷ However, in this case, the definition of cannabis manufacturing in the proposed amendment reflects the State of California’s broad definition of the term, which includes processes such as curing and oil extraction. These processes are currently allowed within the AC and CAP zoning districts for agricultural products that are grown on-site and are not typically considered an industrial agricultural manufacturing process outside of the cannabis context. Therefore, some types of small-scale cannabis manufacturing of cannabis products that are grown on-site may be

⁷ The LCP instead encourages agricultural processing and manufacturing in the Agricultural Industrial (AI) zoning district. The CAP district is generally meant solely for agricultural production (i.e. growing of food and fiber) due to the zone’s prime soils.

appropriate (e.g., that rely on curing and oil extraction), while other larger-scale end product manufacturing (such as operations with mechanized equipment for wholesale production) may not be allowable in the AC or CAP zoning districts. The proposed amendment requires that a CDP for cannabis manufacturing within the AC and CAP zoning districts shall also include a cultivation component, which is meant to ensure that the operation is tied to on-site agricultural cultivation uses (i.e. the manufactured product is grown on-site and thus tied to the land). Additionally, as explained above, cannabis manufacturing will only be allowed within existing greenhouses to ensure that prime agricultural land is not converted for this use. Finally, each CDP for cannabis manufacturing will be individually reviewed to ensure that the type of manufacturing proposed is consistent with the AC and CAP zoning districts' emphasis toward on-site soil-dependent agricultural uses. With the requirement that manufacturing be tied to on-site cultivation, may only occur within existing structures, and requires a CDP to ensure case-specific consistency of the proposed manufacturing use with the AC and CAP zoning districts, cannabis manufacturing in the AC and CAP zoning districts is consistent with the requirements of the North County LUP.

Cannabis distribution is defined as the transport of cannabis between two licensed entities. Cannabis testing is defined as a state-licensed facility that performs tests of cannabis and cannabis products. The proposed amendment considers these uses similar to other industrial distribution or laboratory testing facilities. North County LUP Policy 4.3.1.L allows for agricultural processing operations in areas designated and zoned for Light Industry (LI) and Heavy Industry (HI). North County LUP Policy 4.3.1.O allows for activities necessary to support agriculture to take place in Agricultural Industrial (AI) designated and zoned areas. The proposed amendment allows cannabis distribution and testing facilities within the LI, HI, and AI zoning districts. Agricultural distribution and product testing are both agriculture-related operations that are encouraged within the LI, HI, and AI designated and zoned areas. Thus the proposed cannabis distribution and testing uses that would be allowed in the LI, HI, and AI designated and zoned areas are consistent with North County LUP Policies 4.3.1.L and 4.3.1.O. However, the North County LUP designates LI and HI areas within Moss Landing exclusively for coastal-dependent industrial uses where cannabis activities are generally not appropriate. Therefore, cannabis distribution is generally allowed within LI and HI zoning districts, except for areas designated for coastal-dependent uses situated within Moss Landing. The proposed LUP amendment, however, would allow limited commercial cannabis uses within the former Kaiser National Refractories site for a limited period of time, which does not raise a significant issue with respect to conformity with Chapter 3 as discussed in more detail above.

Overall, the amendment represents a comprehensive regulatory program to ensure that commercial cannabis activities are only allowed in appropriate areas and subject to strict standards so as to protect coastal resources. The amendment requires a CDP for all commercial cannabis uses to ensure that future cannabis-related development is consistent with the proposed regulatory framework. Thus the proposed amendment can be found consistent with the County's certified LUPs.

C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Coastal Commission's review and development process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the

environmental review required by CEQA. (*See* 14 CCR Section 15251(f).) Local governments are not required to undertake environmental analysis of proposed LCP amendments (*see* Pub. Res. Code Section 21080.9; *see also* 14 CCR Section 15265(a)(1)), although the Commission can and does use any environmental information that the local government has developed in certifying LCP amendments consistent with Coastal Act and CEQA requirements. CEQA requires that alternatives to the proposed action be reviewed and considered for their potential impact on the environment and that the least damaging feasible alternative be chosen as the alternative to undertake.

Monterey County adopted a Negative Declaration for the proposed LCP amendment on May 19, 2016 and in doing so found that the amendment would not have significant adverse environmental impacts. This report has discussed the relevant coastal resource issues with the proposal including those related to land use and agricultural resources. All above findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment would have on the environment within the meaning of CEQA. Thus, the proposed amendment will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).