



CITY OF FORT BRAGG
Incorporated August 5, 1889

Initial Study/Negative Declaration

Amendments to the City of Fort Bragg Municipal Code
Chapter 9.30 Cannabis Businesses and Title 18 Inland
Land Use Development Code to Regulate Cannabis
Businesses

February 16, 2022

Project title: Amendments to the City of Fort Bragg Municipal Code Chapter 9.30 Cannabis Businesses and Title 18 Inland Land Use Development Code to Regulate Cannabis Businesses.

Lead Agency Name and Address:
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Project Location: Inland Industrial (Light and Heavy) Zones and Inland Central Business District, General Commercial, and Highway Visitor Commercial Zones

Project Sponsor's Name and Address:
City of Fort Bragg
416 N. Franklin St. Fort Bragg, CA 95437

General Plan Designation: Industrial (Light and Heavy), Commercial (Central Business District, General and Highway Visitor Commercial)

Zoning: Industrial (Light and Heavy), Commercial (Central Business District, General and Highway Visitor Commercial)

Surrounding land uses and setting: The industrial and Commercial inland zones are surrounded by other zones including coastal and non-coastal zoning (See Figure 1).

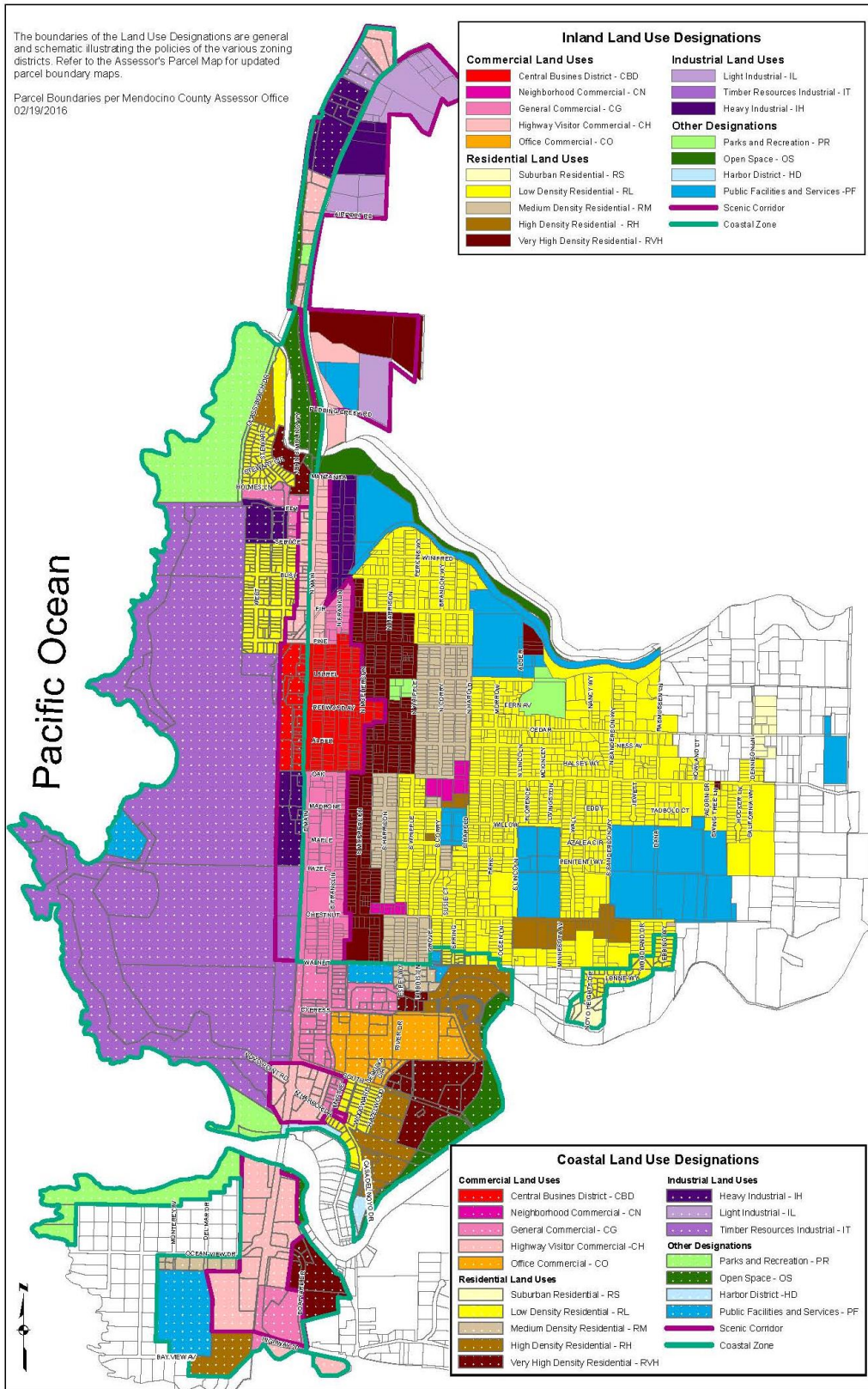
Other public agencies whose approval is required: None

Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1?

No, because this is a policy decision that does not affect a specific site.

This document was prepared by the City of Fort Bragg Community Development Department in consultation with Metropolitan Planning Group.

Figure 1: City of Fort Bragg Zoning Map



PROJECT DESCRIPTION:

The existing regulations for a CBP are established by Municipal Code Chapter 9.30. The proposed project establishes land use regulations pertaining to commercial cannabis cultivation (cannabis cultivation) in the industrial zones and makes minor modifications to existing regulations for commercial cannabis activity in commercial zones. These proposed changes only apply to the Inland Land Use and Development Code which regulates the inland area of Fort Bragg (see Figure 1). It also provides minor modifications to the City of Fort Bragg Municipal Code Chapter 9.30 Cannabis Businesses.

All commercial cannabis activity requires a discretionary Cannabis Business Permit (CBP) and will continue to be discretionary under the proposed municipal code changes. CBP applications are and will continue to be subject to review under the California Environmental Quality Act (CEQA). At the time an application is received and deemed complete, the City will conduct an Initial Study to determine the appropriate level of CEQA review. Some future Cannabis projects may qualify for one or more CEQA exemption pursuant to CEQA Guidelines Section 15300 provided that none of the exceptions set forth in 15300.2 apply.

The proposed project will amend four sections of the Inland Land Use and Development Code (ILUDC) to provide land use regulations for commercial cannabis cultivation and existing regulations for cannabis business activities in commercial zones. See the following attachments for the draft proposed amendments:

Attachment A	Proposed Amendments to City of Fort Bragg Municipal Code Chapter 9.30 Cannabis Businesses
Attachment B	Proposed Amendments to ILUDC Chapter 2 Including Revised Section 18.22.030 Commercial District Land Uses and Permit Requirements and Revised Section 18.42.030 Industrial Land Uses and Permit Requirements
Attachment C	Proposed Amendments to ILUDC Chapter 4 Including New §18.42.055 Cannabis Cultivation, Revised §18.42.057 Cannabis Retail, and New §18.42.058 Cannabis Microbusiness
Attachment D	Proposed Amendment to ILUDC Chapter 10 Definitions Including New and Revised Definitions in §18.100.020

The proposed changes to the Municipal Code Chapter 9.30 will:

- Add §9.30.130(H) which establishes a 100 foot buffer between schools and youth centers and cannabis dispensaries.
- Add §9.30.150 Retail Cannabis Retail Requirements which will:
 - Reduce allowable operating hours for cannabis retail to 7:00 am – 7:00 pm
 - Relocates existing regulations regarding employee, record keeping, photo identification, on-site consumption, and drive through operations from

ILUDC §18.42.057 to the Municipal Code Chapter 9.30 Cannabis Businesses.

The proposed changes to the ILUDC Chapter 2 §18.22.030 Commercial Districts include:

- The addition of Cannabis – Indoor Nursery Cultivation is added to Table 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts (Table 2-6) in the Central Business District, General Commercial, and Highway/Visitor Commercial. The permit requirements are set by specific use regulations in §18.42.055, §18.42.057, and §18.42.058.
- The addition of Cannabis Microbusiness as a new use to Table 2-6 and is allowed with a Minor Use Permit in the Central Business District, the General Commercial, and Highway Visitor Commercial zones in accordance with Chapter 9.30 of the Municipal Code and the standards for specific land uses in §18.42.058.
- Cannabis Retail is changed from Conditional Minor Use Permit to “Permit requirement set by Specific Use Regulations” for the Central Business District, General Commercial Zone, and Highway Visitor Commercial. The specific land use standards in §18.42.057 allow cannabis retail as a permitted use with an approved CBP.
- Foot note (3) is added to Table 2-6 Cannabis Retail in the Central Business District which limits the total number of cannabis dispensaries to three in the zone. There are no limitations to the number of dispensaries in other zones.

The proposed changes to the ILUDC Chapter 2 §18.24.030 includes the following changes to Table 2-10 Allowable Land Uses and Permit Requirements for Industrial Zoning Districts:

- Addition of Cannabis - Indoor Nursery Cultivation, Cannabis – Indoor Cultivation of Mature Plants, and Cannabis Microbusiness with a conditional Minor Use Permit in the Light Industrial and Heavy Industrial Zones.
- Cannabis Retail is added as an allowable accessory use in the Light and Heavy Industrial Zones.

The proposed changes to the ILUDC Chapter 4 includes:

- The addition of §18.42.055 which provides specific Land Use Standards for Cannabis Cultivation.
- Revisions to §18.42.057 Cannabis Retail:
 - Relocation of existing operating standards and requirements to the Municipal Code Chapter 9.30;
 - Cannabis retail is allowed as a permitted/allowable use (with a discretionary Cannabis Business Permit) in the Central Business District, General Commercial Zone, and Highway Visitor Commercial Zone;
 - Accessory use section is revised to provide necessary clarification on what accessory uses are allowed and how a retail business with an accessory use is distinguished from a microbusiness.

- The addition of §18.42.058 Cannabis Microbusinesses which provides specific land use standards for cannabis microbusinesses.

The proposed changes to ILUDC §18.100.020 adds definitions for cannabis cultivation, cannabis microbusiness, and other definitions necessary to support regulations of these activities.

The proposed project will amend Municipal Code Chapter 9.30 and the Inland Land Use and Development Code to add regulations for a new conditionally allowable use in industrial zones (cannabis cultivation), and will make minor modifications to the existing regulations for cannabis business activities in commercial zones.

Setting

The City of Fort Bragg is located on California's North Coast in Mendocino County. The proposed project is for the non-coastal zoned areas of the City, referred to as "inland."

The City lies within the Coastal Franciscan Ecological Subsection of California (Miles and Goudey, 1997). This subsection is a steep, mountainous area of the northern California Coast Ranges, near the coast, south from Humboldt Bay to the Russian River. There is substantial oceanic influence on climate, including summer fog. The subsection is particularly mountainous, with rounded ridges, steep and moderately steep sides, and narrow canyons. The mean annual precipitation in this subsection is about 40 to 110 inches, with mostly rain at lower elevations. Runoff is rapid and many of the smaller streams are dry by the end of summer. Natural lakes are absent from the Coastal Franciscan Ecological Subsection (Miles and Goudey, 1997).

Located in the far west of the Noyo River Basin, the inland area of the City is mostly north of the Noyo River and south of Pudding Creek, with a small portion of the inland zone extending north on the east side of Highway 1. (See Figure 1) The City is approximately 2.85 square miles, 1/3 of which is the former Georgia Pacific Mill site in the coastal zone.

The City sits atop the coastal bluffs and the vegetation is characterized by Redwood forests, riparian stream habitat, and coastal/dune grasslands. The City has a diversity of wildlife which may include deer, mountain lions, bear, coyotes, bats, frogs, newts, and several species of shore birds. The US Fish and Wildlife Service notes the potential presence of several endangered or threatened species including the Pacific Marten, the Marbled Murrelet, the Northern Spotted Owl, Western Snowy Plover, Yellow-Billed Cuckoo, California Red-legged Frog, the Tidewater Goby, Behren's Silverspot Butterfly, Lotis Blue Butterfly, and the Monarch Butterfly. There is one critical habitat identified in the City limits for the Tidewater Goby in the estuary of Pudding Creek. (USFW, 2022)

The population of Fort Bragg is approximately 7,000 people. While it is small, it is the largest city on the coast between San Francisco and Eureka and is a popular tourist and recreational destination. The City is considered an Urban Cluster by the US Census. The City's population density is 2,586 people per square mile.

Most areas in the inland industrial and commercial zones in the City limits, east of Highway 1, south of Pudding Creek and north of the Noyo River are developed. However, there are some ruderal vacant lots and some open space. The City's development is typically either redevelopment of existing lots or infill development on lots surrounded by urban uses. The exception is to the north of Pudding Creek and south of the Noyo River. The City purchased 90 acres on the former Georgia Pacific Mill site and converted the area to public access trails and open space in perpetuity.

Commercial land uses in the City are located along the State Highway 1 and Franklin Street corridors. The Central Business District, located between Oak Street and Pine Street, is the historic, civic and cultural core of the community. Industrial lands are located on the Georgia-Pacific mill property located west of State Highway 1, on North Franklin Street, north of the General Commercial, and on State Highway 1 north of Pudding Creek. Residential neighborhoods are located east of the commercial core and in the west Fort Bragg area. See Figure 1 for the City's Zoning Map.

Land Use Setting

Approximately 47% of the City's land is outside of the coastal zone and under the jurisdiction of the Inland General Plan and the Inland Land Use Development Code.

The Inland zone of the City has a full range of land uses including low to high density residential, retail and service commercial, manufacturing, public facilities, recreation, and open space. The Inland General Plan Land Use Element establishes policies and programs to maintain the existing pattern of land uses within the City while anticipating and providing for future growth and development.

The 2012 Inland General Plan Land Use Element includes the following land use designations for the Inland area of the City:

- Large Lot Rural Residential (RR5)
- Medium Lot Rural Residential (RR2)
- Rural Residential (RR1)
- Suburban Residential (RS)
- Low Density Residential (RL)
- Medium Density Residential (RM)
- High Density Residential (RH)
- Very High Density Residential (RVH)
- Central Business District (CBD)
- Neighborhood Commercial (CN)
- General Commercial (CG)
- Highway Visitor Commercial (CH)
- Office Commercial (CO)
- Heavy Industrial (IH)
- Light Industrial (IL)
- Parks and Recreation (PR)
- Agriculture (A)
- Open Space (OS)
- Public Facilities and Services (PF)

These land use designations are implemented by the City's zoning regulations established by the Inland Land Use and Development Code provided in Chapter 18 of the Fort Bragg Municipal Code and Zoning Map.

The City's current zoning designations including both coastal and inland include the following general categorizations of zones:

Zone Type	Geographic Coverage
Commercial	16%
Industrial	28%
Residential	35%
Open Space, parks, rec	11%
Public Facilities	9%

The following table shows the total square footage of each zone and the percentage of that zone located in the coastal zone versus the inland zone:

Zone	Total Area (sq ft)	Inland %	Coastal %
Central Business District	2,212,699	70%	30%
General Commercial	4,091,909	47%	53%
Highway Visitor Commercial	4,550,241	24%	76%
Neighborhood Commercial	293,009	100%	0%
Office Commercial	1,525,708	0%	100%
Light Industrial	2,069,224	90%	10%
Heavy Industrial	2,433,546	40%	60%
Timber Resources Industrial	18,210,066	0%	100%
Very High Density Residential	5,669,689	66%	34%
High Density Residential	2,718,734	25%	75%
Medium Density Residential	2,951,830	85%	15%
Low Density Residential	16,473,745	83%	17%
Suburban Residential	478,664	59%	41%
Open Space	5,186,303	59%	41%
Parks and Recreation	3,938,721	11%	89%
Public Facilities and Services	6,923,696	80%	20%
Harbor District	179,265	0%	100%

Regulatory Setting for Commercial Cannabis Cultivation

The regulatory environment for cannabis is complex. In 1937, the federal government enacted the Marihuana Tax Act which did not prohibit cannabis, but instead instituted a heavy tax. With the onset of the “war on drugs, Congress enacted the Comprehensive Drug Abuse Prevention and Control Act of 1970 which included Title II, the Controlled

Substances Act (CSA). This legislation established five schedules for controlled substances. It was under this act that cannabis was listed as a Schedule I Narcotic. (League of California Cities, 2021)

Cannabis is still considered a Schedule 1 Narcotic at the Federal Level, which limits the industry's ability to bank and participate in certain aspects of the financial system. Despite legalization, the CSA is still enforceable in California. Enforcement of the CSA has been dependent on the leadership of the executive administration. For example, the Cole Memo was issued by the Department of Justice in 2013. It provided policy guidance on where to focus federal enforcement and directed enforcement away from operations legalized by states. However, in 2018, a memo issued by a new administration under then Attorney General Jeff Sessions rescinded the Cole Memo and removed any "deprioritization" of operations legalized by states. (League of Cities, 2021)

Shortly after the Federal adoption of the CSA, the State of California passed the California Uniform Controlled Substances Act (USCA) in 1972. Article 2 of this legislation set criminal prohibitions and penalties for the possession, cultivation, transportation, and distribution of cannabis. (League of Cities, 2021)

In 1996, the voters of California passed the Compassionate Use Act, also known as Proposition 215, which allowed qualified patients and or caregivers to cultivate and or possess cannabis with a written or oral recommendation or approval from a physician. This act did not decriminalize cannabis. In 2003, the state passed the Medical Marijuana Program Act (MMPA) to provide for the safe and affordable distribution of medical marijuana. (League of Cities, 2021)

In 2015, AB 243, AB 266, and SB 643, cumulatively known as Medical Marijuana Regulation and Safety Act (MMRSA), was passed. The legislation was intended to provide a regulatory framework for the medicinal cannabis industry that would begin in 2018.

In 2016, the Adult-Use Marijuana Act (AUMA) was passed in a general election. AUMA created a regulatory framework for commercial cannabis activities and most notably decriminalized medicinal and recreational use.

In order to harmonize the two codes, the State adopted SB 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MACURSA). The act also amended other state codes to include provisions for cannabis, including the Food and Agriculture Code and the Health and Safety Code. (League of Cities, 2021)

Commercial Cannabis Cultivation is regulated by the State of California Business and Professions Code Division 10. Cannabis [26000-26260] which is implemented and enforced by the Department of Cannabis Control (DCC). In September of 2021, the DCC adopted updates to the Medical and Adult-Use Commercial Cannabis Regulations California Code of Regulations Title 4 Division 19. Department of Cannabis Control. In order for any business to be able to conduct any type of legal cannabis activity in the City of Fort Bragg, they must get a license from the State of California through the DCC

and comply with State law and regulations. (DCC, 2022) This includes §16304. General Environmental Protection Measures which says:

(a) All licensed cultivators shall comply with all of the following environmental protection measures:

(1) Principles, guidelines, and requirements adopted pursuant to section 13149 of the Water Code and implemented by the State Water Resources Control Board, Regional Water Quality Control Boards, or California Department of Fish and Wildlife;

(2) Any conditions of licensure included pursuant to section 26060.1(b)(1) of the Business and Professions Code;

(3) Requirements of section 7050.5(b) of the Health and Safety Code if human remains are discovered during cultivation activities;

(4) Requirements for generators pursuant to section 16306;

(5) Requirements for pesticides pursuant to section 16307;

(6) Outdoor lights used for safety or security purposes are shielded and downward facing; and

(7) Lights used for indoor or mixed-light cultivation are shielded from sunset to sunrise to reduce nighttime glare.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26060, 26066 and 26201, Business and Professions Code.

The City of Fort Bragg Municipal Code regulates Cannabis Businesses in Chapter 9.30. The Code allows for cultivation, processing, manufacturing, distribution, and retail cannabis activity with a discretionary Cannabis Business Permit. Currently, the Coastal Land Use Development Code does not allow cannabis cultivation in the coastal zone, and the proposed changes only apply to the inland zones in Fort Bragg. Commercial cannabis manufacturing is currently allowed in the industrial zones, as is wholesaling and distribution. The proposed amendments to the code will only allow for indoor commercial cannabis cultivation, outdoor commercial cultivation will not be allowed.

The City of Fort Bragg Inland General Plan describes the following Industrial Zones:

Heavy Industrial (IH) - This designation is intended for a range of heavy industrial uses including manufacturing, assembly and processing, and the storage and distribution of raw materials, aggregate plants, and related heavy industrial uses which are generally incompatible with and require locations removed from residential and visitor serving uses.

Light Industrial (IL) - This designation is intended for a variety of commercial, manufacturing, wholesale and distribution, and industrial uses which do not generate a significant amount of on-site customer traffic or high levels of noise, dust, odors, or other potential off-site nuisance characteristics. Manufacturing uses are permitted provided they occur

within an enclosed structure. Other uses permitted in this designation include offices ancillary to permitted uses, agricultural product sales and services, construction yards, and automobile repair shops.

Furthermore, the Inland General Plan provides the following description of Industrial Land:

The lumber and fishing industries have played an important role in the formation and growth of Fort Bragg. Both of these industries are in transition, and the local economy is evolving from a natural resource-based economy to a more service-oriented economy. Fort Bragg is the commercial, educational, medical, and professional service center for a large portion of the Mendocino coast. Future growth in the local economy is projected to occur in the retail, tourism, and service sectors.

The Inland General Plan is intended to support the growth and vitality of existing industries while ensuring that the community is prepared to actively participate in the decision-making process as new industries develop in Fort Bragg and as current industrial lands transition to other uses.

The Inland Land Use and Development Code §18.24.010 provides the following purposes for IL and IH which are consistent with the Inland General Plan:

A. IL (Light Industrial) zoning district. The IL zoning district is applied to areas of the City that are appropriate for a variety of commercial, manufacturing, wholesale and distribution, and industrial uses that do not generate significant customer traffic or high levels of noise, dust, odors, or other potential off-site nuisance characteristics. Allowable manufacturing uses and activities must be entirely within enclosed structures. The maximum floor area ratio (FAR) is 0.40. The IL zoning district implements and is consistent with the IL land use designation of the General Plan.

B. IH (Heavy Industrial) zoning district. The IH zoning district is applied to areas of the City that are appropriate for a range of heavy industrial including manufacturing, assembly and processing, the storage and distribution of raw materials, aggregate plants, and related industrial uses that are generally compatible with and require locations removed from residential and visitor serving uses. The maximum floor area ratio (FAR) is 0.40. The IH zoning district implements and is consistent with the IH land use designation of the General Plan.

As stated in §9.30.140(A) of the City's Municipal Code, *Commercial cannabis shall be cultivated only in a fully enclosed and secured structure (FESS). Commercial cannabis cultivation that occurs within a greenhouse that meets the criteria for a FESS shall not be visible from any public right-of-way.*

Commercial indoor cultivation of cannabis shall be fully contained in indoor sites. This type of cultivation is consistent with the purpose and currently allowable activities in industrial zones. It is comparable with other permissible uses (no conditional permit

required) for which industrial zoned land could be developed. For example, both fish processing is permitted by right in both Industrial Light and Industrial Heavy Zones as is light manufacturing (defined in the Inland Land Use and Development Code Chapter 10):

*Manufacturing/Processing - Light. A facility accommodating manufacturing processes involving and/or producing: apparel; food and beverage products; electronic, optical, and instrumentation products; ice; jewelry; and musical instruments. Light manufacturing also includes other establishments engaged in the assembly, fabrication, and conversion of already processed raw materials into products, where the operational characteristics of the manufacturing processes and the materials used are unlikely to cause significant impacts on surrounding land uses or the community. Also includes cannabis manufacturing and processing facilities with similar operational characteristics to the examples below... (see **ATTACHMENT D** ILUDC §18.100.020 Definition for Manufacturing for complete definition.)*

ILUDC Chapter 18.72 Environmental Impact Assessment and Mitigation Monitoring implements the requirement to CEQA by providing the City with criteria, objectives, principles, and procedures for applying the requirements of CEQA to proposed projects. §18.72.040 notes that *the chapter is not intended to replace CEQA, and full compliance with CEQA is required regardless of the provisions of the chapter.*

This confirms that any project involving cannabis, which requires a cannabis business permit, is a discretionary action and subject to CEQA §21080(a) which states that:

“Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits, and the approval of tentative subdivision maps unless the project is exempt from this division.”

Local Regulatory Setting for Retail and Microbusiness

The proposed amendments to cannabis retail do not change what activities are allowable, but rather makes minor modifications to existing regulations for cannabis business activities in commercial zones. While the proposed changes create a definition for a cannabis microbusiness, the original intention of the existing code was to allow this activity. The current Accessory Use description in the ILUDC §18.42.057(E) states:

Accessory uses. As defined in Article 10, accessory uses are customarily incidental to, related and clearly subordinate to a primary use on the same parcel, which does not alter the primary use. Uses accessory to cannabis retail facilities may be allowable pursuant to the permitting requirements in Article 2. Accessory uses may include activities that require multiple State cannabis licenses, including, but not limited to, manufacturing, distribution, cultivation and/or processing. In no instance shall cannabis manufacturing using volatile solvents be allowable as uses accessory to cannabis retail uses.

The proposed modification to accessory uses does not change which uses are allowed but clarify the regulation of these uses. The proposed revisions to the accessory use definition as forth in §18.42.057(C) (formerly (E)) states:

Accessory uses. *As defined in Article 10, an accessory use is customarily incidental to, related and clearly subordinate to a primary use, on the same parcel, which does not alter the primary use as defined in Article 10. A cannabis business with more than one accessory use, or with another use that does not qualify as accessory, shall be considered a microbusiness and subject to section 18.42.058. A retail business may still be considered retail with two accessory uses only if one of the uses is “onsite distribution” as defined in Article 10. Accessory uses are determined by the definitions in Article 10.*

1. *The following uses are allowable as accessory uses to cannabis retail:*

Zone	Allowable Accessory Uses
<i>Central Business District</i>	<i>Nursery (non-flowering) cultivation; Artisan/craft manufacturing of cannabis products; Retail Delivery; On-Site Distribution;</i>
<i>Highway Visitor Commercial</i>	<i>Nursery (non-flowering) cultivation; Processing; Manufacturing (non-volatile); Distribution and Wholesale; Retail Delivery; On-Site Distribution;</i>
<i>General Commercial</i>	<i>Nursery (non-flowering) cultivation; Processing; Distribution and Wholesale; Manufacturing (non-volatile); Retail Delivery; On-Site Distribution;</i>

2. *In no instance shall cannabis manufacturing using volatile solvents be allowable as an accessory use to cannabis retail.*

The definition for “on-site distribution” is proposed for Article 10 as:

On-Site Distribution. *The movement of cannabis products from either nursery cultivation, processing, or manufacturing conducted on-site to a licensed retail-cannabis operation at the same site. Cannabis sold wholesale or distributed to offsite retail is classified under wholesale and distribution.*

The uses are the same, so there are no new uses, the change in the section provides clarifications. The allowable accessory uses remain unchanged, rather the language is more detailed to provide necessary clarification.

In addition to clarifying the difference between a retail business with accessory uses and a cannabis microbusiness, the conditional use permit requirements originally established in §18.42.057 Cannabis Retail would be relocated to Municipal Code Chapter 9.30 Cannabis Businesses. The change reflects the fact that Cannabis Business Permits (CBP) have to be renewed annually, whereas a land use permit runs with the land in perpetuity. The relocation of this criteria does not change the existing regulations, but instead changes where they are applied and further protects the public by including these requirements in the annual inspection. By moving the regulations to Chapter 9.30, the City is better able to monitor and enforce operating standards and ensure that projects are following the rules established to protect the health and safety of the public.

Additionally, there have been two retail cannabis dispensaries approved in the City of Fort Bragg. Neither of the existing dispensaries have had impacts on the surrounding area. As reported to Community Development staff by the staff of the Police Department, there have been no elevated reported complaints, calls for service, or otherwise increased demands for city services relative to other types of businesses. The presence of the existing cannabis dispensaries demonstrate compatibility with the general plan designation and zoning for commercial activity.

The addition of §18.42.058 Cannabis Microbusinesses creates regulations for cannabis businesses in commercial and industrial zones. While this is a new classification, all uses are already in the code under Section 18.42.057(E) for retail, with the exception of the classification for industrial zones where mature cannabis cultivation is allowed. The difference, as mentioned above, is the distinction between retail with an accessory use and a microbusiness. A microbusiness may allow for a greater portion of a commercial building to be used for non-retail cannabis activity, but it also requires that there is a primary retail frontage and that the microbusiness shall not create significant noise, odor, traffic, or any other kind of public nuisance. These regulations ensure that the non-retail components of a retail cannabis business or microbusiness will not have impacts on the zone or create compatibility issues.

The proposed project will amend the City of Fort Bragg's Municipal Code Chapter 9.30 Cannabis Businesses, and Chapter 2, Chapter 4, and Chapter 10 of the Inland Land Use and Development Code to regulate commercial cannabis cultivation in the City of Fort Bragg and to make minor modifications to existing regulations for cannabis business activities in commercial zones. It will not change the physical nature (size or location) of the zones where the uses are currently or would be allowed under the proposed municipal code amendment. This project does not propose any changes to the standards established to protect the health and safety of the public, or the environment, and it does not propose any physical development.

References

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ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a “Potentially Significant Impact” as indicated by the checklist on the following pages.

- | | | |
|--|---|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture and Forestry Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Energy |
| <input type="checkbox"/> Geology /Soils | <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards & Hazardous Materials |
| <input type="checkbox"/> Hydrology / Water Quality | <input type="checkbox"/> Land Use / Planning | <input type="checkbox"/> Mineral Resources |
| <input type="checkbox"/> Noise | <input type="checkbox"/> Population/Housing | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation | <input type="checkbox"/> Tribal Cultural Resources |
| <input type="checkbox"/> Utilities Service Systems | <input type="checkbox"/> Wildfire | <input type="checkbox"/> Mandatory Findings of Significance |

DISCUSSION:

(See following document)

DETERMINATION:

On the basis of this initial evaluation:

I find that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.

I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.

I find that the proposed project **MAY** have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.

I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or **NEGATIVE DECLARATION** pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or **NEGATIVE DECLARATION**, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.



Signature

February 17, 2022

Date

TABLE OF CONTENTS

Aesthetics.....	20
Agricultural and Forestry Resources	23
Air Quality.....	29
Biological Resources.....	34
Cultural Resources.....	43
Energy.....	50
Geology and Soils	54
Greenhouse Gases	64
Hazards and Hazardous Materials	68
Hydrology and Water Quality	74
Land Use and Planning.....	85
Mineral Resources	93
Noise	95
Population and Housing	98
Public Services.....	101
Recreation.....	105
Transportation	107
Tribal Cultural Resources.....	113
Utilities and Service Systems.....	116
Wildfire	121
Mandatory Findings of Significance.....	128

List of Figures

Figure 1: City of Fort Bragg Zoning Map	3
Figure 2: Inland Industrial and Commercial Zones in the City of Fort Bragg	26
Figure 3: Industrial Zones and Important Farmland	27
Figure 4: Inland General Plan Map OS-2	39
Figure 5: Critical Habitat In the City of Fort Bragg	42
Figure 6: Geologic Map of the City of Fort Bragg	56
Figure 7: Earthquake Shaking Potential Map	57
Figure 8: California Landslide Inventory Map in Fort Bragg	58
Figure 9: Inland General Plan Map SF-1 Geologic Hazards	62
Figure 10: 303d Listed Waterways in the City of Fort Bragg	76
Figure 11: Flood Risk Map of the City of Fort Bragg	77
Figure 12: Inland General Plan Map SF-3 Tsunami Inundation Map	78
Figure 13: Inland General Plan Map LU-1 Land Use Designations	87
Figure 14: City of Fort Bragg Land Use Zoning Map	88
Figure 15: Map of Public Facilities in the City of Fort Bragg	104
Figure 16: Inland General Plan Map C-1 Existing Roadway System	109
Figure 17: High Risk Fire Zones in the City of Fort Bragg	123
Figure 18: California Public Utilities Commission High Fire Threat Map	124
Figure 19: City of Fort Bragg Evacuation Map	125

Aesthetics

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>i. AESTHETICS. Except as provided in Public Resources Code Section 21099, would the project:</p>				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Regulatory Setting

Visual character is a description (not evaluation) of a site, and includes attributes such as form, line, color, and texture. Visual quality is the intrinsic appeal of a landscape or scene due to the combination of natural and built features in the landscape. Visual sensitivity is the level of interest or concern that the public has for maintaining the visual quality of a particular aesthetic resource and is a measure of how noticeable proposed changes might be in a particular scene and is based on the overall clarity, distance, and relative dominance of the proposed changes in the view, as well as the duration that a particular view could be seen.

The State of California's Public Resources Code §21081.3 (CEQA Statute) provides regulatory authority for the aesthetic impacts of a proposed project. (AEP, 2021)

Additionally, for cannabis businesses the Department of Cannabis Control Medicinal and Adult Use Commercial Cannabis Regulations §16304(a)(6,7) require that *outdoor*

lights used for safety or security purposes are shielded and downward facing; and lights used for indoor or mixed-light cultivation are shielded from sunset to sunrise to reduce nighttime glare. (DCC, 2021)

The City's Inland General Plan, Inland Land Use Development Code, and Citywide Design Guidelines provide the regulatory framework for aesthetics. Specifically, the City of Fort Bragg Inland Land Use and Development Code §18.71.050 Design Review provides the regulatory framework for reviewing the visual aspects of a project. The purpose of design review is *to ensure that the design of proposed development and new land uses assist in maintaining and enhancing the small-town, coastal, historic, and rural character of the community.*

Applications for Design Review must meet the following criteria:

1. *Complies with the purpose and requirements of this Section;*
2. *Provides architectural design, building massing, and scale appropriate to and compatible with the site surroundings and the community;*
3. *Provides attractive and desirable site layout and design, including building arrangement, exterior appearance and setbacks, drainage, fences and walls, grading, landscaping, lighting, signs, etc.;*
4. *Provides efficient and safe public access, circulation, and parking;*
5. *Provides appropriate open space and landscaping, including the use of water efficient landscaping;*
6. *Is consistent with the General Plan, any applicable specific plan; and*
7. *Complies and is consistent with the City's Design Guidelines.*

The Citywide Design Guidelines complement the standards contained in the City of Fort Bragg Inland Land Use and Development Code by providing good examples of appropriate design solutions, and by providing design interpretations of the various regulations. The guidelines are less quantitative and rigid than the mandatory development standards of the Development Code, and may be interpreted with some flexibility in the application to specific projects.

Additional regulations for historic features noted in the Cultural Resources section of this document also provide additional regulations that may also regulate aesthetics.

Discussion

The adoption of the proposed ordinances would not change the design guidelines or design review process outlined in the City's Inland Land Use and Development Code 18.71.050, which is intended to ensure that the design of proposed development and redevelopment maintain and compliment the small-town, coastal, historic, and rural character of the community. Under the proposed code amendments, a new cannabis business that proposes to construct a new structure will be subject to design review and the design guidelines. If a cannabis business proposes substantial changes to the exterior of an existing building it will also be subject to design review. The proposed code specifies that the cultivation of cannabis must take place in a fully enclosed and secure structure and cannabis shall not be visible from a public right of way, and the

cultivation should not appear any different from other buildings in the same district as it will have to conform to the design guidelines or be an already existing structure.

The City's design review process requires adherence to established design guidelines and provides that the review authority can support findings demonstrating conformance with identified project review criteria. Therefore, the proposed changes to the Inland Land Use and Development Code, establishing regulation for Cannabis Cultivation, will not have a significant impact on the aesthetics of the City of Fort Bragg.

In order to reduce energy uses, some future CBP applications may propose to do a mixed-light cultivation allowing natural light to enter via a greenhouse style ceiling, clearstory, or skylights. This type of architectural design allows for indoor spaces to be readily viewable from outside, and could potentially result in "light pollution" at night if indoor lighting is used past sunset. CBP applications proposing a mixed light cultivation, will be required to address lighting through the plan review process to ensure that the project does not result in light or glare that will impact nighttime views resulting in significant environmental impacts per the CEQA Statute §21081.3(a)(5).

Each cannabis business application will be reviewed under the City's Design Review process which includes regulations on "outdoor lighting" in ILUDC §18.30.070. Further, all future proposed cannabis cultivations are subject to a conditional use permit, which is a fully discretionary process and will be subject to CEQA including an analysis of the individual project to determine whether it will adversely affect day or nighttime views in the area. Of consideration will be the proposed lighting plan including the use of artificial lights in operations, the type of lighting, and the extent of lighting. If a future Cannabis Cultivation application has the potential to conflict with the City's outdoor lighting regulation, it would be considered a potentially significantly impact due to excessive light pollution, and the project application would be required to be revised and mitigation imposed. The effectiveness of the mitigation addressing light pollution on a future CBP application would be assessed at that time. Applications that comply with the City's outdoor lighting standards would result in less than significant impacts due to light pollution.

The proposed change in the Inland Land Use and Development Code establishes regulation for commercial cannabis cultivation uses in the industrial zones and makes minor modifications to the existing regulations for cannabis business activity in the commercial zones. The new language does not alter or otherwise change the City's policies regarding lighting and screening of new development including cannabis cultivation projects. Therefore, adoption of the proposed ordinances will have a less than significant impact on the aesthetics of the City of Fort Bragg.

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Agricultural and Forestry Resources

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>II. AGRICULTURE AND FORESTRY RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:</p>				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

d) Result in the loss of forest land or conversion of forest land to non-forest use?

e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

Regulatory Setting

The cultivation of cannabis was originally regulated by the California Department of Food and Agriculture (CDFA). In 2021, CDFA’s CalCannabis program merged with the Bureau of Cannabis Control to form the Department of Cannabis Control. In September of 2021, updates to the California Code of Regulations for Medicinal and Adult-Use Commercial Cannabis (CCR Title 4 Division 19) were published. The statutory authority for the regulation of cannabis cultivation is under the California Business and Professions Code Division 10 [26000-26260], which is implemented under CCR Title 4, Division 19. (DCC, 2021)

Discussion

The inland industrial and commercial zones of Fort Bragg are presented in Figure 2 below. There are no forest lands nor timberland production zones in the Inland Zone. While agriculture is allowed in all zones of the City, none of the industrial lands are designated as “Prime Farmland” and none are currently under agricultural uses. There are no sites in the City of Fort Bragg that are covered under the Williamson Act.

In the event that a cannabis business is proposed for development on a vacant parcel, it would be subject to all application regulations and review under CEQA, which would include an assessment of potential impacts on farmland and forestland. The City relies on the State of California Department of Land Conservation Mapping tool to determine if a site contains important farmland and/or forestland.

Figure 3 shows the City of Fort Bragg industrial zones in the Inland Zone of Fort Bragg with the California Department of Conservation’s Important Farmland Layer from 2018. (Department of Conservation, 2022) There are two classifications in these areas; urban/built up land and land on which the existing vegetation is suited to the grazing of livestock. While there are some portions of the industrial zone which the State indicates as suitable livestock cultivation, this is not an allowable use in the industrial zone so there is no conflict. The commercially zoned parcels in the Inland Zone are considered urban/built up.

Figure 2: Inland Industrial and Commercial Zones in the City of Fort Bragg

Fort Bragg Commercial and Inland Industrial Zoned Parcels

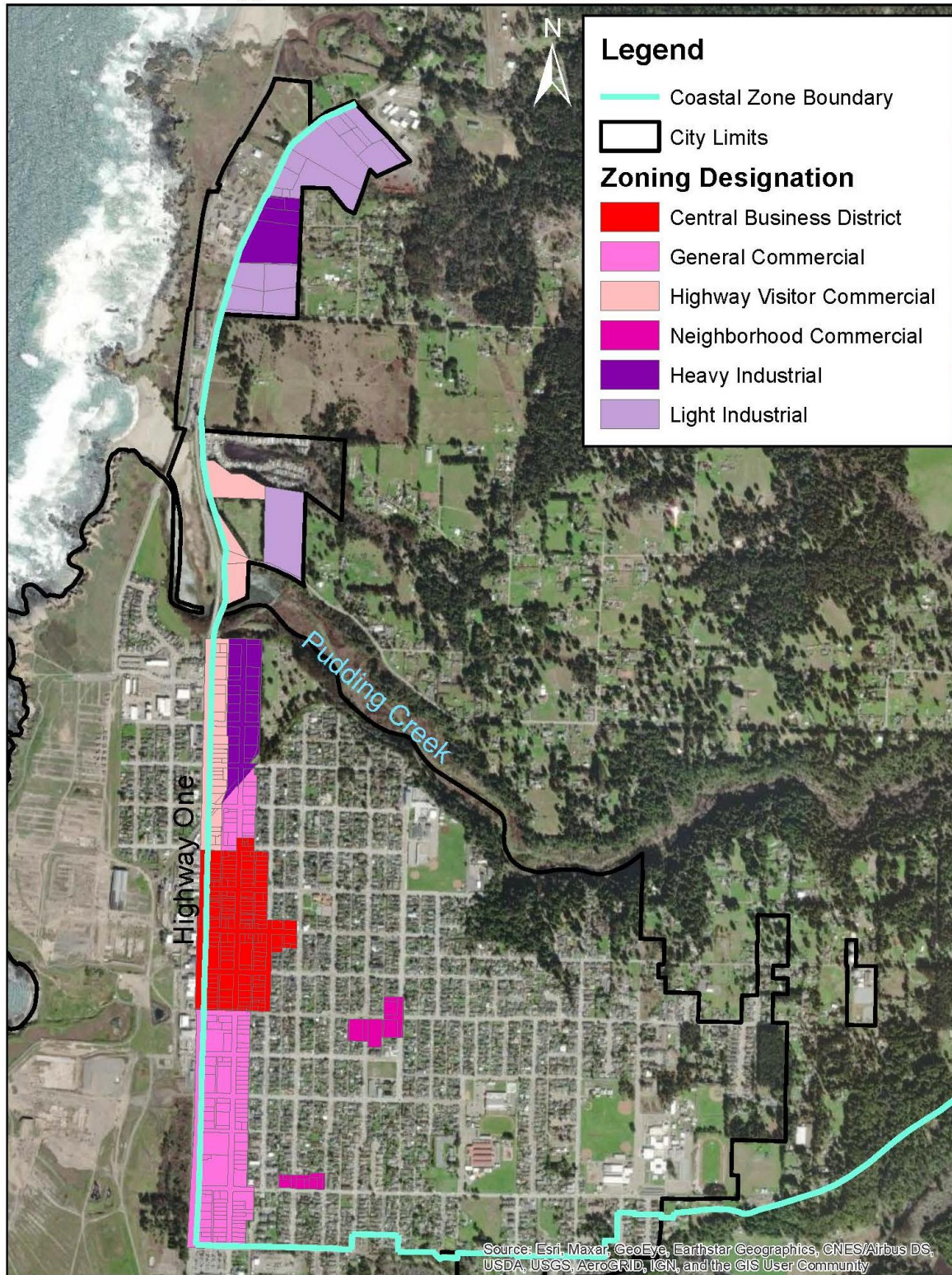
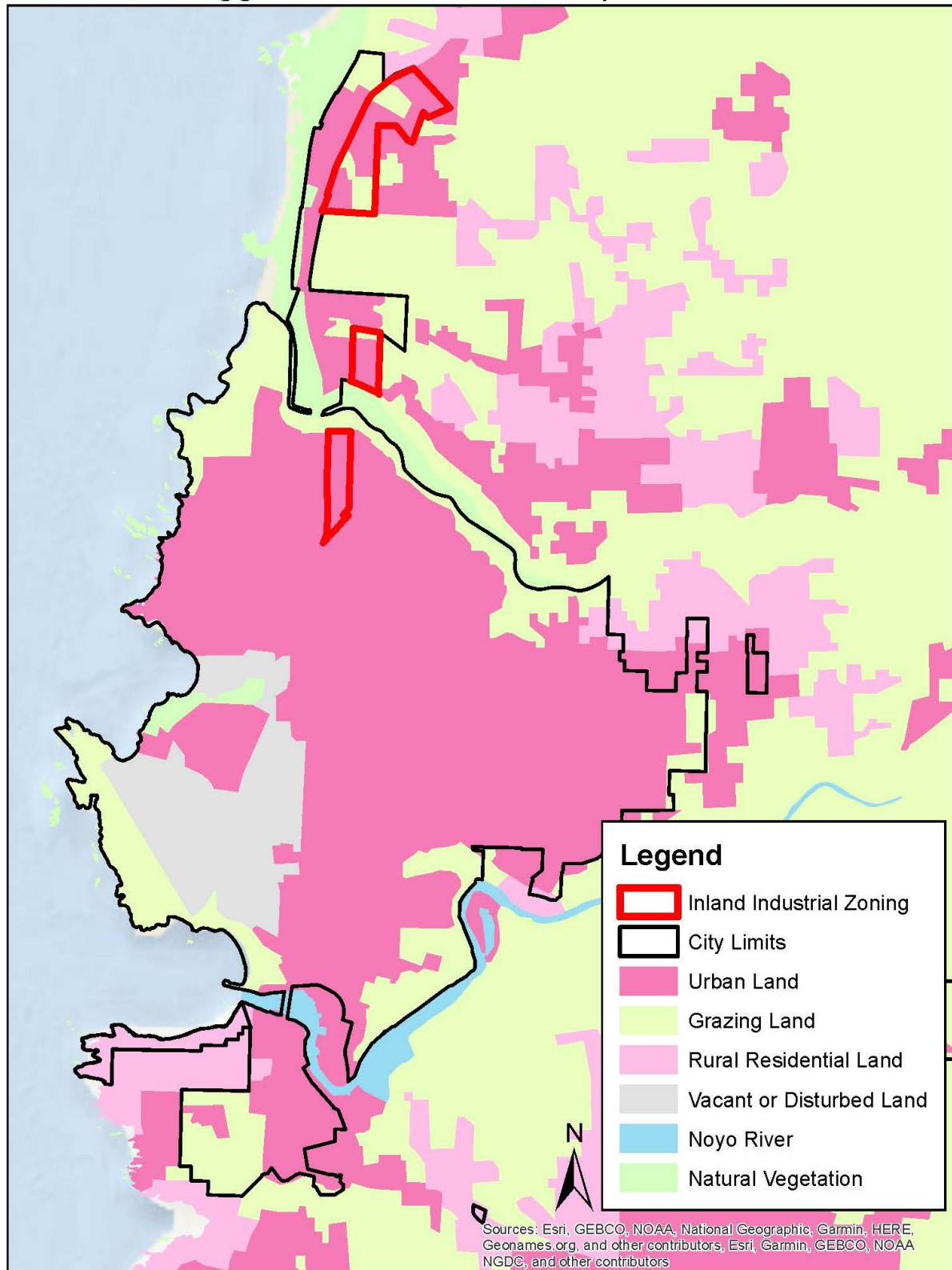


Figure 3: Industrial Zones and Important Farmland

Fort Bragg Inland Industrial & Important Farmland



The proposed change in the Inland Land Use and Development Code establishes regulation for cannabis cultivation uses in the industrial zones and makes minor modifications to uses that are currently allowable in commercial zones. The proposed change in code does not in and of itself impact agricultural or forestland and because new cannabis cultivation projects are limited to industrially zoned properties, which do not have prime agricultural or forestlands and the proposed changes do not change the size or location of industrial or commercial zones nor propose any physical development. Therefore, the proposed amendments to the Inland Land Use and Development Code will have no impact on agricultural or forestlands.

References

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Air Quality

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>III. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project:</p>				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Regulatory Setting

On the federal level, the Clean Air Act (CAA) and the 1990 CAA Amendments govern air quality in the United States and are administered by the Environmental Protection Agency (EPA). The EPA sets limits on concentrations of certain air pollutants and places limits on emission sources. Additionally, the EPA has established National Ambient Air Quality Standards (NAAQS) for six major air pollutants, known as criteria air pollutants including Ozone, Particulate Matter (PM10 and PM 2.5), carbon monoxide, nitrogen dioxide, sulfur dioxide, and lead.

The federal government also sets national emission standards for hazardous air pollutants in Title 40 of the Code of Federal Regulations Part 61 and Part 63. These standards regulate 194 hazardous air pollutants.

Corporate Average Fuel Economy Standards regulate car manufacturers and require that they meet established gas mileage and fuel economy standards that are set by the National Highway Traffic Safety Administration.

The California Ambient Air Quality Standards (CAAQS) are the California state equivalent of the NAAQS. An air basin is in “attainment” (compliance) when the levels of the pollutant in that air basin are below NAAQS and CAAQS thresholds shown in the table below.

Table 0-1. NAAQS and CAAQS

Pollutant	NAAQS		CAAQS		
	Averaging time	Concentration Threshold	Averaging time	Concentration Threshold	
Carbon monoxide (CO)	8 hours	9 ppm	8 hours	0.09 ppm	
	1 hour	35 ppm	1 hour	0.070 ppm	
Lead (Pb)	Rolling 3-month average	0.15 µg/m ³	1.5 hour	0.15 µg/m ³	
Nitrogen dioxide (NO ₂)	1 hour	100 ppb	1 hour	0.18 ppm	
	1 year	53 ppb	Annual mean	0.030 ppm	
Ozone (O ₃)	8 hours	0.070 ppm	8 hours	0.09 ppm	
			1 hour	0.070 ppm	
Particulate matter (PM)	PM _{2.5}	1 year	12.0 µg/m ³	Annual mean	12.0 µg/m ³
		24 hours	35 µg/m ³	n/a	n/a
	PM ₁₀	24 hours	150 µg/m ³	24 hours	50 µg/m ³
				Annual mean	20 µg/m ³
Sulfur dioxide (SO ₂)	1 hour	75 ppb	1 hour	0.25 ppm	
	3 hours	0.5 ppm	24 hours	0.04 ppm	
Visibility reducing particles	n/a	n/a	9 hours	Extinction of 0.23 per kilometer	
Sulfates	n/a	n/a	24 hours	25 µg/m ³	
Hydrogen sulfide	n/a	n/a	1 hour	0.03 ppm	
Vinyl chloride	n/a	n/a	24 hours	0.01 ppm	

Source:USEPA, 2016; CARB, 2020

ppm = parts per million, ppb = parts per billion, µg/m³ = micrograms per cubic meter, n/a = not applicable

Additionally, at the State level, the California Air Resource Board is responsible for implementing the CCAA and other air quality regulations which include:

- Truck and Bus Regulation
- Commercial Vehicle Idling Regulation
- Heavy-Duty On-Board Diagnostic System Regulations
- Heavy-Duty Vehicle Inspection Program
- California Standards for Diesel Fuel Regulations
- In-Use Off-Road Diesel Vehicle Regulation
- Assembly Bill 1803 which establishes a two-step process of risk identification and risk management to address the potential health effects from airborne toxic substances.
- Portable Engine Airborne Toxic Control Measure
- Portable Equipment Registration Program
- California Toxic Air Containment Act
- California Department of Pesticide Regulation Air Program Activities

The City of Fort Bragg is located within the North Coast Air Basin (NCAB) and is under the jurisdiction of the Mendocino County Air Quality Management District (MCAQMD).The MCAQMD is responsible for enforcing federal and state air quality

standards and establishes CEQA thresholds for Mendocino County and local jurisdictions within the County, including the City of Fort Bragg.

Mendocino County is currently in non-attainment for the State PM₁₀ standard (particulate matter less than 10 microns in size) (CARB, 2019). The primary manmade sources of PM₁₀ pollution in the County are from wood combustion (woodstoves, fireplaces and outdoor burning), fugitive dust, automobile traffic and industry (Mendocino County, 2021). Both the NCAB and Mendocino County are in attainment for all other State and Federal criteria air pollutants (US EPA 2016; CARB, 2020).

In addition to the Federal, State, and County regulations, air quality is also addressed in the City's Open Space Element of the Inland General Plan which includes the following policy and associated programs:

Open Space Goal OS-7 Policy OS-7.2 Air Quality Standards: Seek to comply with State and Federal standards for air quality
Open Space Goal OS-7 Policy OS-7.2 Program OS-7.2.1 Review new project proposals for consistency with MCAQMD regulations and guidelines
Open Space Goal OS-7 Policy OS-7.2 Program OS-7.2.2 Work with the Mendocino County Air Quality Management District to ensure that all new industrial projects include Best Available Control Technologies (BACTs) to control emissions of air pollutants to the maximum extent permitted by law.
Open Space Goal OS-7 Policy OS-7.2 Program OS-7.2.4 Prohibit unpaved driveways of more than 50 feet and unpaved roads in all new development.

Furthermore, odors are regulated in the City by ILUDC §18.30.080(J) which says: *No obnoxious odor or fumes shall be emitted that are perceptible without instruments by a reasonable person at the property line of the site.* The existing Municipal Code §9.30.050(N)(8) requires that applicants for a CBP submit *an odor prevention plan, illustrating how the cannabis business will be consistent with § 17.30.080(J) and/or § 18.30.080(J). The odor prevention plan may include an odor absorbing ventilation and exhaust system or other measures to ensure the use does not produce odors which are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public.*

Discussion

The proposed ordinances will establish regulations for commercial cannabis cultivation in inland industrial zones and make minor modifications to existing regulations for cannabis business activity in commercial zones. Indoor cannabis cultivation as a land use is comparable in intensity to other allowable and conditionally allowed uses in the industrial zone, namely heavy manufacturing, fish processing, or agricultural product processing. The proposed amendment to the code in and of itself will not have significant impacts on air quality as it establishes regulations and does not propose any physical development.

All future proposed cannabis cultivation projects would require a Cannabis Business Permit and be subject to discretionary review to determine if it would conflict with or obstruct the implementation of an applicable air quality plan or result in cumulatively considerable net increase of any criteria air pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard.

When the City receives a discretionary project application, the project is sent for review to the MCAQMD for comments. Additionally, if an initial study is required and an air quality analysis warranted, construction and operational emissions are estimated using an acceptable modeling program, such as the California Emissions Estimator Model (CalEEMod). The results of the air quality modeling is used to determine if a proposed project would result in air quality impacts. The MCAQMD published "Adopted Air Quality CEQA Thresholds of Significance" on June 2, 2010 (see **Attachment E**). The City uses these thresholds to determine if discretionary projects would have an impact on air quality and would apply this same review process to discretionary actions under the proposed ordinances including all CBP applications.

Furthermore, if a proposed CBP application was found to have the potential to create substantial concentrations of either criteria air pollutants or Hazardous Air Pollutants, the project would be assessed to determine if it would expose sensitive receptors to substantial pollutant concentrations.

The City of Fort Bragg's Inland General Plan defines Sensitive Receptors as:

"Members of the population who are most sensitive to air quality include children, the elderly, the acutely ill, and the chronically ill. The term "sensitive receptors" can also refer to the land use categories where these people live or spend a significant amount of time. Such areas include residences, schools, playgrounds, child care centers, hospitals, retirement homes, and convalescent homes."

The existing Municipal Code Section 9.30.050(N)(8) requires that applicants for Cannabis Business Permits provide an odor prevention plan that shows how the project will comply with Chapter 18.30.080(J) which states "No obnoxious odor or fumes shall be emitted that are perceptible without instruments by a reasonable person at the property line of the site." Any project that does not comply would be subject to the City's Municipal Code for Nuisances, Chapter 6.12. Additionally, the proposed changes to Section 18.42.055(B)(4) includes the following language:

Cannabis cultivations shall use the best available technology to ensure odors are not detected on adjacent or nearby property or areas open to the public.

The introduction of a new conditionally allowable use for cannabis cultivation in the industrial zone, in and of itself will not result in new or more severe impacts to the air quality of the area because it does not include any physical development and the conditional uses would be subject to all federal, state, and local air quality regulations. Therefore, the proposed amendments to the municipal code including the addition of commercial cannabis cultivation as a conditionally allowable use to the industrial zones and minor modifications to the existing regulations for cannabis activity in the commercial zones will have no impact to air quality.

References

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Significance*. June 2, 2010.

Biological Resources

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>IV. BIOLOGICAL RESOURCES: Would the project:</p>				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan,	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

Regulatory Setting

At the federal level, the Endangered Species Act of 1973 provides regulations for the conservation of species that are endangered or threatened throughout all or a significant portion of their range. It also protects the habitat of threatened or endangered species. The Migratory Bird Treaty Act (MBTA) provides additional protections for migratory birds. (USFW, 2022)

At the state level, the California Endangered Species Act (CESA) created the policy that State agencies should not approve projects that would jeopardize the continued existence of a species listed under CESA as endangered or threatened or result in the destruction or adverse modification of habitat essential to the continued existence of those species, if reasonable and prudent alternatives are available consistent with conserving the species or its habitat that would prevent jeopardy. (CDFW, 2022)

Sensitive biological communities include habitats that fulfill special functions or have special values, such as wetlands, streams, or riparian habitat. These habitats may be protected under federal regulations such as the Clean Water Act; state regulations such as the Porter-Cologne Act, and the California Department of Fish and Wildlife (CDFW) Streambed Alteration Program. Other sensitive biological communities include habitats that fulfill special functions or have special values. Natural communities considered sensitive are those identified by CDFW. CDFW ranks sensitive communities as “threatened” or “very threatened” and keeps records of their occurrences in its California Natural Diversity Database (CNDDDB). Sensitive plant communities are also provided in list format by CDFW. CNDDDB vegetation alliances are ranked 1 through 5 based on NatureServe’s methodology, which those alliances ranked globally (G) or statewide (S) with status of 1 through 3 considered to be of special concern as well as imperiled.

On the local level, the City of Fort Bragg Inland General Plan has the following policies that address biotic resources:

Land Use Goal LU-5 Support industrial development which is consistent with the protection, enhancement, and restoration of natural and scenic resources.

Land Use Goal LU-5 Policy LU-5.1 Siting New Industrial Development: Site new industrial development so that it is 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 on natural and scenic resources, either individually or cumulatively.

Land Use Goal LU-5 Policy LU-5.2 Industrial Land Use Standards: Require that industrial development avoid or minimize creating substantial pollution, noise, glare, dust, odor, or other significant adverse impacts.

Land Use Goal LU-5 Policy LU-5.2 Program LU-5.2.1: Continue to enforce, and revise as needed, Inland Land Use and Development Code standards with regard to noise, glare, dust, odor, and other potentially adverse impacts of industrial activity.
Open Space Goal OS-1 Policy OS-1.2 Preserve Natural Resources: Require that sensitive natural resources in Special Review Areas be preserved and protected to the maximum degree feasible.
Open Space Goal OS-1 Policy OS-1.2 Program OS-1.2.1: Review projects requesting discretionary approvals to determine whether the project is located in an area with potentially sensitive natural resources.
Open Space Goal OS-1 Policy OS-1.3 Biological Report Required for Special Review Areas: Permit applications for development within or adjacent to Special Review Areas which have the possibility of containing sensitive habitat shall include a biological report prepared by a qualified biologist which identifies the resources and provides recommended measures to ensure that the requirements of CEQA, the Department of Fish and Wildlife, and the City of Fort Bragg's Inland General Plan are fully met. The required content of the biological report is specified in the Inland Land Use and Development Code.
Open Space Goal OS-1 Policy OS-1.4 Maintain Open Space: Require site planning and construction to maintain adequate open space to permit effective wildlife corridors for animal movement between open spaces.
Open Space Goal OS-2: Program OS-2.4.1 Establish a tree planting and replacement program to assure continuing stands of trees throughout the City.
Open Space Goal OS-2: Policy OS-2.1 Native Landscaping: All development shall be conditioned to require that 50% of all plantings are native plants and shall prohibit the planting of any plant species that is (a) listed as problematic and/or invasive by the California Invasive Plant Council, and/or by the State of California, or (b) listed as a 'noxious weed' by the State of California or the U.S. Federal Government
Open Space Goal OS-2: Policy OS-2.2 Prohibit Invasive Species: Condition development projects requiring discretionary approval to prohibit the planting of any species of broom, pampas grass, gorse, or other species of invasive non-native plants deemed undesirable by the City
Open Space Goal OS-2: Policy OS-2.3 Preserve Native Vegetation and Trees: To the maximum extent feasible and balanced with permitted use, require that site planning, construction, and maintenance of development preserve existing healthy trees and native vegetation on the site.
Open Space Goal OS-2: Policy OS-2.4 Forested Areas: Maintain existing forested areas and reforest parks and streetscapes with new trees as needed. Projects proposed in forested areas are required to meet the requirements of the Special Review Areas.
Open Space Goal OS-5 Policy OS-5.1 Streams and Creeks: To the maximum extent feasible, preserve, protect, and restore streams and creeks to their natural state.

Open Space Goal OS-5 Policy OS-5.2 Riparian Habitat: Prevent development from destroying riparian habitat to the maximum feasible extent. Preserve, enhance, and restore existing riparian habitat in new development unless the preservation will prevent the establishment of all permitted uses on the property.

Open Space Goal OS-5 Policy OS-5.3 No Net Loss of Wetlands: Ensure no net loss of wetlands, as defined by the U.S. Army Corps of Engineers.

Open Space Goal OS-6 Policy OS-6.4 Maintain and Restore Biological Productivity and Water Quality: Development shall maintain and, where feasible, restore the biological productivity and the quality of streams and wetlands to maintain optimum populations of aquatic organisms and for the protection of human health.

General Plan Map OS-2 (see Figure 4) identifies wetlands, open space, and areas for water recharge in the City of Fort Bragg. There are some industrial sites along Highway 1 north of Pudding Creek that may have wetland/riparian habitat, but the inland industrial and commercial zoned sites south of Pudding Creek are mostly developed or ruderal.

Additionally, the City's ILUDC §18.50.050 regulates Special Review Areas: Biologically Sensitive Areas and provides the following General Development Standards:

C. General development standards.

1. Performance standards. All development adjacent to or within Biologically Sensitive Areas shall comply with the following requirements, to the maximum extent feasible.

a. New development shall be designed, sited, constructed, and maintained so as to not significantly disrupt the resource.

b. Where feasible, damaged habitats shall be restored as a condition of development approval.

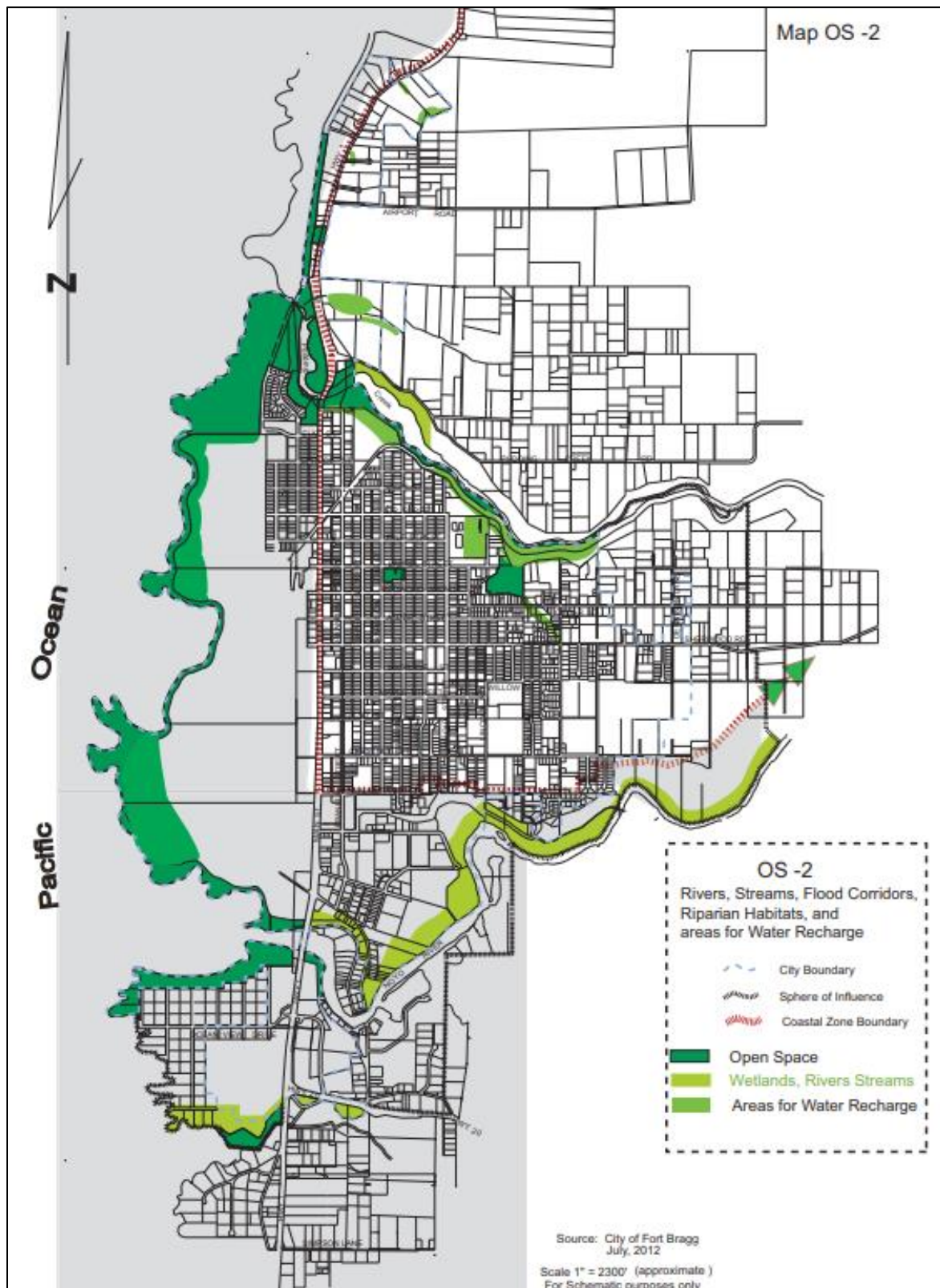
c. Development shall be consistent with the biological continuance of the habitat.

2. Vegetation removal. Existing native vegetation shall not be removed within a Biologically Sensitive Area, as part of a development project, unless authorized through Section 7, 404 permit or CEQA (California Environmental Quality Act) approval to accommodate proposed construction.

3. Landscaping. A landscaping plan shall be submitted to the City for approval prior to construction for any site where development will disturb existing or potential native plant habitat. The plan shall provide for vegetation restoration in compliance with Subsection C.2 above. Landscaping with exotic plants shall be limited to outdoor living space immediately adjacent to the proposed development. Invasive non-native plants including Pampas grass, Acacia, Genista, and non-native iceplant

pose a threat to indigenous plant communities and shall not be approved as part of any proposed landscaping.

Figure 4: Inland General Plan Map OS-2



4. *Resource protection during construction. Habitat areas containing vegetation that is essential to the maintenance of the habitat and/or rare or endangered plant or animal species shall be protected from disturbance by construction activities. Temporary wire mesh fencing shall be placed around habitat prior to construction, and protected areas shall not be used by workers or for the storage of machinery or materials. Inspections for compliance shall occur during construction.*

5. *Resource protection after construction. After construction, unpaved areas shall be replanted to provide for the reestablishment of a 100 percent vegetation cover within two years. At five years, the site should support the same habitat removed. Remedial actions (e.g., planting of native species and removal of invasive horticultural species) shall be implemented as necessary to ensure that the site will consist of at least 75 percent native species at the end of five years.*

6. *Herbicide use. The use and disposal of any herbicides for invasive species removal shall follow the written directions of the manufacturer, shall comply with all conditions imposed by the City, and shall be accomplished in a manner that will fully protect adjacent native vegetation.*

Discussion

The proposed ordinances will establish regulations for commercial cannabis cultivation in inland industrial zones and make minor modifications to existing regulations for cannabis business activity in commercial zones. Indoor cannabis cultivation as a land use is comparable in intensity to other allowable and conditionally allowed uses in the industrial zone, namely light, medium, and heavy manufacturing, fish processing, or agricultural product processing. Outdoor cultivation is not allowed, and only indoor cultivation is conditionally allowed, which will have no more significant impacts than other industrial uses that are currently allowable. The proposed amendment to the code in and of itself will not have significant impacts on biotic resources as it does not involve any physical development, changes in allowable lot coverage, or other regulations that protect biological resources, such as creek setbacks, tree replacement requirements, and construction controls. Furthermore, all CBP applications are fully discretionary and subject to CEQA review, including an evaluation of potential impacts to biological resources from the specific application.

There is one Critical Habitat area identified by the US Fish and Wildlife IPaC website. As seen in the map below the red area is critical habitat identified for the Tidewater Goby (see Figure 5). In the event that a future CBP application is located within close proximity and may impact this habitat area, the project would be subject to review and compliance with both the federal and state Endangered Species Act (ESA) and the City's Environmentally Sensitive Habitat Area (ESHA) regulations.

Discretionary projects in the inland zone are evaluated using Map OS-2 to determine if the project is in a special review area and needs to comply with Policy OS-1.3 Biological Report Required for Special Review Areas. See Figure 2 above. CBP applications that are located in a Special Review Area are required to provide a

biological Report. Biological reports for discretionary projects including CBP applications are either reviewed by staff or by an independent biologist, as warranted. If future CBP applications are determined to result in potentially significant impacts to biotic resources, redesign and mitigation will be considered to avoid or minimize impacts. The efficacy of redesign and mitigation will be assessed on the project level once a complete CBP application is received and is in process by the City.

In the case of a proposed nursery cultivations as an accessory use to a retail cannabis business in the commercial zone, even though permitted by right for land use purposes, the project would still require a discretionary Cannabis Business Permit which requires that a project comply with the Inland Land Use and Development Code and is subject to CEQA review. If the project is proposed on a site with important biotic resources, it would be subject to ILUDC §18.50.050.

The regulatory environment for biotic resources will not be changed by the proposed project. The proposed project will add a new conditionally allowable use to industrial zones and make minor modifications to existing regulations for commercial cannabis activity in commercial zones. There will be no change in the designation of industrial or commercial lands and there is no physical development proposed for this project. Therefore, the project will have no impacts on biological resources.

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[S](#)

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Figure 5: Critical Habitat of the Tidewater Goby

Fort Bragg Critical Habitat Areas



Cultural Resources

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
V. CULTURAL RESOURCES. Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource pursuant to § 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Historical Setting

Native Americans have inhabited the North Coast of Mendocino County for at least 10,000 years. The Pomo people were hunter-gatherers with a close relationship to the land and the sea. Seasonal Native American villages were located along the coast with permanent villages located north of Ten Mile River. (City of Fort Bragg, 2022)

In 1857, the Fort Bragg military post was established on the Mendocino Indian Reservation approximately 1.5 miles north of the Noyo River. Its purpose was to maintain order on the reservation. Also in 1857, a lumber mill was established on the Noyo River starting what would become the major industry of the region. The military post was short-lived. In 1865, after 300 Native Americans were marched forcibly from the Reservation to a reservation in Round Valley, and Fort Bragg as a military post was abandoned. (City of Fort Bragg Website)

On August 5, 1889, Fort Bragg was incorporated as a city. C.R. Johnson, president of the Fort Bragg Redwood Company, was the first mayor. His company laid out the town much as it exists today; with a uniform street grid and mid-block alleys. In 1893, the Union Lumber Company was created by absorbing some of the smaller lumber companies in the area.

The Great 1906 Earthquake resulted in a fire at the lumber mill that threatened the entire city. Brick buildings throughout the city were damaged, if not destroyed completely, and many frame homes were knocked off their piers. The fire burned the entire downtown area bordered by Franklin Street, Redwood Avenue, and McPherson Street. Within 12 months following the earthquake, all downtown reconstruction was

completed. The earthquake brought prosperity to Fort Bragg as the mills furnished lumber for the rebuilding of San Francisco.

By 1916, Fort Bragg had become a popular place to visit and settle. Commercial fishing also played an important role in the formation of the economic base of Fort Bragg. Noyo Harbor was once a major commercial fishing port well-known for producing quality fish products that were distributed to major metropolitan markets. (City of Fort Bragg Website)

Fort Bragg prospered in the post-World War II era as a hub for logging and fishing through the heavy extraction of natural resources. With the exhaustion of these resources and necessary environmental protections in the later years of the 20th Century, the traditional economic activity in Fort Bragg fell into a steady decline. In recent history, the City has transitioned to a service industry mainly generated by tourism.

Cannabis was officially banned by the Federal Government in 1937. Locally, the 1960's and 1970's marked a significant "Back to Land Movement" in Mendocino County. Cannabis was very much a part of the culture of the community that developed as part of the movement. Since that time, cannabis has had a complicated history in Mendocino County, characterized by the war on drugs, criminalization, and enforcement at the local, state, and federal level. While there was limited cannabis activity inside the City limits, cannabis significantly impacted the cultural development of Fort Bragg in the later 20th Century. The shift to legalized cannabis began with the adoption of the Compassionate Use Act (Proposition 215) in 1996. The City had no dispensaries during this period, and it was not until the passage of the Adult Use of Marijuana Act that the City instituted regulations allowing cannabis businesses. In 2019 regulations were adopted to allow retail cannabis and it was not until 2020 that the first commercial cannabis dispensaries were established within the City limits. For 50 years cannabis has had a presence in the City.

Regulatory Setting

Cultural Resources are archaeological and historic sites, architectural resources, and traditional cultural properties, as well as the physical evidence of past human activity on the landscape. Cultural resources, along with Native American and historic human remains and associated grave goods, must be considered under various federal, state, and local regulations, including CEQA and the National Historic Preservation Act of 1966. In general, any trace of human activity more than 50 years in age is required to be treated as a potential cultural resource.

The National Historic Preservation Act (NHPA) is the primary regulatory framework for the protection of cultural resources. The NHPA created the authority for the creation of the State Historic Preservation Office, National Register of Historic Places, and for the Secretary of the Interior Standards for Historic Preservation.

At the state level, the California Register of Historical Resources in PRC Section 5020.1(j) includes "*any object, building, structure, site, area, place, record, or manuscript which is historically or archaeologically significant, or is significant in the*

architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California.” The regulations state the criteria for eligibility and guidelines for determining historical integrity and resources of special consideration.

A cultural resource that is listed in, or eligible for inclusion in, the California Register of Historical Resources (CRHR) is referred to as an Historical Resource. A resource may be eligible for inclusion in the CRHR if it is:

- 1) *associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage;*
- 2) *associated with the lives of persons important in our past;*
- 3) *embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or*
- 4) *has yielded, or may be likely to yield, information important in prehistory or history. (CRHR, 2022)*

On September 25, 2014, then Governor Brown signed Assembly Bill 52 (AB 52), which created a new category of environmental resources, tribal cultural resources, to be evaluated as part of the CEQA review process. Tribal cultural resources are defined as follows:

- (1) *sites, features, places cultural landscapes, sacred places and objects with cultural value to a California Native American tribe” that are included in the state register of historical resources or a local register of historical resources, or that are determined to be eligible for inclusion in the state register; or*
- (2) *resources determined by the lead agency, in its discretion, to be significant based on the criteria for listing in the state register. (AEP, 2021)*

AB 52 requires lead agencies to provide notice to tribes that are traditionally and culturally affiliated with the geographic area of a proposed project if tribal entities, organizations or individuals have requested to be notified. The City of Fort Bragg routinely issues AB 52 notifications to the following local tribes as part of the CEQA review process:

- Sherwood Valley Rancheria of Pomo Indians of California
- Coyote Valley Band of Pomo Indians of California
- Manchester Band of Pomo Indians
- Cahto Tribe of the Laytonville Rancheria
- Hopland Band of Pomo Indians
- Guidiville Rancheria
- Pinoleville Pomo Nation
- Potter Valley Tribe

At the local level, the City of Fort Bragg addresses historic resources in the General Plan, ILUDC, and in Citywide Design Guidelines. In the General Plan, the Central

Business District is identified as the civic, cultural, and commercial center of the community and the following apply: Land Use Goal LU-3 Ensure that the Central Business District remains the historic, civic, cultural, and commercial core of the community.
Land Use Goal LU-3 Policy LU-3.1 Central Business District: Retain and enhance the small-scale, pedestrian friendly, and historic character of the Central Business District (CBD).
Land Use Goal LU-3 Policy LU-3.1 Program LU-3.1.1: Utilize City-owned land at City Hall and Bainbridge Park for historic and cultural uses, public assembly, and entertainment.
Land Use Goal LU-3 Policy LU-3.3 Historic Buildings and Mixed Uses: In the Central Business District and in other commercial areas with historic residential structures, encourage residential uses, mixed residential, and commercial uses, and the preservation of historic structures
Land Use Goal LU-3 Policy LU-3.6 Program LU-3.6.1: Consider establishing incentives such as low-interest loans for rehabilitation and installation of fire sprinklers in buildings to encourage the reuse of upper floors of existing buildings in the Central Business District for housing, offices, and other uses.
Land Use Goal LU-4 Policy LU-4.2 Large-Scale Commercial Development: To maintain scenic views along Main Street and to ensure that building sizes at the City's gateways are in scale with the community, no commercial building shall exceed the following limitations on the gross floor area: a) between the Noyo River and Pudding Creek Bridges - maximum 50,000 square feet b) east of Highway One and north of Pudding Creek Bridge - maximum 30,000 square feet

The City maintains a list of potentially significant historic structures in the City limits. Most of the non-residential structures are concentrated in the Central Business District and ILUDC Chapter 18.74 regulates Cultural Resource Protection in the City of Fort Bragg.

Projects that will change the outward appearance of an existing non-residential building are required to undergo design review in compliance with Chapter 18.71.050.

Design Review is intended to ensure that the design of proposed development and new land uses assists in maintaining and enhancing the small-town, coastal, historic, and rural character of the community. This is applied to all new structures, any relocation, exterior addition(s), or changes of or to existing structures, and any other physical improvements shall be subject to Design Review, whether or not a Building Permit is required, unless exempt in compliance with Subsection (B)(3) of this Section (Improvements exempt from Design Review). Design Review shall be required in addition to all other planning permit or approval requirements of this Development Code and the Municipal Code. (City of Fort Bragg, 2022)

The Citywide Design Guidelines complement the standards contained in the City of Fort Bragg Inland Land Use and Development Code by providing good examples of appropriate design solutions, and by providing design interpretations of the various regulations. The guidelines are less quantitative and rigid than the mandatory

development standards of the Development Code, and may be interpreted with some flexibility in the application to specific projects.

The City's ILUDC §18.50.030 provides regulations for Archaeological Resource Preservation. *The requirements of this Section are intended to ensure that appropriate safeguards are established and followed in order to protect archaeological and paleontological resources, as well as sacred sites and/or traditional cultural properties (TCPs) whose potential location is identified, or which are discovered as a result of development activity within the City.*

ILUDC Section 18.50.030 states that before commencing any digging, grading, or any other ground disturbing activity in advance of construction of an approved development project within the following areas:

1. *Noyo River. All of the areas located adjacent to the Noyo River;*
2. *Special review Areas. Identified on map LC-2; and/or*
3. *Other areas identified by the Director. Other areas identified by the environmental review process (Chapter 18.72), or brought to the attention of the City through special studies performed after the enactment of this Section, as having the potential for containing archaeological or paleontological resources.*

Additionally, the following procedures are outlined for reporting and mitigation:

1. *Report required. Where development proposals are for an area in which there are known archaeological or paleontological resources or sacred sites or TCPs on the site or in the vicinity, or where there is a moderate to high probability for previously unidentified archaeological, paleontological, and/or TCP resources to be encountered during the development activity, and where it is determined by the Director that no adequate prior assessment of on-site resources has been completed, a report shall be prepared by a qualified archaeologist before the issuance of other discretionary permit approvals.*

- a. *At a minimum, the report shall identify and evaluate all archaeological and paleontological resources, including sacred sites and TCPs, in the areas of the site proposed to be disturbed by the project, assess the effects of the proposed development on those resources, and recommend appropriate resource preservation and/or mitigation measures to adequately address the identified effects.*

- b. *If cultural resources are identified, a copy of the report shall also be transmitted to the State Historical Preservation Officer, and any federally-recognized Native American tribes who have expressed interest in the project for review and comment.*

The Director may waive the requirement for a report if the Director determines that an existing report satisfies this requirement.

2. Mitigation measures required. Under both CEQA and NHPA, avoidance of historic resources is the preferred course of action. When avoidance of the resources is not feasible, mitigation measures shall be adopted under CEQA.

a. Where proposed development activity will adversely affect archaeological or paleontological resources, including sacred sites and/or TCPs, the City shall require reasonable and necessary mitigation measures.

b. Mitigation shall be designed in compliance with CEQA Guidelines and the guidance of the State Office of Historic Preservation, and the State Native American Heritage Commission.

ILUDC §18.50.030(D) provides requirements regarding discovery or archaeological resources. All permits issued are conditions with the following from this section:

1. When, in the course of digging, grading, or any other activity in advance of construction of an approved development project, evidence of archaeological, paleontological, or other potentially significant historic resources is discovered, all work which could potentially damage or destroy the resources shall cease immediately.

2. The Director shall be notified immediately of the discovery and engage an archaeologist to determine if the discovery is significant and the correct course of action to avoid, minimize and/or mitigate damage to the resource

3. The Director shall notify the State Historic Preservation Officer and federally-recognized Native American tribes who have expressed an interest in the project of the discovery.

4. All work which could potentially damage or destroy the resources shall be halted until appropriate avoidance, minimization, and/or mitigation measures can be developed and implemented.

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones. The proposed regulation for cannabis cultivation would not impact known or undiscovered cultural resources since no physical development is proposed.

In the future, at the time that a cannabis cultivation project is proposed, City staff would review whether it is on a developed or undeveloped site. The discretionary nature of future cannabis cultivation projects requires a review of potential impacts to cultural resources under CEQA. If a future project is proposed for an existing structure, it would be determined whether the structure is potentially a historic resource as defined in the CEQA Guidelines Section 15064.5 and identified in the City's list of historic structures. If the future project involves a historic structure, it will have to comply with CEQA Guidelines and with the City's ILUDC Chapter 18.74.

Additionally, if a future project involves new construction, the application is referred, through the AB 52 notification process, to the Tribal Historic Preservation Officer for the Sherwood Valley Band of Pomo Indians and other tribes. A tribe may request consultation, an archaeological review, site visit, and/or tribal monitor on site during excavation and construction. In the event that a future cultivation project site has the potential for cultural resources, a cultural resources report would be required by ILUDC §18.50.030, or if requested by the tribe. As part of the discretionary review process, the City will review individual cultivation projects, as is done for all development applications, to determine if there's a potential to have significant impacts on cultural resources and to inform the environmental review process.

As noted above, the subject project is limited to revisions in the municipal code including the addition of a conditionally allowable use in the industrial zones and minor modifications to existing regulations for cannabis business activities in the commercial zones. All future cannabis cultivation applications require a discretionary permit (CBP) and future cultivation applications would be reviewed accordingly. The subject amendments to the codes do not include any physical development and do not modify, alter, or otherwise change existing regulation governing the protection and preservation of historical and cultural resources. Therefore, the project will have no impact on historic and cultural resources.

References

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Energy

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
VI. ENERGY. Would the project:				
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Regulatory Setting

The California Energy Commission (CEC) is the agency responsible for regulating energy usage and developing the Title 24, Parts 6 and 11 also known as the Building Energy Efficiency Standards in the California Code of Regulations. On August 11, 2021, the CEC adopted the 2022 Energy Code which was presented to the California Building Standards Commission (CBSC) for approval into the California Building Standards Code in December 2021. The 2022 Energy Code will go into effect on January 1, 2023. Among the recommended amendments to the code were energy efficiency standards for controlled environment horticulture which includes indoor cannabis cultivation. (CEC, 2022)

The DCC has renewable energy requirements for commercial cannabis cultivations including the State of California Department of Cannabis Control Regulations §16305. Renewable Energy Requirements (See Attachment F):

(a) Beginning January 1, 2023, all holders of indoor, tier 2 mixed-light license types of any size, and all holders of nursery licenses using indoor or tier 2 mixed-light techniques shall ensure that electrical power used for commercial cannabis activity meets the average electricity greenhouse gas emissions intensity required by their local utility provider pursuant to the California Renewables Portfolio Standard Program in division 1, part 1, chapter 2.3, article 16 (commencing with section 399.11) of the Public Utilities Code.

(b) If a licensed cultivator's average weighted greenhouse gas emission intensity, as calculated and reported upon license renewal pursuant to section 15020, is greater than the local utility provider's greenhouse gas emission intensity, the licensee shall obtain carbon offsets to cover the

excess in carbon emissions from the previous annual licensed period. The carbon offsets shall be purchased from one or more of the following recognized voluntary carbon registries:

- (1) American Carbon Registry;*
- (2) Climate Action Reserve; or*
- (3) Verified Carbon Standard. (DCC, 2021)*

Additionally, the DCC’s existing Medicinal and Adult-Use Commercial Cannabis Regulations, California Code of Regulations Title 4 Division 19 §15020 provides the following requirements for license renewals:

(f) Beginning January 1, 2022, an application for renewal of a license to engage in commercial cannabis cultivation shall include the following records, for each power source indicated on the application for licensure for the previous annual licensed period:

- (1) Total electricity supplied by local utility provider, name of local utility provider, and greenhouse gas emission intensity per kilowatt hour reported by the utility provider under section 398.4(c) of the Public Utilities Code for the most recent calendar year available at time of submission;*
- (2) Total electricity supplied by a zero net energy renewable source, as set forth in section 398.4(h)(5) of the Public Utilities Code, that is not part of a net metering or other utility benefit;*
- (3) Total electricity supplied from other unspecified sources, as defined in section 398.2(e) of the Public Utilities Code, and other onsite sources of generation not reported to the local utility provider (e.g., generators, fuel cells) and the greenhouse gas emission intensity from these sources; and*
- (4) Average weighted greenhouse gas emission intensity considering all electricity use in subsections (f)(1)-(f)(3).*

The City’s Inland General Plan has the following Goals, Policies, and Programs to address energy usage:

Sustainability Goal S-1 Policy S-1.2 Program S-1.2.3 Promote the use of building materials that maintain healthy indoor air quality in an effort to reduce irritation and exposure to toxins and allergens for building occupants. Promote the use of building materials, furniture and paint that maintain healthy indoor air quality, and discourage the use of materials that degrade indoor air quality.
Sustainability Goal S-2 Encourage development that minimizes the demand for non-renewable energy and reduces Green House Gas (GHG) emissions.
Sustainability Goal S-2 Policy S-2.1 Passive Solar Design Strategies: All building and site design shall use passive solar design strategies for space heating and lighting to reduce energy demand to the extent feasible.

Sustainability Goal S-2 Policy S-2.3 Reduce Energy Demand with a goal of Net Zero Energy in New Construction. All new construction shall minimize energy use. Net zero buildings and homes are encouraged. These homes produce as much energy (through conservation, photovoltaic panels, solar hot water, wind, and geothermal) as they consume and have a net zero impact on greenhouse gas production.
Sustainability Goal S-2 Policy S-2.4 Require passive solar design in new construction, where feasible, as part of Design Review.
Sustainability Goal S-2 Policy S-2.4 Program S-2.4.1: Modify the Citywide Design Guidelines to include guidelines that require passive solar design for residential and commercial new construction projects.
Sustainability Goal S-2 Policy S-2.5 Use of Local and Renewable Energy: Buildings and infrastructure that create and/or use locally and renewably generated energy are encouraged. Photovoltaic and wind energy systems are encouraged. The installation of solar panels or other clean energy power generation sources over parking areas is preferred

Additionally, the City’s current Municipal Code Chapter 9.30 Cannabis Businesses §9.30.140(D) requires that *commercial cannabis cultivation shall either enroll in a community choice aggregate energy provider or install solar panels.*

Discussion

As previously noted, the proposed project will establish regulation for cannabis cultivation in industrial zones and make minor modifications to the existing regulations for currently allowable cannabis business activities in commercial zones. The subject amendments to the code in and of itself precludes physical development and would not result in the use of energy. Therefore, there would no impacts associated with wasteful, inefficient, or unnecessary consumption of energy resources.

Any future application received for a proposed commercial cultivation project would be subject to a CBP and reviewed to determine if the project would have significant impacts on energy. While indoor cannabis cultivation typically uses significantly more energy than other commercial and industrial activities, the State’s updates to Title 24 California Energy Code provide ministerial guidelines for indoor cultivation. A building permit would be required to construct the Fully Enclosed and Secure Structure as imposed by the City of Fort Bragg Municipal Code §9.30.140(A) and any equipment would be required to meet the guidelines in Title 24. Furthermore, cannabis cultivators, are required to secure state licenses which includes review for compliance with energy regulation.

Additionally, the City’s Municipal Code §9.30.140(D) currently requires that *Commercial cannabis cultivation shall either enroll in a community choice aggregate energy provider or install solar panels.* This regulation remains applicable under the proposed updates.

Furthermore, the proposed amendments for ILUDC §18.42.055 Commercial Cannabis Cultivation subsection (B)(3)(b) states the following: *Commercial cannabis cultivations*

shall use the energy efficient lighting and equipment. A cannabis cultivator shall provide proof of the utility provider's ability to provide reliable power to the cultivation site.

There are currently two energy providers for the City of Fort Bragg, Sonoma Clean Power and Pacific Gas and Electric. Under the proposed ordinances, indoor commercial cultivation projects require a discretionary permit and must obtain proof and furnish documentation to the City demonstrating that one of the local electrical utility companies can adequately serve their business.

The proposed project creates regulations for a new use in the industrial zones and makes minor modifications to existing regulations for cannabis business activities in commercial zones. It does not propose any physical development, nor does it result in the use of consumption of energy. Future projects would be reviewed in compliance with CEQA and the Department of Cannabis Control's Licensing Requirements, California Building Codes, the City's Municipal Code Chapter 9.30, the Inland General Plan, and the Inland Land Use and Development Code. Therefore, the proposed amendments to the code would have no impact on energy.

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Geology and Soils

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
VII. GEOLOGY AND SOILS. Would the project:				
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Setting

The City of Fort Bragg is located in the Coastal Range geomorphic province of California in an area of relatively steep and mountainous topography. The City itself is built on uplifted marine terrace deposits. Soils in the City of Fort Bragg are variations of sand dune, sandy loams, and the like. (See Figure 6)

There are no mines nor identified mineral resources in the City limits.

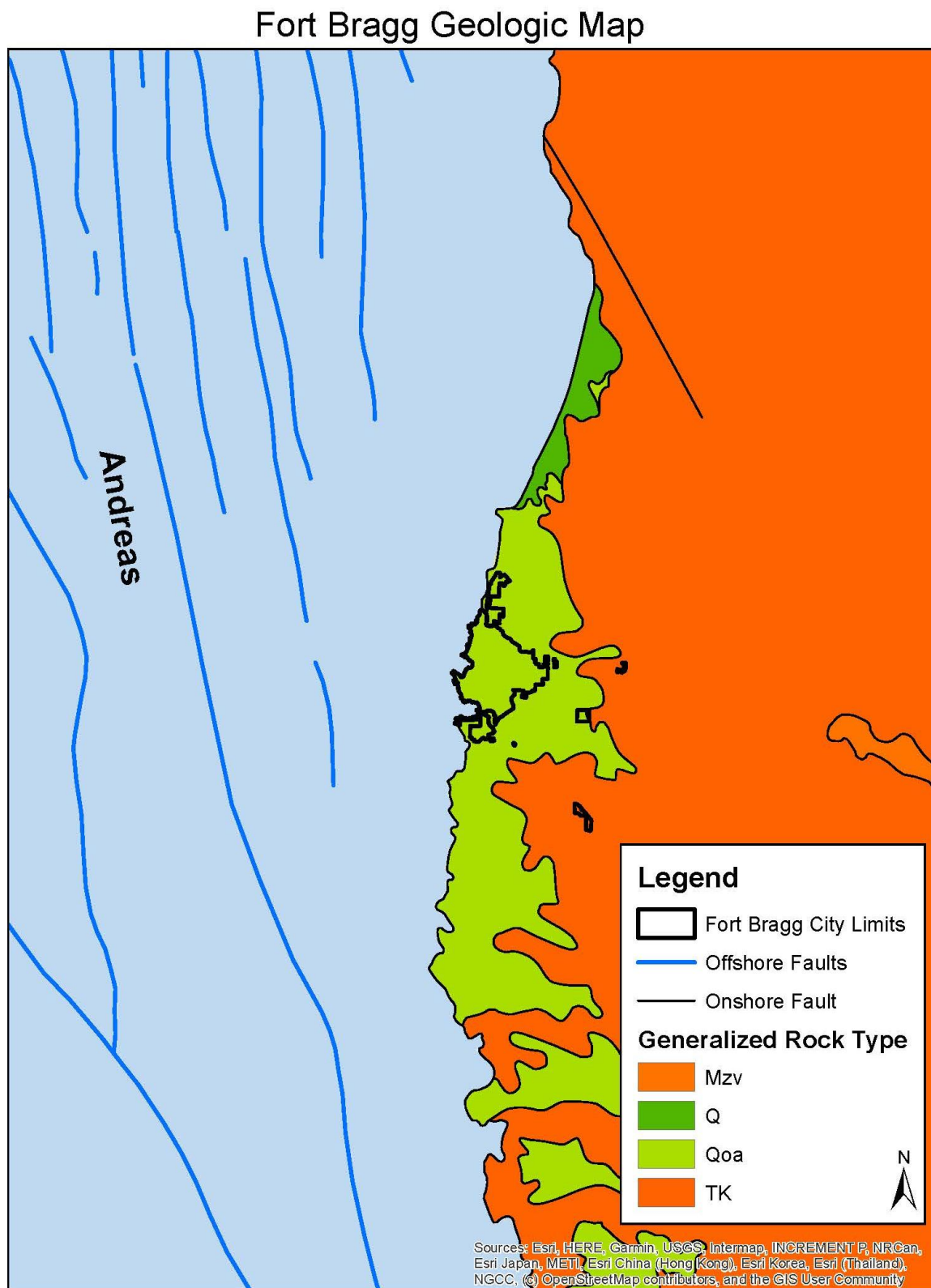
Regionally, the University of California Museum of Paleontology (UCMP) database lists 513 fossil localities within Mendocino County (UCMP, 2020). Of the known fossil localities, 63 are from the Cretaceous period and 2 are from the Jurassic Period. A review of the Mendocino County fossil record indicates that 10 early Cretaceous fossils have been discovered within the County and no late Jurassic fossils have been discovered. (UCMP, 2020)

Seismically, the City is located between two major fault systems, the Mayacamas Fault is 20 miles east of the City and runs north-south roughly along Highway 101. The San Andreas Fault network runs is approximately 5 miles offshore from the City as seen in Figure 6.

According to the Department of Conservation’s Earthquake Zones of Required Investigation (EZRI), the City of Fort Bragg does not contain any EZRIs nor any Alquist Priolo fault traces or zones. The Department of Conservation’s “Earthquake Shaking Potential for California” shows the relative intensity of ground shaking anticipated from future earthquakes. The City of Fort Bragg is shown as moderate level of intensity for 1.0 second earthquake shaking as seen in Figure 7.

The City also has some areas that have potential for landslides. There are areas along the Noyo River and Pudding Creek that may present a higher risk for landslide due to steep slopes. The landslide inventory map in Figure 8 shows the locations with solid lines and points to indicate historic slide activity. (DOC, 2022)

Figure 6: Geology of the City of Fort Bragg



Source: <https://maps.conservation.ca.gov/cgs/gmc/>

Figure 7: Earthquake Shaking Potential Map

Earthquake Shaking Potential for Fort Bragg

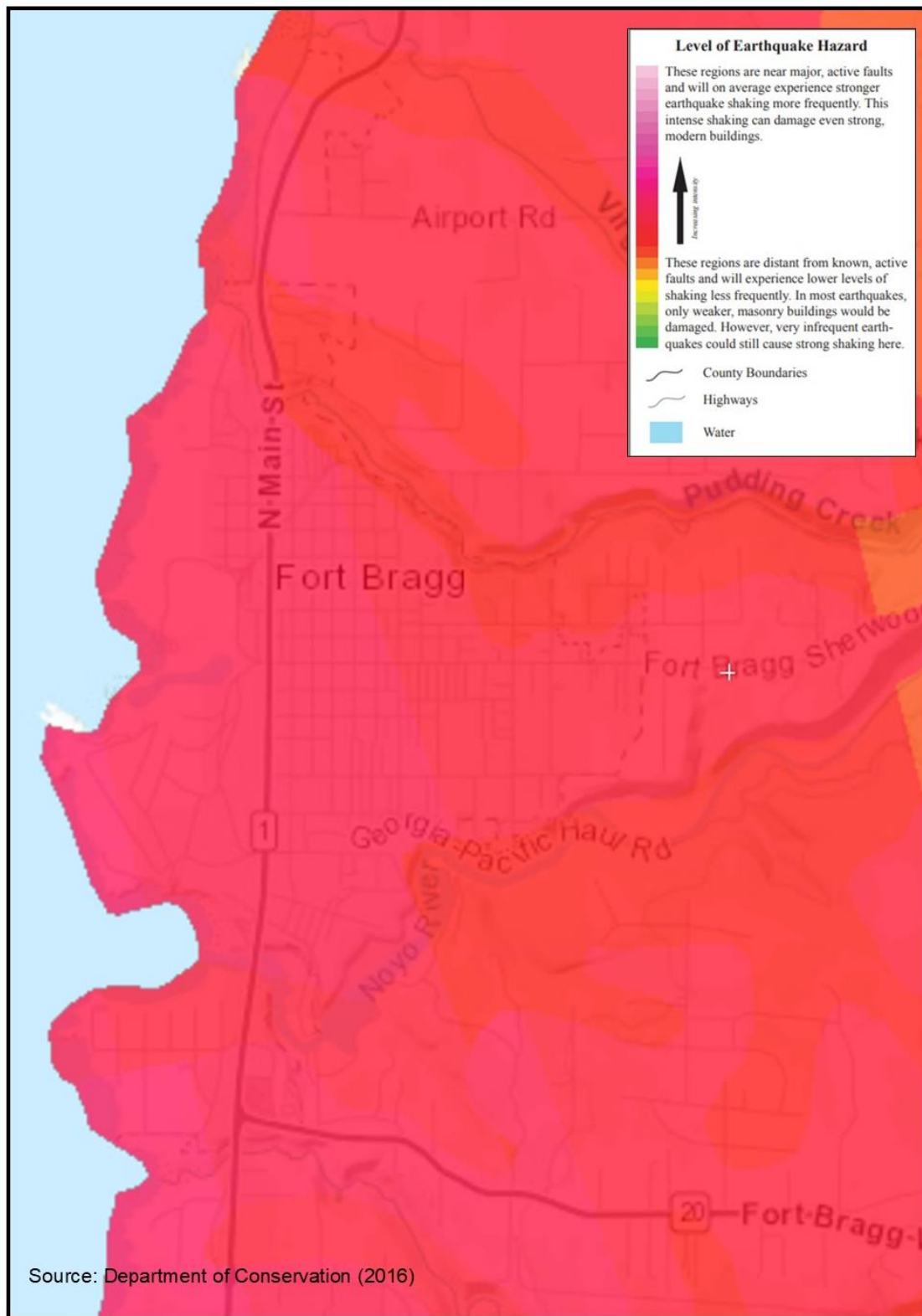
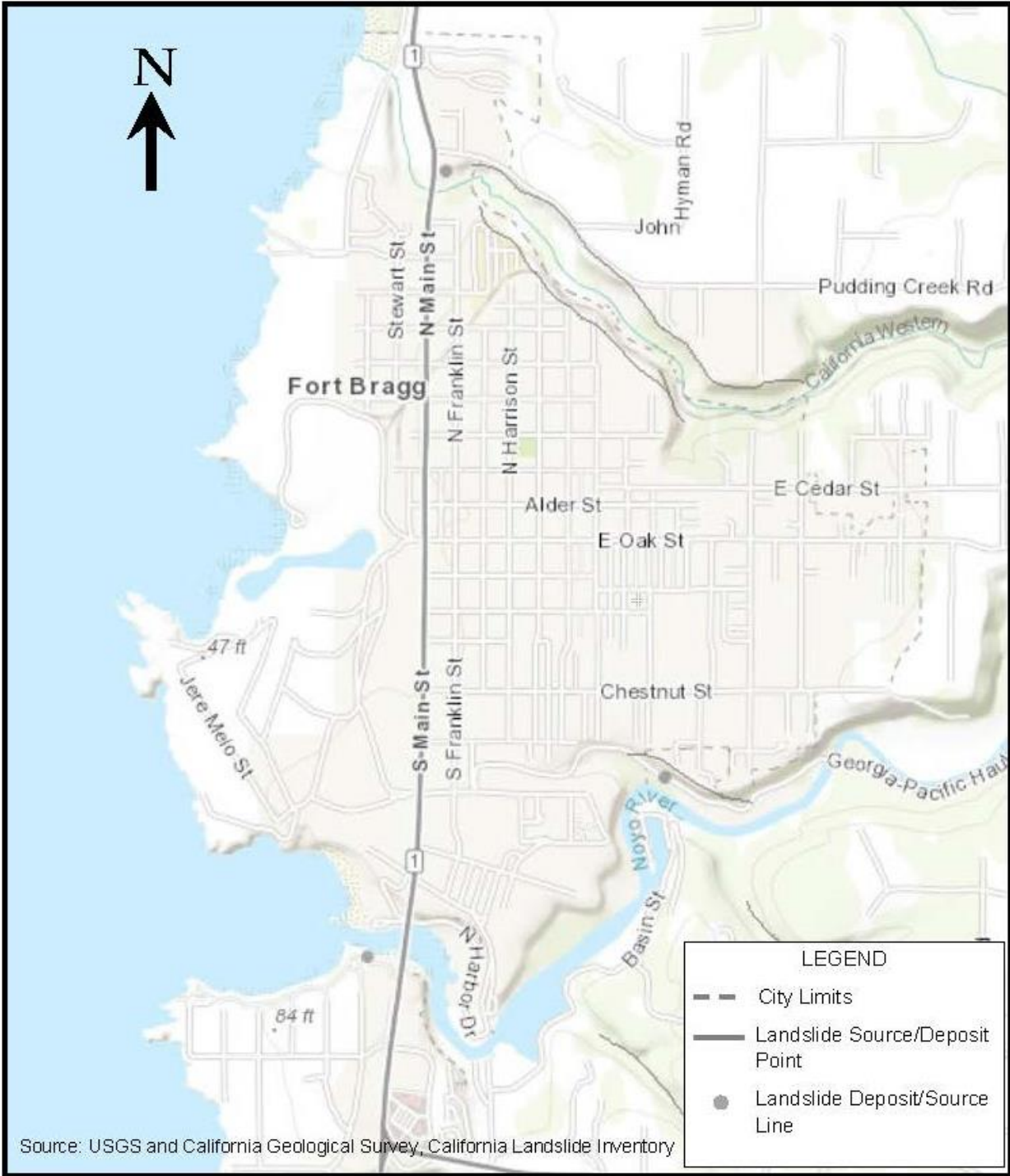


Figure 8: Map of Historic Landslides and Potential Landslide Areas in Fort Bragg

Landslides Identified by the California Landslide Inventory



Regulatory Setting

Regulations at the federal and state level require planning and development standards for seismic, geologic, and soil activity.

At the federal level, the Robert T. Stafford Disaster Relief and Emergency Assistance Act constitutes the statutory authority for most federal disaster response activities and established the presidential disaster declaration process. The Disaster Mitigation Act amended the Stafford Act and requires hazard mitigation plans as a pre-requisite for certain kinds of non-emergency disaster assistance. The Disaster Mitigation Act of 2000 also created the Pre-Disaster Mitigation Program and added incentives for states deemed “enhanced” who demonstrate increased coordination and integration of mitigation activities. In accordance with the Disaster Mitigation Act of 2000, the State of California has a Hazard Mitigation Plan that addresses earthquakes and geologic hazards. The City of Fort Bragg has a Hazard Mitigation Plan in conjunction with the County of Mendocino that addresses potential hazards related to seismic activities, landslides, and other geologic hazards.

The State of California has a long history of seismic activity. In 1972, the Alquist-Priolo Earthquake Fault Zoning Act was signed into law. The purpose of the act was to address the hazards posed by seismic activity. Amended in 1993, the Alquist Priolo Earthquake Fault Zoning Act *provides for the adoption and administration of zoning laws, ordinances, rules, and regulations by cities and counties in implementation of the general plan that is in effect in any city or county. The Legislature declares that this chapter is intended to provide policies and criteria to assist cities, counties, and state agencies in the exercise of their responsibility to prohibit the location of developments and structures for human occupancy across the trace of active faults. Further, it is the intent of this chapter to provide the citizens of the state with increased safety and to minimize the loss of life during and immediately following earthquakes by facilitating seismic retrofitting to strengthen buildings, including historical buildings, against ground shaking.*” (PRC 2621.5)

“Alquist-Priolo earthquake fault zones are regulatory zones surrounding the surface traces of active [faults](#) in California. (A trace is a line on the earth's surface defining a fault.) Wherever an active fault exists, if it has the potential for surface rupture, a structure for human occupancy cannot be placed over the fault and must be a minimum distance from the fault (generally fifty feet).

Earthquake fault zones were conceived in the [Alquist-Priolo Earthquake Fault Zoning Act](#) (Alquist-Priolo Act). The intent of the Alquist-Priolo Act is to reduce losses from surface fault rupture. California created this law following the destructive 1971 San Fernando earthquake (magnitude 6.6), which was associated with extensive surface fault ruptures that damaged numerous structures.

*An **active fault**, for the purposes of the Alquist-Priolo Act, is one that has ruptured in the last 11,000 years.”* (DOC, 2022)

Additionally, “The 2019 California Building Standards Code (CBC) (Cal. Code Regs., Title 24) was published July 1, 2019, with an effective date of January 1, 2020. Information Bulletin 19-04 and Information Bulletin 19-05 provide detailed information concerning the 2019 publication.” (Building Standards Commission, 2021) The CBC regulates the construction of buildings to ensure public safety in the event of seismic activity.

At the local level, the Inland General Plan policies and programs that address geology and soils include:

<p>Safety Goal SF-1 Policy SF-1.1 Minimize Hazards: New development shall: (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard; and (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</p>
<p>Safety Goal SF-1 Policy SF-1.1 Program SF-1.1.1 Continue to comply with the provisions of the State Alquist-Priolo Act.</p>
<p>Safety Goal SF-1 Policy SF-1.1 Program SF-1.1.2 Require professional inspection of foundations and excavations, earthwork, and other geotechnical aspects of site development during construction on those sites specified in soils, geologic, and geotechnical studies as being prone to moderate or high levels of seismic hazard.</p>
<p>Safety Goal SF-1 Policy SF-1.1 Program SF-1.1.3 Monitor and review existing critical, high priority buildings to ensure structural compliance with seismic safety standards.</p>
<p>Safety Goal SF-1 Policy SF-1.1 Program SF-1.1.7 Continue to comply with State law regarding reinforcement of unreinforced masonry structures.</p>
<p>Safety Goal SF-1 Policy SF-1.2 Geotechnical report required: Applications for development located in or near an area subject to geologic hazards, including but not limited to areas of geologic hazard shown on Map SF-1, shall be required to submit a geologic/soils/geotechnical study that identifies all potential geologic hazards affecting the proposed project site, all necessary mitigation measures, and demonstrates that the project site is suitable for the proposed development and that the development will be safe from geologic hazard. Such study shall be conducted by a licensed Certified Engineering Geologist (CEG) or Geotechnical Engineer (GE). Refer to Map SF-1: Geologic Hazards. Refer to the General Plan Glossary for definitions of these terms.</p>
<p>Safety Goal SF-1 Policy SF-1.4 Identify Potential Hazards: Identify potential hazards relating to geologic and soils conditions during review of development applications.</p>
<p>Safety Goal SF-1 Policy SF-1.4 Program SF-1.4.1 Evaluate slopes over 15 percent, unstable land, and areas susceptible to liquefaction, settlement, and/or soil expansion for safety hazards prior to issuance of any discretionary approvals and require appropriate measures to reduce any identified hazards.</p>

Safety Goal SF-1 Policy SF-1.4 Program SF-1.4.2 Require that development in areas with identified slope stability constraints as shown on Map SF-1 or other areas where City staff determines there is potential slope stability issues be supervised and certified by a geologist, geotechnical engineer, or engineering geologist.

Safety Goal SF-1 Policy SF-1.4 Program SF-1.4.3 Require repair, stabilization, or avoidance of active or potentially active landslides, areas of soil creep, or areas with possible debris flow as a condition of project approval.

As referenced in Map SF-1 in the Inland General Plan shows the known Geologic Hazards in the City of Fort Bragg. (See Figure 9)

The ILUDC Chapter 18.62 provides standards for grading, erosion, and sediment control. A proposed project that creates ground disturbance would have to be in compliance with any applicable section of this chapter including §18.62.030 Erosion and Sediment Control, §18.62.070 Revegetation and Slope Surface Stabilization, §18.62.090 Setbacks for Cut and Fill Slopes, and any other section that regulates erosion.

Also of relevance to this section, paleontological resources are the fossilized evidence of organisms preserved in the geologic (rocks) record. Fossils are considered nonrenewable resources that are protected by federal, state, and local environmental laws and regulations.

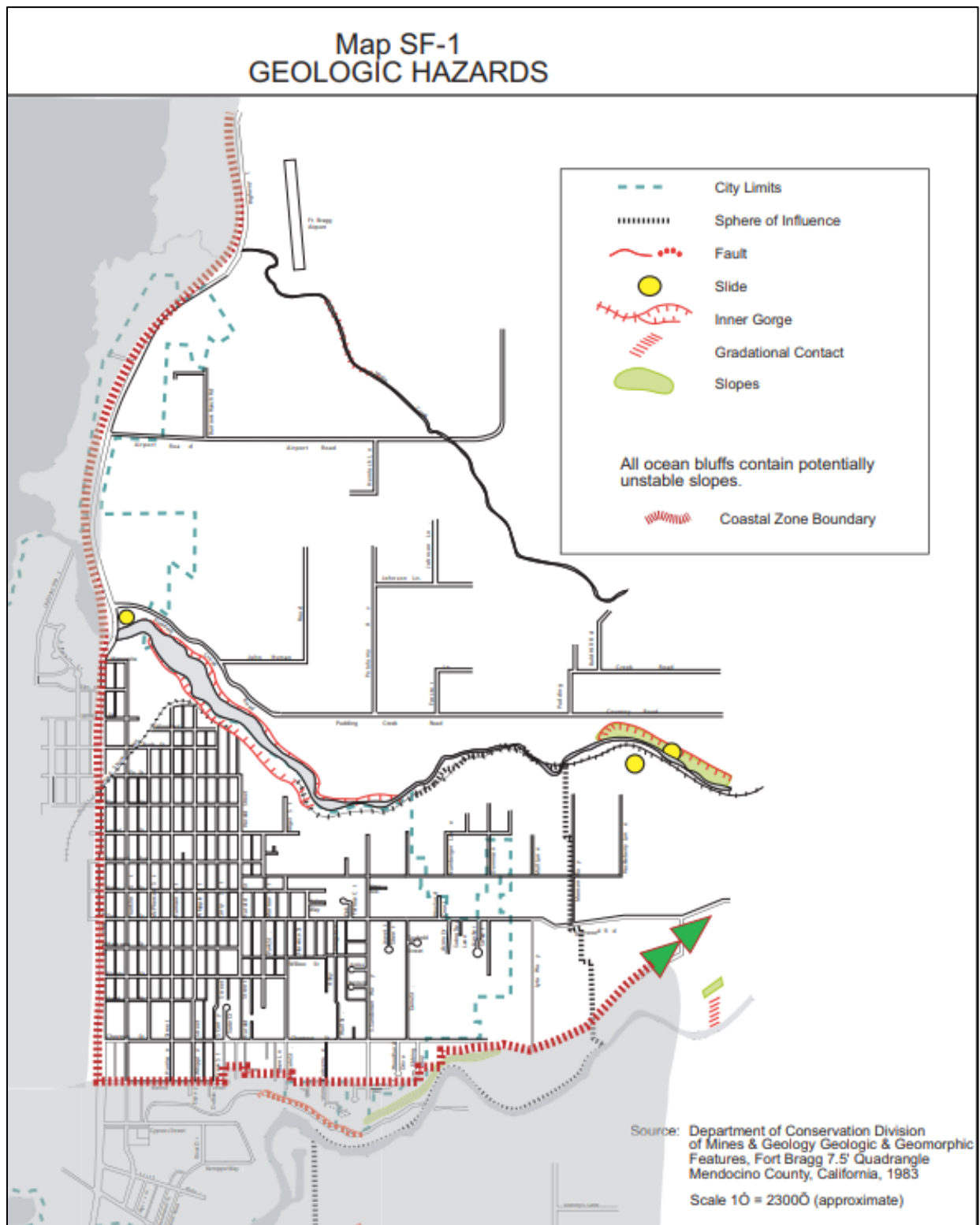
Discussion

As previously noted, the proposed amendments to the Municipal Code and the Inland Land Use and Development Code will not change the general requirements for development in the City. The project would establish regulations for a new use, commercial cannabis cultivation in the industrial zone and make minor modifications to existing regulations for cannabis business activities in the commercial zone. All existing and future CBP applications are subject to discretionary review and must comply with CEQA.

The construction of any new facilities and any structural changes to existing commercial or industrial buildings received under as part of a CBP application under the proposed ordinances, would require a building permit and demonstrate compliance with the Title 24 Building Code and meet current seismic standards, and the City's regulations for grading, erosion, and sediment control.

The proposed the project, changes to the City's codes regulating cannabis cultivation, would not result in any new buildings or structures and does not involve any physical development. Further, there are no changes proposed that would alter the City's established regulation governing the protection of public health and safety related to geology and soils. Therefore, the proposed project will have no impact on geologic and soil resources in the City of Fort Bragg.

Figure 9: General Plan Map SF-1 Geologic Hazards in the City of Fort Bragg



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Greenhouse Gases

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
VIII. GREENHOUSE GAS EMISSIONS.				
Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Regulatory Setting

Greenhouse Gas (GHG) is used to describe atmospheric gases naturally contained within the earth's atmosphere that absorb solar radiation and subsequently emit radiation in the thermal infrared region of the energy spectrum, trapping heat in the Earth's atmosphere. These gases include carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), and water vapor, among others. A growing body of research attributes long-term changes in temperature, precipitation, and other elements of the earth's climate to large increases in GHG emissions since the mid-nineteenth century, particularly from human activity related to fossil fuel combustion. Anthropogenic GHG emissions of particular interest include CO₂, CH₄, N₂O, and fluorinated gases. CO₂e represents CO₂ plus the additional warming potential from CH₄ and N₂O. The common unit of measurement for CO₂e is metric tons (MTCO₂e).

In 2007, the United States Supreme Court ruled that Greenhouse Gas Emissions (GHGs) are air pollutants under the Clean Air Act. In 2009, the National Highway Traffic Safety Administration and US EPA issued the first Corporate Fuel Economy (CAFE) Standards to improve fuel economy and reduce GHGs. These standards were updated in 2021 and expected to be updated again in the coming year(s).

The State of California regulates GHGs through the California Air Resources Board (CARB) and has permitting and reporting requirements for large stationary producers of GHGs. However, emissions related to cultivation are typically below the level that requires mandatory reporting.

California Assembly Bill 1493 was passed in 2002 which required CARB to develop and implement regulations to reduce automobile and light truck GHG emissions. Also, the Governor's Executive Order S-03-05 in 2005 called for reductions of GHGs to 2000 levels by 2010 and 1990 levels by 2020, and 80% of 1990 levels by 2050. These goals

were affirmed by Executive Order B-16-2012 in 2012 and an additional target was established for 40% below 1990 levels by 2030 via Executive Order B-30-15.

Additionally, the State of California passed AB 32, the Global Warming Solutions Act in 2006 to set a statewide target to reduce emissions to 1990 levels by 2020. An update to the plan to achieve the reductions was updated by CARB in 2017 which aims at achieving goals by 2030. Currently, CARB is developing a 2022 Scoping Plan Update which aims at achieving Carbon Neutrality by 2045.

The State of California has continued to develop rules and regulations on GHGs including:

- Senate Bill 32 and Assembly Bill 197 – follow ups to the California Global Warming Solutions Act.
- Executive Order S-1-07 - Low Carbon Fuel Standard
- Senate Bill 375 – Sustainable Communities and Climate Protection Act of 2008
- Renewable Portfolio Standards established by SB 1078, Executive Order S-14-08, SB X1-2 and SB 350.

Specifically for cannabis cultivation, the Department of Cannabis Control's Medicinal and Adult-Use Commercial Cannabis Regulations, California Code of Regulations Title 4 Division 19 §15020 provides the following requirements for cannabis businesses:

(f) Beginning January 1, 2022, an application for renewal of a license to engage in commercial cannabis cultivation shall include the following records, for each power source indicated on the application for licensure for the previous annual licensed period:

(1) Total electricity supplied by local utility provider, name of local utility provider, and greenhouse gas emission intensity per kilowatt hour reported by the utility provider under section 398.4(c) of the Public Utilities Code for the most recent calendar year available at time of submission;

(2) Total electricity supplied by a zero net energy renewable source, as set forth in section 398.4(h)(5) of the Public Utilities Code, that is not part of a net metering or other utility benefit;

(3) Total electricity supplied from other unspecified sources, as defined in section 398.2(e) of the Public Utilities Code, and other onsite sources of generation not reported to the local utility provider (e.g., generators, fuel cells) and the greenhouse gas emission intensity from these sources; and

(4) Average weighted greenhouse gas emission intensity considering all electricity use in subsections (f)(1)-(f)(3).

Also, the State of California Department of Cannabis Control Regulations §16305. Renewable Energy Requirements (**See Attachment F**):

(a) Beginning January 1, 2023, all holders of indoor, tier 2 mixed-light license types of any size, and all holders of nursery licenses using indoor or tier 2 mixed-light techniques shall ensure that electrical power used for commercial cannabis activity meets the average electricity greenhouse gas

emissions intensity required by their local utility provider pursuant to the California Renewables Portfolio Standard Program in division 1, part 1, chapter 2.3, article 16 (commencing with section 399.11) of the Public Utilities Code.

(b) If a licensed cultivator’s average weighted greenhouse gas emission intensity, as calculated and reported upon license renewal pursuant to section 15020, is greater than the local utility provider’s greenhouse gas emission intensity, the licensee shall obtain carbon offsets to cover the excess in carbon emissions from the previous annual licensed period. The carbon offsets shall be purchased from one or more of the following recognized voluntary carbon registries:

- (1) American Carbon Registry;*
- (2) Climate Action Reserve; or*
- (3) Verified Carbon Standard.*

Locally, the City of Fort Bragg’s Inland General Plan Element 9 - Sustainability provides goals and policies on GHG reductions. These include:

Sustainability Goal S-2 Encourage development that minimizes the demand for non-renewable energy and reduces Green House Gas (GHG) emissions.
Sustainability Goal S-2 Policy S-2.1 Passive Solar Design Strategies: All building and site design shall use passive solar design strategies for space heating and lighting to reduce energy demand to the extent feasible.
Sustainability Goal S-2 Policy S-2.3 Reduce Energy Demand with a goal of Net Zero Energy in New Construction. All new construction shall minimize energy use. Net zero buildings and homes are encouraged. These homes produce as much energy (through conservation, photovoltaic panels, solar hot water, wind, and geothermal) as they consume and have a net zero impact on greenhouse gas production.
Sustainability Goal S-2 Policy S-2.4 Require passive solar design in new construction, where feasible, as part of Design Review.
Sustainability Goal S-2 Policy S-2.4 Program S-2.4.1: Modify the Citywide Design Guidelines to include guidelines that require passive solar design for residential and commercial new construction projects.
Sustainability Goal S-2 Policy S-2.5 Use of Local and Renewable Energy: Buildings and infrastructure that create and/or use locally and renewably generated energy are encouraged. Photovoltaic and wind energy systems are encouraged. The installation of solar panels or other clean energy power generation sources over parking areas is preferred

Furthermore, in the City’s Municipal Code, Chapter 9.30 Cannabis Business §9.30.140(D) currently says that “*the Commercial cannabis cultivation shall either enroll in a community choice aggregate energy provider or install solar panels.*”

Discussion

As previously noted, the proposed ordinances would establish regulations for commercial cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones. This project in and of itself does not propose any physical development and any future proposed cultivation application would be subject to discretionary review, at which time it would be determined if the project would have significant impacts on Greenhouse Gas Emissions. The proposed amendments do not change the land use designations for any properties and conditionally allows the introduction of cannabis cultivation in industrial zones and makes minor modifications to existing regulations for commercial zones. It does not change any of the plans or regulations for reducing greenhouse gas emissions. Therefore, the proposed project, limited to the proposed amendments to the Municipal Code and Inland Land Use and Development Code, will have no impacts on Greenhouse Gas Emissions.

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<https://city.fortbragg.com/156/Inland-General-Plan>

Hazards and Hazardous Materials

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
IX. HAZARDS AND HAZARDOUS MATERIALS. Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Regulatory Setting

Hazardous materials, including hazardous substances and wastes are regulated by state and federal laws. Statutes govern the generation, treatment, storage and disposal of hazardous materials, substances, and waste, and also the investigation and mitigation of waste releases, air and water quality, human health and land use.

Federally, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) regulates the effects of past hazardous waste disposal activities and new hazardous spills. It created a tax on chemical and petroleum industries to support funding for clean-up of abandoned or uncontrolled hazardous waste sites with no responsible party. This was amended in 1986 by Superfund Amendments and Reauthorization Act to increase the focus on human health problems posed by hazardous waste.

The Resource Conservation and Recovery Act (RCRA) was adopted in 1976. This provided national goals for protecting human health and the environment from the potential hazards related to waste disposal. It also provided for conservation of energy and natural resources, reductions in the amount of waste generated, and ensured that waste is managed in an environmentally sound manner.

Additionally, the Emergency Planning and Community Right-to-Know Act included Section 313, the Toxic Release Inventory (TRI). This is a publicly available database that contains information on disposal and other releases of toxic chemicals from industrial facilities. Facilities that release toxic chemicals above a certain threshold are required to submit information through the TRI database.

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) was adopted in 1947 and amended in 1972 and 1996. It mandates that the EPA regulate the use and sale of pesticides.

To create workplace safety and protect the health of workers, the Occupational Safety and Health Act was adopted in 1970. It created the Occupational Safety and Health Administration (OSHA) which creates and enforces regulations on worker safety.

Other federal laws regulating hazardous materials include:

- Community Environmental Response Facilitation Act (CERFA) of 1992
- Clean Water Act
- Clean Air Act
- Safe Drinking Water Act
- Atomic Energy Act
- Toxic Substances Control Act (TSCA)

In addition to the acts listed above, Executive Order (EO) 12088, Federal Compliance with Pollution Control Standards, mandates that necessary actions be taken to prevent and control environmental pollution when federal activities or federal facilities are involved.

At the state level, California regulates hazardous materials, waste, and substances under the authority of the California Health and Safety Code and is also authorized by the federal government to implement RCRA. California law also addresses specific handling, storage, transportation, disposal, treatment, reduction, cleanup and emergency planning of hazardous waste. The Porter-Cologne Water Quality Control Act also restricts disposal of wastes and requires clean-up of wastes that are below hazardous waste concentrations but could impact ground and surface water quality. California regulations that address waste management and prevention and clean up contamination include Title 22 Division 4.5 Environmental Health Standards for the Management of Hazardous Waste, Title 23 Waters, and Title 27 Environmental Protection.

The California Department of Toxic Control Substances regulates toxic substances in California. Additionally, the North Coast Regional Water Quality Control Board regulates the cleanup of contaminated sites.

Under 3 CCR Division 6, the California Department of Pesticide Regulation (CDPR) oversees state and federal laws for regulating pesticides. Under MACURSA, CDPR is responsible for:

1. *Providing statewide guidance on the use of pesticides in the cultivation of cannabis*
2. *Providing guidance to the Bureau of Cannabis Control on testing for pesticides*
3. *Requiring that pesticides being applied to cannabis comply with food and agriculture standards* (California Department of Pesticide Regulation, 2022)

Additionally, the following state laws regulate hazards and hazardous waste:

- California Accidental Release Prevention Program (CalARP) (CCR Title 19, Division 2, Chapter 4.5) provides requirements for businesses that handle more than a threshold quantity of regulated substances.
- California Fire Code—Hazardous Materials Management Plans and Hazardous Materials Inventory Statements – California Fire Code (29 CCR Part 9) provides requirements and regulations for businesses that handle more than a threshold quantity of hazardous material(s).
- California Emergency Services Act – requires the state to develop a statewide toxic disaster contingency plan that can facilitate an effective, multi-agency response to a situation in which toxic substances are dispersed.
- Pesticide Contamination Prevention Act (Sections 13145-13152 of the Food and Agricultural Code)

- Safe Drinking Water and Toxic Enforcement Act (Proposition 65)
- The California Fire Code (24 CCR Part 9) – minimum requirements to safeguard the public health, safety, and general welfare from the hazards of fire, explosion, or dangerous conditions in new and existing buildings.

The State of California Department of Cannabis Control (DCC) has specific waste management regulations for cannabis businesses in §17223 of the Medicinal and Adult-Use Commercial Cannabis Regulations, California Code of Regulations.

§15011. Additional Information. (a) A commercial cannabis business applying for a license to cultivate cannabis shall provide the following information:... (12) For all cultivator license types except processor, a signed attestation that states the commercial cannabis business shall contact the appropriate County Agricultural Commissioner regarding requirements for legal use of pesticides on cannabis prior to using any of the active ingredients or products included in the pest management plan and shall comply with all pesticide laws.

§15408. Sale of Live Plants and Seeds... (b) A licensed retailer shall not apply or use any pesticide on live plants. A licensed retailer shall not cause any pesticide to be applied or used on live plants.

§16307. Pesticide Use Requirements

§17209. Grounds, Building, and Manufacturing Premises. (C) Poisonous or toxic materials such as cleaning compounds, sanitizing agents, and pesticide chemicals that are necessary for premises and equipment maintenance and operation shall be handled and stored in a manner that meets the requirements of Health and Safety Code sections 114254.1, 114254.2 and 114254.3

At the local level, the following policies and programs from the Inland General Plan address hazards and hazardous waste:

Safety Goal SF-4 Policy SF-4.1 Minimize Fire Risk in New Development: Review all development proposals for fire risk and require mitigation measures to reduce the probability of fire.
Safety Goal SF-4 Policy SF-4.1 Program SF-4.1.1: Continue to consult the Fort Bragg Fire Protection Authority in the review of development proposals to identify the projected demand for fire protection services and implement measures to maintain adequate fire protection services. Mitigation measures may include levying fire protection impact fees for capital facilities, if warranted.
Safety Goal SF-7 Policy SF-7.1 Protection from Hazardous Waste and Materials: Provide measures to protect the public health from the hazards associated with the transportation, storage, and disposal of hazardous wastes (TSD Facilities).

Safety Goal SF-7 Policy SF-7.1 Program SF-7.1.1 Continue to ensure that use, transportation, and disposal of hazardous materials are in accordance with the local, State, and Federal safety standards.
Safety Goal SF-7 Policy SF-7.1 Program SF-7.1.2 Continue to support and participate in Mendocino County's Hazardous Materials Business Plan which requires all businesses using hazardous materials to list the types, quantities, and locations of hazardous materials with the County's Department of Environmental Health.
Safety Goal SF-7 Policy SF-7.1 Program SF-7.1.3 Require, as a condition of City approvals of non-residential projects, that the Fire Protection Authority be notified of all hazardous substances that are transported, stored, treated, or could be released accidentally into the environment.
Safety Goal SF-7 Policy SF-7.1 Program SF-7.1.4 Require that applications for discretionary development projects that will generate hazardous waste or utilize hazardous materials include detailed information on hazardous waste reduction, recycling, transportation, and storage, and prepare a plan for emergency response to a release or threatened release of a hazardous material.
Safety Goal SF-7 Policy SF-7.1 Program SF-7.1.5 Revise the Zoning Ordinance to require secondary containment facilities and a buffer zone adequate to protect public health and safety on properties with hazardous materials storage and/or processing activities.
Safety Goal SF-7 Policy SF-7.2 Support Environmental Review of Hazardous Waste Transportation, Storage and Disposal Facilities: Support a thorough environmental review for Hazardous Waste Transportation, Storage and Disposal (TSD) Facilities, including waste to energy projects, proposed in the Fort Bragg area
Safety Goal SF-7 Policy SF-7.2 Program SF-7.2.1 Require that the environmental review of proposed Hazardous Waste TSD facilities shall, at a minimum, contain the following analysis and information:

The City's Municipal Code Title 6 Health and Sanitation Chapter 6.24 regulates hazardous materials in the City Limits and Municipal Code Chapter 14.16 Sanitary Code, regulates potential introduction of pollutants into the sanitary sewer network and storm drains. §14.16.090 prohibits pollutants and provides a list. §14.16.090(A)(21) lists a table of toxicants and the maximum allowable concentration in milligrams/liter.

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones. Indoor cannabis cultivation as a land use is comparable in intensity to other allowable/conditionally allowed uses in the industrial zone, namely manufacturing, fish processing, or agricultural product processing. The proposed ordinances do not change the regulatory environment for hazardous materials, nor does it expand the size or locations of zones for industrial or commercial land uses.

All future cultivation applications would be subject to discretionary review and subject to CEQA, including an evaluation of potential hazards and hazardous waste. The current Municipal Code §9.30.050(N) requires detailed operating procedures for:

- How the business will comply with applicable state regulations;
- Product safety and quality assurances;

If a future application is received for a proposed commercial cannabis cultivation it would be reviewed to determine if the project would be 1) located on an existing site requiring remediation and/or 2) using substances or materials that may be hazardous. If a proposed application were to have either of these situations potential impacts would be evaluated through the CEQA review process.

The proposed code amendments do not change the regulatory framework or procedures for conducting development review and ensure that future cultivation application are discretionary and subject to CEQA. As an amendment to the existing codes, the project does not propose any physical development and would not result in environmental impact. Therefore, the proposed project will have no impact on hazards and hazardous materials.

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Hydrology and Water Quality

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>X. HYDROLOGY AND WATER QUALITY. Would the project:</p>				
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) result in substantial erosion or siltation on- or off-site;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Setting

The City of Fort Bragg is located along the Pacific Ocean, in the Mendocino Coast Hydrologic Unit in the Noyo River Hydrologic Area (NCRWQCB, 2022). The City of Fort Bragg spans three watersheds, including the Pudding Creek Watershed, and the Hare Creek Watershed.

The City of Fort Bragg’s water supply comes from three main sources including Waterfall Gulch, Newman Gulch, and the Noyo River. Raw water from the Noyo River is conveyed from the Madsen Hole intake structure, located to the east of the water treatment plant (WTP), and is pumped via 10-inch and 14-inch diameter pipelines directly to the WTP.

According to OPR’s General Plan Guideline Tools, both Pudding Creek, the Noyo River, and the river mouth at Hare Creek are all listed as 303d Waters (see Figure 10). *These waters on the list do not meet water quality standards, even after point sources of pollution have installed the minimum required levels of pollution control technology.* (OPR, 2022)

Flood Zones

Figure 11 shows the areas of the City at risk for flooding. There are no inland industrial or commercial lands in these areas.

Tsunami Zones

There are areas of the City of Fort Bragg that are potentially within a Tsunami Hazard Zone as seen in Figure 12. However, as seen in this map, the areas subject to Tsunami Hazard are not in the inland zones of the City of Fort Bragg.

Figure 10: 303d Listed Waterways in the City of Fort Bragg

Fort Bragg 303d Impaired Waters



Figure 11: Flood Risk Map of the City of Fort Bragg

Fort Bragg 100 Year Flood Map

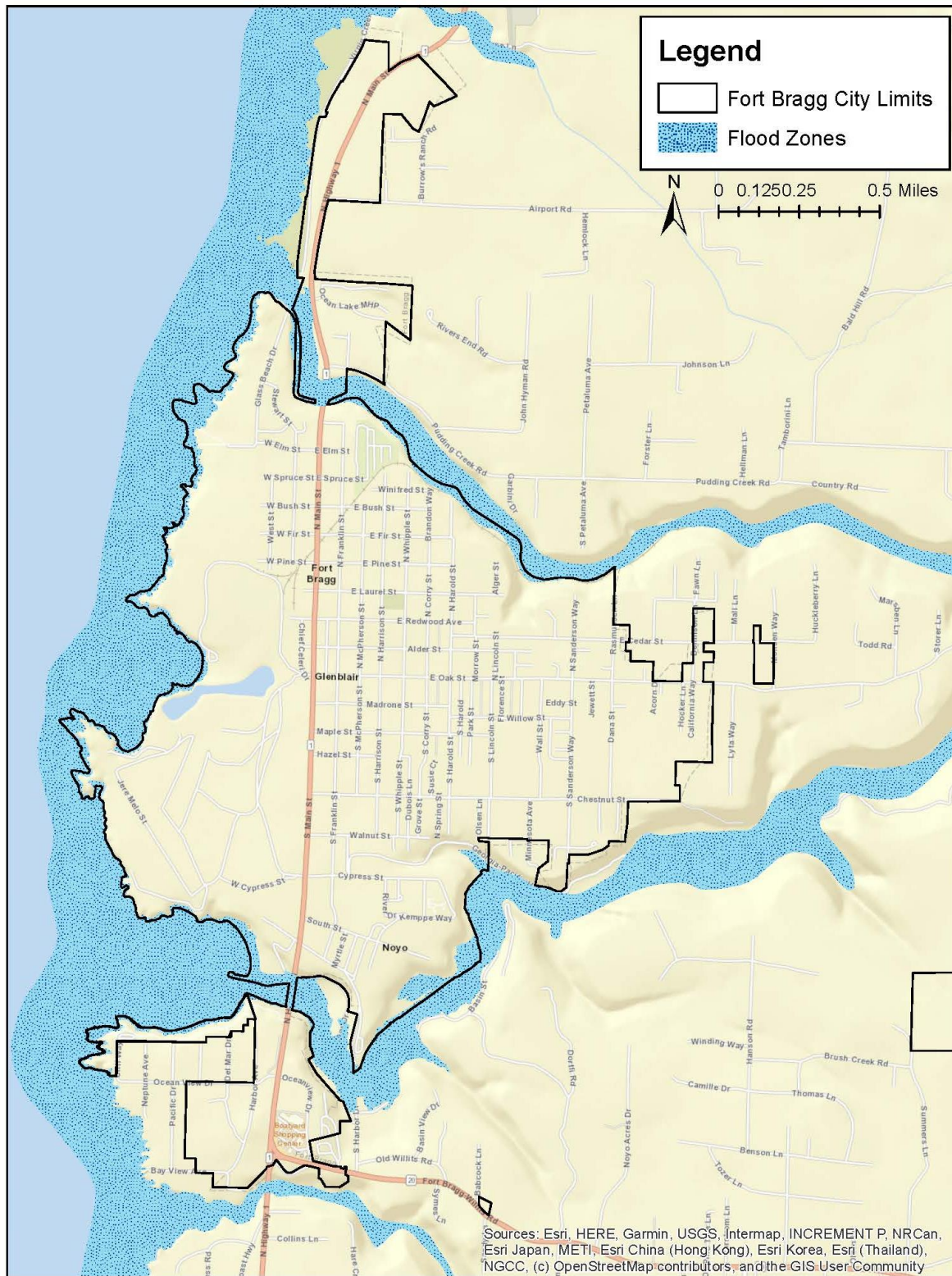
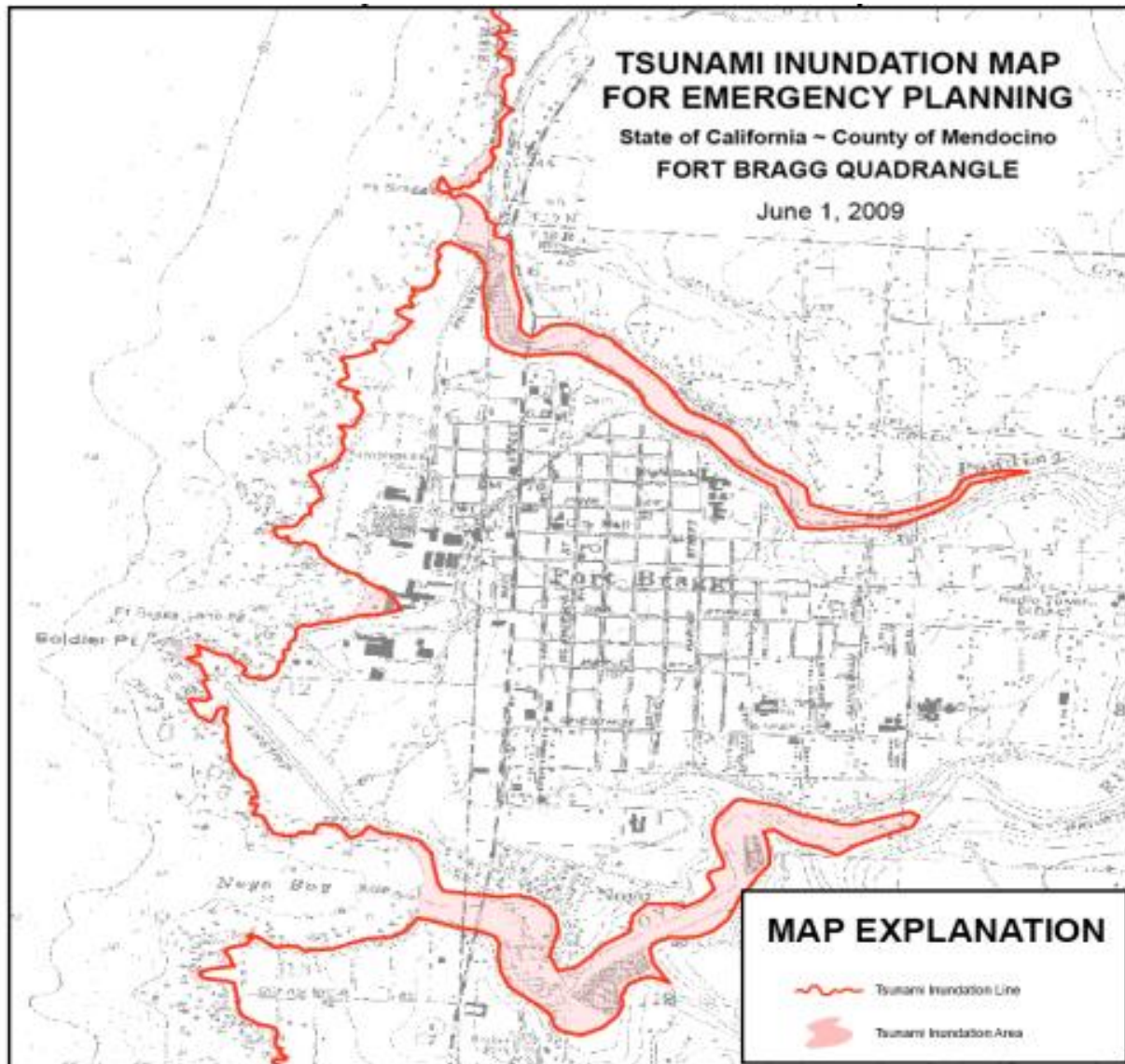


Figure 12: General Plan Map SF-3 Tsunami Inundation Map for Emergency Planning



Source: City of Fort Bragg Inland General Plan

Regulatory Setting

In 1972 Congress amended the Federal Water Pollution Control Act, making the addition of pollutants to the waters of the United States (U.S.) from any point source unlawful unless the discharge is in compliance with a NPDES permit. Known today as the Clean Water Act (CWA), Congress has amended it several times. In the 1987 amendments, Congress directed dischargers of stormwater from municipal and industrial/construction point sources to comply with the NPDES permit program. Important CWA sections are:

- Sections 303 and 304 require states to promulgate water quality standards, criteria, and guidelines.
- Section 401 requires an applicant for a federal license or permit to conduct any activity, which may result in a discharge to waters of the U.S., to obtain certification from the State that the discharge will comply with other provisions of the act. (Most frequently required in tandem with a Section 404 permit request. See below).
- Section 402 establishes the NPDES, a permitting system for the discharges (except for dredge or fill material) of any pollutant into waters of the U.S. The Federal Environmental Protection Agency delegated to the California State Water Resources Control Board (SWRCB) the implementation and administration of the NPDES program in California. The SWRCB established nine RWQCBs. The SWRCB enacts and enforces the Federal NPDES program and all water quality programs and regulations that cross Regional boundaries. The nine RWQCBs enact, administer and enforce all programs, including NPDES permitting, within their jurisdictional boundaries. Section 402(p) requires permits for discharges of stormwater from industrial, construction, and Municipal Separate Storm Sewer Systems (MS4s).
- Section 404 establishes a permit program for the discharge of dredge or fill material into waters of the U.S, including wetlands. This permit program is administered by the U.S. Army Corps of Engineers (Corps).

The objective of the CWA is “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”

At the State level, the California’s Porter-Cologne Water Quality Control Act, enacted in 1969, provides the legal basis for water quality regulation within California. This Act requires a “Report of Waste Discharge” for any discharge of waste (liquid, solid, or gaseous) to land or surface waters that may impair beneficial uses for surface and/or groundwater of the State. It predates the CWA and regulates discharges to waters of the State. Waters of the State include more than just waters of the U.S., such as groundwater and surface waters not considered waters of the U.S. Additionally, it prohibits discharges of “waste” as defined and this definition is broader than the CWA definition of “pollutant”. Discharges under the Porter-Cologne Act are permitted by WDRs and may be required even when the discharge is already permitted or exempt under the CWA.

The State Water Resources Control Board (SWRCB) adjudicates water rights, sets water pollution control policy, and issues water board orders on matters of statewide application, and oversees water quality functions throughout the state by approving Basin Plans, TMDLs, and NPDES permits. RWCQBs are responsible for protecting beneficial uses of water resources within their regional jurisdiction using planning, permitting, and enforcement authorities to meet this responsibility. (SWRCB, 2022)

The SWRCB and for Fort Bragg, the North Coast Regional Water Quality Control Board (NCRWQCB) are responsible for establishing the water quality standards (objectives and beneficial uses) as required by the CWA and regulating discharges to protect beneficial uses of water bodies. Details regarding water quality standards in a project

area are contained in the applicable NCRWQCB Basin Plan. The NCRWQCB designates beneficial uses for all water body segments in the North Coast Region, and then set standards necessary to protect these uses. Consequently, the water quality standards developed for particular water body segments are based on the designated use and vary depending on such use. Water body segments that fail to meet standards for specific pollutants are included in a Statewide List in accordance with CWA Section 303(d). In the case of the Noyo River, the listing is because of sediment and temperature. Hare Creek is listed due to the presence of indicator bacteria, and Pudding creek is listed because of indicator bacteria and temperature. (NCRWQCB, 2018)

Under the National Pollutant Discharge Elimination System (NPDES) Program is the Municipal Separate Storm Sewer Systems (MS4). Section 402(p) of the CWA requires the issuance of NPDES permits for five categories of stormwater dischargers, including MS4s. The U.S. EPA defines an MS4 as “any conveyance or system of conveyances (roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels, and storm drains) owned or operated by a state, city, town, county, or other public body having jurisdiction over storm water, that are designed or used for collecting or conveying stormwater.”

Construction General Permit (CGP) (NPDES No. CAS000002, SWRCB Order No. 2009-0009-DWQ, adopted on November 16, 2010) became effective on February 14, 2011 and was amended by Order No. 2010-0014-DWQ and Order No. 2012-0006-DWQ. The permit regulates stormwater discharges from construction sites which result in a disturbed soil area of one acre or greater, and/or are smaller sites that are part of a larger common plan of development.

For all projects subject to the CGP, the applicant is required to hire a Qualified Storm Water Pollution Prevention Plan (SWPPP) Developer (QSD) to develop and implement an effective SWPPP. All Project Registration Documents, including the SWPPP, are required to be uploaded into the SWRCB’s on-line Stormwater Multiple Application and Report Tracking System (SMARTS), at least 30 days prior to construction.

Projects that disturb over 1.0 acre but less than 5 acres of soil, may qualify for waiver of CGP coverage. This occurs whenever the R factor of the Watershed Erosion Estimate ($=R \times K \times LS$) in tons/acre is less than 5. Within this CGP formula, there is a factor related to when and where the construction will take place. This factor, the ‘R’ factor, may be low, medium or high. When the R factor is below the numeric value of 5, projects can be waived from coverage under the CGP, and are instead covered by the Caltrans Statewide MS4.

Construction activity that results in soil disturbances of less than one acre is subject to this CGP if there is potential for significant water quality impairment resulting from the activity as determined by the NCRWQCB. Operators of regulated construction sites are required to develop a SWPPP, to implement soil erosion and pollution prevention control measures, and to obtain coverage under the CGP. (SWRCB, 2022)

In some cases, the NCRWQCB may have specific concerns with discharges associated with a project. As a result, the NCRWQCB may prescribe a set of requirements known

as WDRs under the State Water Code (Porter-Cologne Act). WDRs may specify the inclusion of additional project features, effluent limitations, monitoring, and plan submittals that are to be implemented for protecting or benefiting water quality. WDRs can be issued to address both permanent and temporary discharges of a project. The project would need CWA Section 404 permit for construction of various Segments of the project.

Also at the state level, CDFW Lake and Streambed Alteration Program or Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following:

- *Substantially divert or obstruct the natural flow of any river, stream or lake.*
- *Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or*
- *Deposit debris, waste or other materials that could pass into any river, stream or lake.* (CDFW, 2022)

According to CDFW, "any river, stream or lake" includes those that are episodic (they are dry for periods of time) as well as those that are perennial (they flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water.

CDFW requires a Lake or Streambed Alteration (LSA) Agreement when it determines that the activity, as described in a complete LSA Notification, may substantially adversely affect existing fish or wildlife resources. An LSA Agreement includes measures necessary to protect existing fish and wildlife resources. CDFW may suggest ways to modify your project that would eliminate or reduce harmful impacts to fish and wildlife resources. Before issuing an LSA Agreement, CDFW must comply with the CEQA. (CDFW, 2022)

The City’s Inland General Plan Open Space Element contains the following relevant policies:

Open Space Goal OS-6 Policy OS-6.3 Minimize Increases in Stormwater Runoff: Development shall be designed and managed to minimize post project increases in stormwater runoff volume and peak runoff rate, to the extent feasible.
Open Space Goal OS-6 Policy OS-6.3 Program OS-6.3.1: Develop and implement Low Impact Development requirements in the Inland Land Use and Development Code. Remove regulatory barriers to Low Impact Development from the Inland LUDC where feasible.
Open Space Goal OS-6 Policy OS-6.4 Maintain and Restore Biological Productivity and Water Quality: Development shall maintain and, where feasible, restore the biological productivity and the quality of streams and wetlands to maintain optimum populations of aquatic organisms and for the protection of human health.

<p>Open Space Goal OS-6 Policy OS-6.5 Municipal Activities to Protect and Restore Water Quality: The City shall promote both the protection and restoration of water quality. Water quality degradation can result from a variety of factors, including but not limited to the introduction of pollutants, increases in runoff volume and rate, generation of non-stormwater runoff, and alteration of physical, chemical, or biological features of the landscape.</p>
<p>Open Space Goal OS-6 Policy OS-6.5 Program OS-6.5.2 BMPS for Municipal Maintenance Activities. The City shall ensure that municipal maintenance activities and other public projects integrate appropriate BMPs to protect water quality.</p>
<p>Safety Goal SF-2 Policy SF-2.1 Flood Hazards: Ensure adequate standards for development in the 100-year floodplain.</p>
<p>Safety Goal SF-2 Policy SF-2.1 Program SF-2.1.1 Maintain and update as necessary the zoning and building code standards and restrictions for development in identified floodplains and areas subject to inundation by a 100-year flood. Use the Federal Emergency Management Agency's Flood Insurance Rate Map (FIRM) in the review of development proposals</p>
<p>Safety Goal SF-2 Policy SF-2.1 Program SF-2.1.2: Ensure all development in flood prone areas meet Federal, State, and local requirements.</p>
<p>Safety Goal SF-2 Policy SF-2.2 Storm Drainage: Continue to maintain effective flood drainage systems and regulate construction to minimize flood hazards.</p>
<p>Safety Goal SF-2 Policy SF-2.2 Program SF-2.2.1: Continue to update the City's Storm Drain Master Plan.</p>
<p>Safety Goal SF-2 Policy SF-2.3 Require development to pay for the costs of drainage facilities needed to drain project-generated runoff.</p>
<p>Safety Goal SF-2 Policy SF-2.3 Program SF-2.3.1 Update and utilize the City's Drainage Development Impact Fees to ensure that development pays for its proportional share of drainage facilities.</p>
<p>Safety Goal SF-2 Policy SF-2.4 Require, where necessary, the construction of siltation/detention basins to be incorporated into the design of development projects.</p>
<p>Safety Goal SF-2 Policy SF-2.5 Require, as determined by City staff, analysis of the cumulative effects of development upon runoff, discharge into natural watercourses, and increased volumes and velocities in watercourses and their impacts on downstream properties. Include clear and comprehensive mitigation measures as part of project approvals to ensure that new development does not cause downstream flooding of other properties.</p>

Safety Goal SF-2 Policy SF-2.6 Analyze the impacts of and potential flooding issues resulting from Climate Change and rising sea levels on proposed projects located within the 100-year Sea-Level Rise Inundation Area (see Map SF-4).

Additionally, Article 5 Resource Protection of the ILUDC contains Chapter 18.52 which provides standards for the protection of watercourse and riparian resources within the City and Chapter 18.58 Wetland Protection and Restoration.

Discussion

There are numerous laws in place at the federal, state, and local level that regulate and protect hydrology and water quality from construction, development, and ongoing municipal and private operating activities. The proposed ordinances would establish regulation for commercial cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones. The proposed ordinances would not change regulatory setting for hydrology or water quality and no physical development is proposed.

Any future CBP applications proposed in compliance with the proposed amended codes would require a discretionary permit subject to review under CEQA. When a proposed project application is received, it would be reviewed for compliance with all state, regional, and local regulations regarding hydrology and water quality. Activities that involve actions that could potentially affect Waters of the State are subject to discretionary review by the NCRWQCB and compliance with the National Pollution Discharge Elimination System (NPDES) provisions. At the time future cannabis cultivation applications are received, the City's Public Works/Engineering Department will review proposals and impose conditions or refinements to demonstrate compliance with hydrology and water quality regulation, as warranted.

The project at hand is limited to updating the City's Municipal Code and Inland Land Use and Development Code to include regulation for commercial cannabis cultivation use in areas of the City where similar types of industrial and commercial uses are conditionally allowed. All existing development standards for industrial and commercial uses established to protect the environment including hydrology and water quality will remain applicable. There is no physical development or other physical changes to the environment that would occur under the proposed code amendments. Therefore, the proposed project will have no impacts on water quality or hydrology.

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Land Use and Planning

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XI. LAND USE AND PLANNING. Would the project:				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Regulatory Setting

Land use planning is the long-range planning for the desirable use of land in a City (or other jurisdiction) for the purpose of guiding the development and changes in the use of lands to protect the community health, well-being, and enjoyment of private property. Early land-use planning authority came from a local government's ability to enforce nuisance laws until the US Department of Commerce published the States Zoning Enabling Act published in 1924 and the Standard City Planning Enabling Act (SCPEA) published in 1928.

The SZEA had nine sections. It included a grant of power, a provision that the legislative body could divide the local government's territory into districts, a statement of purpose for the zoning regulations, and procedures for establishing and amending the zoning regulations. A legislative body was required to establish a zoning commission to advise it on the initial development of zoning regulations...

The SCPEA covered six subjects:

- 1. the organization and power of the planning commission, which was directed to prepare and adopt a "master plan"*
- 2. the content of the master plan for the physical development of the territory*
- 3. provision for adoption of a master street plan by the governing body*
- 4. provision for approval of all public improvements by the planning commission*
- 5. control of private subdivision of land*
- 6. provision for the establishment of a regional planning commission and a regional plan (APA, 2022)*

In addition to Land Use Planning, there are other types of planning enabled through federal legislation mentioned in the appropriate corresponding sections of this report such as hazard mitigation planning and the housing element of the general plan.

At the State level, Planning and Land Use authorities and regulations are detailed in the California Government Code Title 7 Planning and Land Use [65000 - 66499.58] (Heading of Title 7 amended by Stats. 1974, Ch. 1536.) The Governor's Office of Planning and Research is the responsible state agency for regulating and enforcing this code. (OPR, 2022)

California state regulation SB 94 allows for local jurisdiction in California to regulate land use and zoning in relation to cannabis. The Medicinal and Adult-Use Cannabis Regulation and Safety Act provides the authority to control and regulate cultivation, distribution, transport, storage, manufacturing, and processing of cannabis. (CCR, 2022) The Department of Cannabis Control (DCC) is responsible for regulating cannabis businesses to ensure that operations are safe, products are contaminant free and labeled appropriately. (DCC, 2021)

The City of Fort Bragg's inland zones are under the jurisdiction of the City's Inland General Plan and Title 18 Inland Land Use and Development Code(ILUDC). The inland zones consist of areas outside of the City's coastal zone and are not under the jurisdiction of the California Coastal Commission.

Element 2 of the Inland General Plan (IGP) is the Land Use Element. The IGP *establishes goals, policies and programs to maintain the existing pattern of land uses within the City's Inland Area while anticipating and providing for future growth and development.* (IGP, 2013) The IGP identifies the physical locations of the zones on Map LU-1 (see Figure 13).

The City's goals, policies, and programs are implemented through the standards and regulations established in the ILUDC. The city's commercial, industrial, residential, and other zones are established in Article 2 which also provides the land use tables that describe allowable uses, conditionally allowable uses, and uses that are not allowed. Standards for specific land uses are regulated by Article 4 and Article 10 provides definitions and terminology necessary for interpreting the code.

The City's Municipal Code and ILUDC currently provide regulation for cannabis retail uses in §18.22.030 and §18.42.057 of the ILUDC which allows for retail cannabis with accessory uses. While the City's Municipal Code Chapter 9.30 allows for cannabis cultivation, it is not currently defined in the ILUDC or listed as a use in Article 2. Retail cannabis activity currently requires a Cannabis Business Permit and a conditional Minor Use or Use Permit.

Site planning, design standards, and development, resource protection, and the planning permit process are all regulated by the ILUDC. The City's Zoning Map designates the zoning of all parcels located within the inland zone of the City (See Figure 14).

Figure 13: General Plan Map LU-1 Land Use Designations

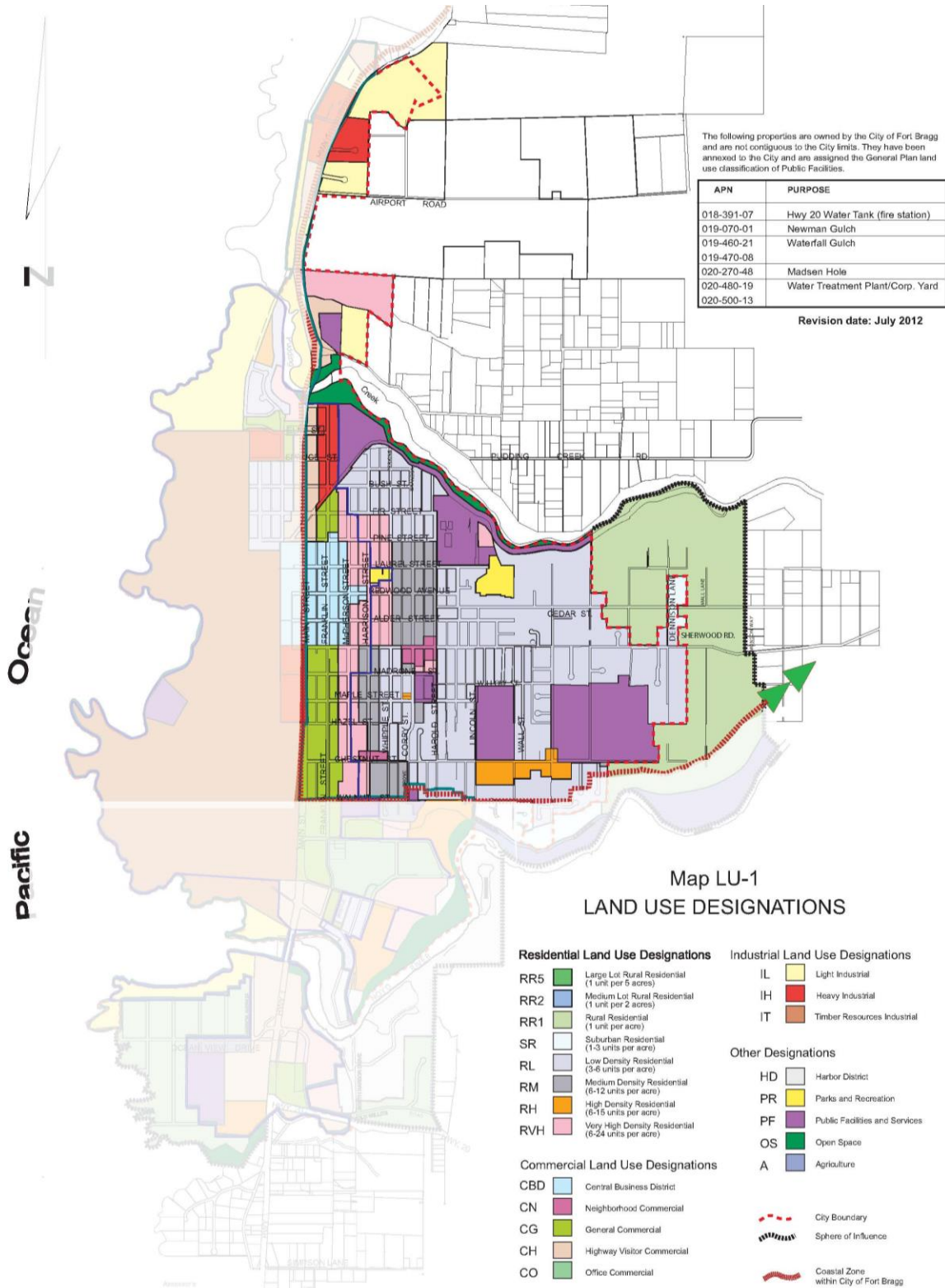
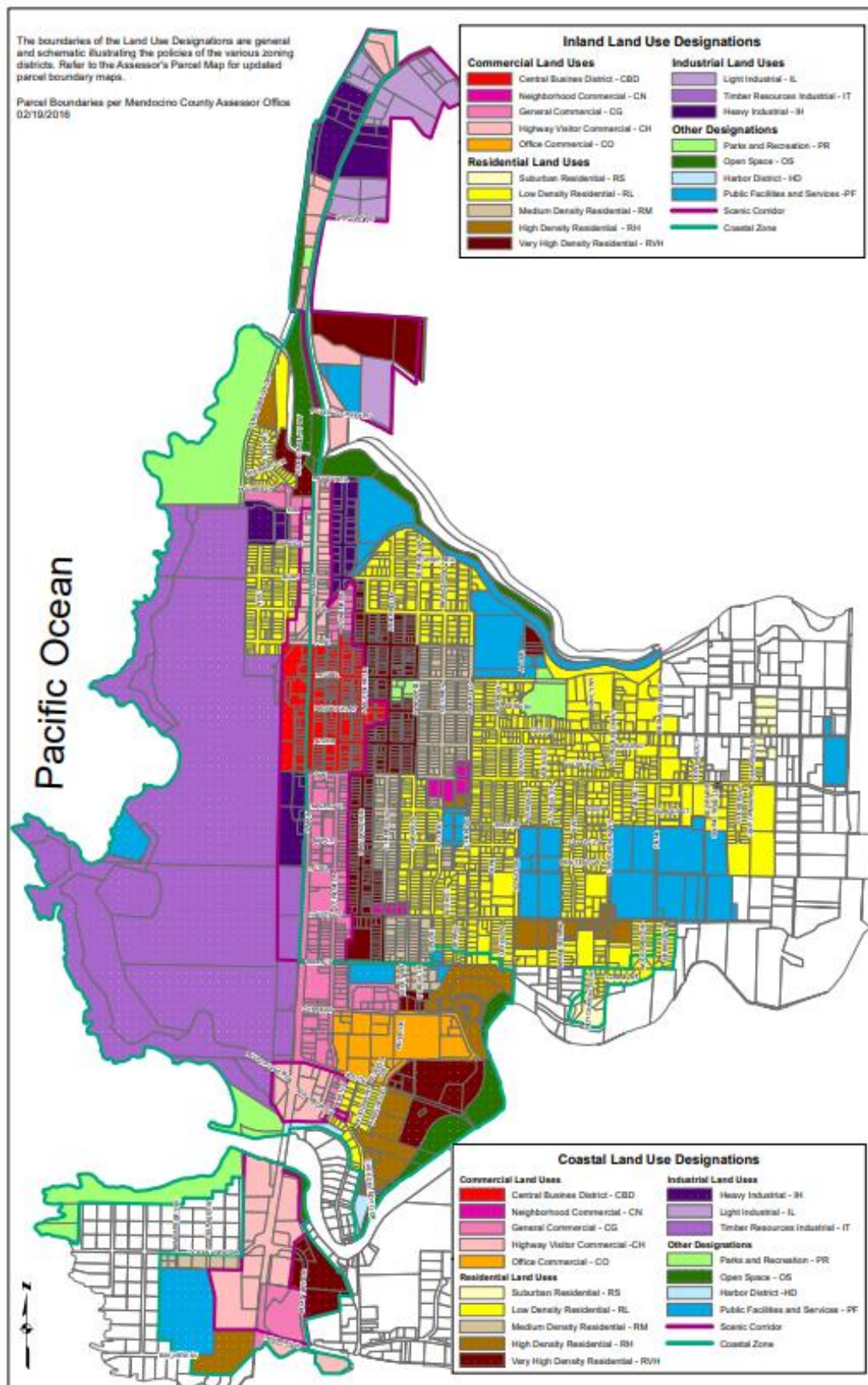


Figure 14: City of Fort Bragg Land Use Zoning Map



Cannabis Retail is currently allowed with a Minor Use Permit only in the Central Business District, General Commercial, and the Visitor Highway Commercial in the inland zones and Cannabis Retail – Delivery Only is allowed with a minor use permit as an accessory use in the Light and Heavy Industrial Zones. Currently, §18.42.057(E) says that cannabis retail accessory uses may include manufacturing, distribution, cultivation, and/or processing. While the existing code does not specifically state whether a microbusiness is allowed or not, it states that: *accessory uses may include activities that require multiple State cannabis licenses*. While this is not well defined, the only way that a cannabis business can have more than one license for the same site is if they have a State cannabis microbusiness license, which is defined by the state as: *a licensee that is authorized to engage in cultivation of cannabis on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under this division, provided such licensee can demonstrate compliance with all requirements imposed by this division on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities*. (DCC, 2022)

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and makes minor modifications to the existing regulations for cannabis business activities in commercial zones, pursuant to SB 94. As noted in the project description commercial indoor cannabis cultivation is comparable to other allowable uses in the industrial zone and will be consistent with the intention, purpose, and activities that are currently allowable.

Cannabis Cultivation

The majority of the City’s industrial land is located in the coastal zone and is currently zoned Timber Industrial (TI), a zoning designation which is only in the Coastal Zone and zoned for the processing of lumber and timber products manufacturing. There are 65 acres zoned either light or heavy industrial in the inland zone. All of the industrial parcels south of Pudding Creek are developed and in use. There are approximately four parcels totaling 18 acres located north of Pudding Creek in the industrial zone that are currently undeveloped.

The proposed amendments to the code would not change the size or location of the parcels that are zoned industrial, and the area available for new development that would be impacted by the proposed amendments is extremely limited. Furthermore, cannabis cultivation is consistent with the uses currently allowed in Table 2-10 Allowed Land Uses and Permit Requirements for Industrial Zoning. The following table shows the current permit requirements for some of the uses in the inland industrial zones:

Table 1: Allowed Land Uses and Permit Requirements for Industrial Zoning

Land Use	Light Industrial Permit Requirements	Heavy Industrial Permit Requirements
Agricultural Product Processing	Conditional - Use Permit	Permitted Use
Brewery/Restaurant	Conditional - Use Permit	Conditional - Use Permit

Fish Processing	Permitted Use	Permitted Use
Manufacturing/Processing Light	Permitted Use	Permitted Use
Manufacturing/Processing Medium intensity	Conditional - Use Permit	Permitted Use
Manufacturing/Processing – Heavy	Not allowed	Conditional – Use Permit

Manufacturing intensity is determined based on characteristics. The following explains the classifications as currently stated in Article 10 of the ILUDC Definitions:

	Light Manufacturing	Medium Manufacturing	Heavy Manufacturing
Description	Processes involving and/or producing: apparel; food and beverage products; electronic, optical, and instrumentation products; ice; jewelry; and musical instruments. Light manufacturing also includes other establishments engaged in the assembly, fabrication, and conversion of already processed raw materials into products, where the operational characteristics of the manufacturing processes and the materials used are unlikely to cause significant impacts on surrounding land uses or the community.	Processes that involve and/or produce building materials, fabricated metal products, machinery, and/or transportation equipment, where the intensity and/or scale of operations is greater than those classified under “Manufacturing/Processing - Light,” but where impacts on surrounding land uses or the community can typically be mitigated to acceptable levels.	processes that involve and/or produce basic metals, building materials, chemicals, fabricated metals, paper products, machinery, textiles, and/or transportation equipment, where the intensity and/or scale of operations may cause significant impacts on surrounding land uses or the community.
Examples	<ul style="list-style-type: none"> • Clothing/Fabric • Electronics, equipment, and appliances • Food and beverage (including breweries and bottling plants) 	<ul style="list-style-type: none"> • Lumber/wood product • Machinery • Motor vehicle/transport • Stone and cut stone 	<ul style="list-style-type: none"> • Chemical Product • Glass Product • Concrete/plaster • Petroleum • Paving/roofing • Plastics • Primary metal

	<ul style="list-style-type: none"> • Furniture • Small-scale manufacturing • Metal fabrication/machine shops • Paper products 	<ul style="list-style-type: none"> • Structural clay and pottery 	<ul style="list-style-type: none"> • Pulp (Product) • textile
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Based on the above, indoor commercial cannabis cultivation is similar to other already allowed uses in the industrial zone. With the existing and proposed requirements for water, energy, and odor control in the Municipal Code and the Inland Land Use and Development Code, commercial cannabis cultivation, which requires a discretionary CBP, would be comparable to other allowable uses that do not require a discretionary permit.

The proposed ordinances would only allow for indoor cultivation of cannabis in a fully enclosed and secured structure. Based on the local, regional, and state cannabis cultivation regulations, future CBP projects would not generate significant noise or air quality impacts, and water usage may be comparable to a brewery or bottling plant which is a permitted use. Cannabis cultivation activities would also be similar to fish processing, which is a permitted use, whereas cannabis cultivation will require a minor use permit. Additionally, because cannabis cultivation requires a discretionary permit, any CBP application would undergo review to determine if the project would conflict with surrounding land uses.

Retail and Microbusiness

The proposed changes to the code will change retail cannabis from a Minor Use Permit to a permitted use. However, retail cannabis projects would still be required to obtain a Cannabis Business Permit which is a discretionary permit. The current specific land use standards that apply to a Minor Use Permit in §18.42.057 with the exception of A and E, are now applied under the cannabis business permit. These changes are noted in the Project Description in this document.

When the City developed regulations for cannabis dispensaries in 2019, to ensure land use compatibility, the City Council determined that a minor use permit was required. Since that time, two dispensaries have been approved and are in operation. There has been no increase in law enforcement calls and no code enforcement complaints related to either of these existing dispensaries, which provides information about compatibility of fully licensed dispensaries in commercial zones. The current existing and operating fully licensed dispensaries have not altered the character of the neighborhood, physically divided the community, or presented other conflicts with the land use plan and policies. Under the proposed ordinances, retail cannabis dispensaries would still need a cannabis business license from the State and a Cannabis Business Permit from the City which is discretionary, but a Minor Use Permit would not be required.

Currently, §18.42.057(E) regulates accessory uses. The proposed amendments to the code will clarify allowable accessory uses with a table and specify the difference between a microbusiness and a retail business with an accessory use. (see **ATTACHMENT C**).

Many communities experienced an initial “flood” of applications when cannabis was legalized. However, in outreach to other communities, such as Santa Rosa and Ukiah, this initial rush has subsided and is comparable with the application patterns of other retail businesses. In the City of Fort Bragg, there were four initial proposals for cannabis businesses. Two of these have completed their permits and are operating. Two applications are still in process and one additional business has since applied for a permit. The City has not received new applications or inquiries for retail cannabis permits since July 2021. As a precaution to ensure that the number of dispensaries does not become excessive, the proposed changes to the ILUDC 18.22.030 Table 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts limits the total number of retail cannabis businesses in the Central Business District to no more than three. This ensures that the proposed code amendment will not change the nature of the downtown or conflict with general plan policies intended to retain downtown as the cultural, commercial, and historic center of the City.

The proposed project adds a new conditionally allowable use, indoor commercial cannabis cultivation to the industrial zone and makes minor modifications to the existing regulations for cannabis business activity in commercial zones. It will not modify the size or location of the zoning districts and does not involve any physical changes to the environment. The proposed changes to the municipal code and Inland Land Use and Development Code regulating cannabis are consistent with the goals, policies, and programs in the Inland General Plan. The proposed municipal code and Inland Land Use and Development Code amendments would not conflict with any land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect. Therefore, the proposed project will have no impact on land use planning.

References

American Planning Association. (2022, January 21). Standard State Zoning Enabling Act and Standard City Planning Enabling Act. Retrieved from:
<https://planning.org/growingsmart/enablingacts/>

State of California, California Code of Regulations Business and Professions Code - BPC. (2021, December) Retrieved from:
https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=BPC&divison=10.&title=&part=&chapter=1.&article=

City of Fort Bragg, “Inland General Plan.” 2013.

City of Fort Bragg. (2022, January 10). Inland Land Use and Development Code. Retrieved from
<https://www.codepublishing.com/CA/FortBragg/#!/LUC18/FortBraggNT.html>

City of Fort Bragg. (2022, January 10) Zoning Map. Retrieved from:
<https://www.city.fortbragg.com/home/showpublisheddocument/734/637710006092570000>

California Department of Cannabis Control. *Medicinal and Adult-Use Commercial Cannabis Regulations, California Code of Regulations Title 4 Division 19.* September, 2021.

Governor's Office of Planning and Research (OPR). (2022, January 10) About Us: Responsibilities. Retrieved from: <http://opr.ca.gov/about/responsibilities.html>

State of California (2022, February 2). California Business and Professions Code (BPC) Division 10 Cannabis [26000-26260]. Retrieved from:
https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=BPC&division=10.&title=&part=&chapter=1.&article=

Mineral Resources

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XII. MINERAL RESOURCES. Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

The state of California hosts a rich variety of minerals and rocks. The California Geological Survey provides objective geologic expertise and information about California's diverse non-fuel mineral resources, producing maps, reports, and other data products to assist governmental agencies. (DOC, 2022) However, as noted in the Geology and Soils Section, the City of Fort Bragg does not have any of these mineral resources that are of either state, regional, or local importance.

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones. Because there are no mineral resources of state, regional, or local importance, the proposed project will have no impact on mineral resources.

References

California Department of Conservation (DOC). (2022, January 21). California's Mineral Resources. Retrieved from California Department of Conservation: <https://www.conservation.ca.gov/cgs/minerals>

Noise

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIII. NOISE. Would the project result in:				
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Regulatory Setting

Noise is defined as unwanted sound, and thus is a subjective reaction to characteristics of a physical phenomenon. A frequency weighting measure that simulates human perception is commonly used to describe noise environments and to assess impacts on noise-sensitive areas. It has been found that A-weighting of sound levels best reflects the human ear's reduced sensitivity to low frequencies, and correlates well with human perceptions of the annoying aspects of noise. The A-weighted decibel scale (dBA) is cited in most noise criteria. The decibel notation used for sound levels describes a logarithmic relationship of acoustical energy, for example, a doubling of acoustical energy results in an increase of three dB, which is considered barely perceptible. A ten-fold increase in acoustical energy equals a ten dB change, which is subjectively like a doubling of loudness.

Several time-averaged scales represent noise environments and consequences of human activities. The most commonly used noise descriptors are equivalent A-weighted sound level over a given time period (Leq); average day-night 24-hour average sound level with a nighttime increase of ten dBA to account for sensitivity to noise during the nighttime; and community noise equivalent level (CNEL), also a 24-

hour average that includes both an evening and a nighttime weighting. Noise levels are generally considered low when ambient levels are below 45 dBA, moderate in the 45 to 60 dBA range, and high above 60 dBA. Although people often accept the higher levels associated with very noisy urban residential and residential-commercial zones, they nevertheless are considered to be adverse levels of noise with respect to public health because of sleep interference.

The City is the primary agency responsible for regulating noise. The City’s Noise Element in the Inland General Plan includes maximum allowable noise level thresholds for non-transportation projects in Table N-5 from the General plan as shown below:

Table N-5 .Noise Level Performance Standards for New Projects Affected by or Including Non-Transportation Noise Sources

Noise Level Descriptor	Daytime (7 A.M. to 10 P.M.)	Nighttime (10 P.M. to 7 A.M.)
Hourly Leq dB	55	45
Maximum level, dB	75	65

Note: These noise levels apply to the residential property line nearest the project. Each of the noise levels shall be lowered by five dB for simple tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises. These noise level standards do not apply to residential units established in conjunction with industrial or commercial uses (e.g., caretaker dwellings).

The City’s Municipal Code Chapter 9.44 regulates noise in the City. And, the ILUDC §18.30.050(F)(2) provides screening requirements for mechanical equipment loading docks, and refuse areas. ILUDC §18.30.050(F)(1) provides additional criteria for screening between nonresidential and residential land uses.

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and make minor modifications to the regulations for cannabis business activities in commercial zones. No changes are proposed to Chapter 9.44, which regulates noise, nor screening regulations in 18.30.050.

Commercial cannabis cultivation may utilize equipment that generates exterior noise, such as fans and HVAC systems but these are not expected to be any noisier than other equipment that would ventilate other industrial uses that are allowable or conditionally allowable in both light and heavy industrial. All cannabis related applications would continue to be subject to discretionary review.

All uses within City limits are subject to Chapter 9.44 including new cannabis businesses. At the time a cannabis business permit application is received, it would be reviewed for consistency with the General Plan, zoning, and municipal code, including Chapter 9.44.

Furthermore, CBPs are fully discretionary and all future applications related to cannabis would be subject to review in accordance with CEQA including consideration of changes to the noise environment from construction and operations. With full discretion, the City may impose conditions to regulate noise levels or require refinements of a

project's design to comply with the City noise standards, similar to other commercial and industrial activities within city limits.

The proposed ordinances do not change the location or size of the industrial or commercial zones, does not change the noise requirements for discretionary projects, and precludes physical development. Therefore, the project would have no impacts on noise.

References

City of Fort Bragg, "Inland General Plan." 2013.

City of Fort Bragg. (2022, January). Municipal Code. City of Fort Bragg. Retrieved from <https://www.codepublishing.com/CA/FortBragg/#!/FortBraggNT.html>

Population and Housing

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIV. POPULATION AND HOUSING.				
Would the project:				
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

According to the 2019 American Community Survey (ACS) Demographic and Housing Estimates, the City of Fort Bragg has a total population of 7,302 individuals and a total of 3,148 housing units (US Census Bureau, 2019). As of 2019, the City supported approximately 2.56 people per household (US Census Bureau, 2020). The median household income in 2019 dollars was \$44,276 and approximately 59.2% of the population ages 16 and older were in the civilian labor force.

In 2019, the City updated the Housing Element (2019 HE) of the General Plan. *The primary goals of the 2019 Fort Bragg Housing Element are to encourage, facilitate, support and help fund:*

1. *New market rate and affordable housing that serves our residents and businesses in Fort Bragg;*
2. *New affordable housing that serves our community's special needs populations;*
3. *Preservation of our existing housing stock; and*
4. *New housing that meets our Regional Housing Needs Allocation. (City of Fort Bragg, 2019)*

The 2019 HE sets quantified objectives for housing development in the City as required by State law as shown in Table 1.1 from the Housing Element:

Table 1.1: Quantified Objectives, City of Fort Bragg, 2019-2024				
Income Category	New Construction	Rehabilitation	Conservation/ Preservation	Total
Extremely Low Income	60	4	10	74
Very Low-Income	31	8	15	54
Low-Income	50	8	10	68
Moderate-Income	30	20	0	50
Above Moderate	30	20	0	50
Total	201	60	35	296
Source: City of Fort Bragg Community Development Department, 2019				

As noted in the table above, the 2019 HE also sets a goal of developing 200 new housing units within 8 years. Like many places in California, there is a shortage of housing. According to Healthy Mendocino, the home ownership rate in Fort Bragg is 32.8% which is low in comparison to the County (56.2%), the State of California (50.5%) and the United States (56.2%).

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones. The proposed ordinances will not change any land that is currently zoned residential to commercial or industrial. It does not include any proposed physical development and would induce substantial unplanned population growth in the City nor displace substantial numbers of existing people or housing. Housing (with the exception of caretaker quarters and live/work units) is not a permitted use in industrial zones. Adding commercial cannabis cultivation as a conditionally allowable use in the industrial zone would not displace housing.

While the proposed amendment adds a new conditionally allowable use to the ILUDC, it is important to recognize that cannabis cultivation has been occurring in the region for over 50 years. While it is possible that new businesses may be interested in relocating to Fort Bragg, the use is already allowable and well established in the unincorporated areas of the County and many other places in California. Given the remote nature of Fort Bragg, and the number of states and localities that allow commercial cannabis cultivation, it is highly unlikely that there would be enough industry generated to indirectly induce substantial unplanned growth. Further, under the proposed regulation commercial cannabis cultivation proposals require a discretionary permit and would be evaluated at the time an application is received to determine the potential to have either direct or indirect impacts on growth and housing.

The proposed changes to the ordinances will not change the size or location of existing zones and it will not result in physical development. Proposed regulations apply exclusively to commercial and industrial zones and would not change zoning regulation

for residential uses. Therefore, the proposed project will have no impact on population and housing.

References

City of Fort Bragg, Inland General Plan Element 10 - Housing Element. 2019

US Census Bureau. (2022, January) QuickFacts Fort Bragg City, California. Retrieved from: <https://www.census.gov/quickfacts/fortbraggcitycalifornia>

US Census Bureau. (2022, January) American Community Survey, Fort Bragg city. Retrieved from: <https://data.census.gov/cedsci/all?q=Fort%20Bragg,%20CA>

Public Services

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XV. PUBLIC SERVICES.				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

The Fort Bragg Fire Department (FBFD) provides fire services within the City of Fort Bragg and outlying rural areas. The FBFD responds to approximately 500 to 600 calls per year, varying from structure fires to public assists. The Fort Bragg Fire Protection Authority is responsible for funding, directing, and overseeing the fire department. The FBFD consists of 36 volunteer fire fighters and four auxiliary members. There are three fires stations, located at:

- Main Street Fire Station, 141 N. Main Street
- Highway 20 Substation, 32270 Highway 20 (outside City limits)
- Little Valley Fire Company, 33680 Little Valley Road (outside City limits)

The Fort Bragg Police Department (FBPD) serves the City of Fort Bragg and outlying rural areas. In 2021, FBPD responded to a total of 15,448 calls for service and wrote 991 Crime Reports associated with those calls for service, resulting in 432 arrests (City of Fort Bragg, 2022). The FBPD headquarters is located at 250 Cypress Street.

The City is served by the Fort Bragg Unified School District (FBUSD) which includes Redwood Elementary School, Dana Gray Elementary School, Fort Bragg Middle School, Fort Bragg High School, Coastal Adult School, and the Alternative Education program. It is also served by Mendocino Community College District.

Additional (non-recreational) public facilities in the inland zone of the City of Fort Bragg relevant to this section includes:

- Fort Bragg Public Library - a branch of the Mendocino County library
- Cemetery – there are two cemeteries in the City of Fort Bragg, one north of Pudding Creek and one to the south
- Mendocino Coast District Hospital

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones. All future cannabis application received under the proposed ordinances would be subject to discretionary review, including an evaluation for impacts to public services. In addition, all cannabis business permits undergo a public safety review in which the police department reviews the security plan for the premise.

All new construction or commercial remodel require a building permit. Any future application received for a commercial cannabis business would have to either construct a new building or change an existing commercial or industrial building. Both of which would require a building permit and would have to comply with California Building Codes and the City's Municipal Code Title 15 Buildings and Construction. (City of Fort Bragg, 2022) The location of future cannabis businesses under the proposed ordinances would be in areas that are already planned for either commercial or industrial development and would similarly be subject to review of capacity for public services to maintain acceptable service ratios, response times or other performance objectives consistent with the City's General Plan.

The proposed ordinances would establish regulations for a new use in an industrial zone and make minor modifications to existing regulations for cannabis business activity in commercial zones. It would not change the regulatory environment in a manner that would affect policies established for the protection of public health and safety and no physical development is proposed. Therefore, the proposed project will have no impact on public services.

References

Association of Environmental Professionals. (2021). 2021 California Environmental Quality Act Statute & Guidelines. AEP.

Fort Bragg Police Department, (2022). "Fort Bragg Police Department Biennial Report 2020-2021." City of Fort Bragg Police Department.

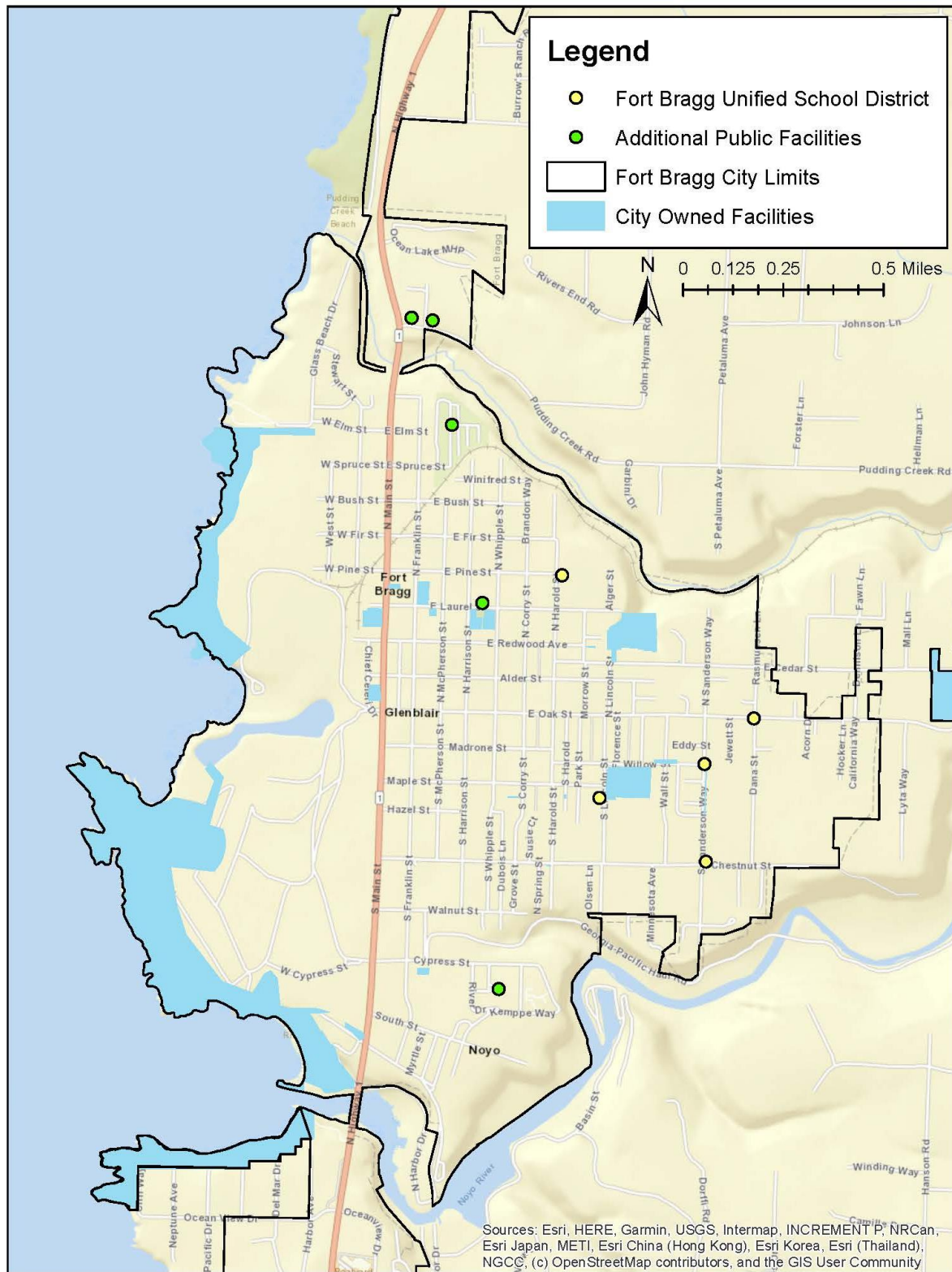
California Department of Cannabis Control, "Medicinal and Adult-Use Commercial Cannabis Regulations, California Code of Regulations Title 4 Division 19."

Department of Cannabis Control, 2021. <https://cannabis.ca.gov/wp-content/uploads/sites/2/2021/10/DCC-Cannabis-Regulations-Sept.-2021.pdf>

City of Fort Bragg Municipal Code. (2022, January) Title 15. Retrieved from: <https://www.codepublishing.com/CA/FortBragg/#!/FortBragg15/FortBragg15.html>

Figure 15: Map of Public Facilities in the City of Fort Bragg

Fort Bragg Public Facilities Map



Recreation

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVI. RECREATION.				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

The City of Fort Bragg has two public parks in the inland zone; Otis Johnson Park, a 6-acre riparian zone park with hiking trails and Bainbridge Park, a 2-acre park in the City with an 11,000 square foot playground, basketball court, and tennis court.

Additionally, the City owns the CV Starr Center, an aquatic facility with a leisure pool and competition lap pool and fitness rooms (operated by the Mendocino Parks and Recreation District) and the City Hall Gym, a historic gym located behind city hall.

In the City's Coastal Zone, the 3.5 mile Coastal Trail stretches from Glass Beach to the Noyo Harbor on 104 acres of land. The City's coastal parks also include Noyo Beach and Pomo Bluffs Park on the southern bluffs overlooking Noyo Harbor.

Discussion

The proposed ordinances would establish regulation for commercial cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones. The proposed ordinances will not change size or zoning of commercial or industrial land and does not propose any physical development. Any future applications received for proposed cannabis related activities would be conditionally allowable under the proposed code amendments and would require a discretionary permit. Discretionary review would include an assessment of potential impacts to recreation and conditioned accordingly. The proposed ordinances do not alter any established goal, policy, program relating to recreation. Therefore, the proposed changes to the Municipal Code Chapter 9.30 and the Inland Land Use and Development Code, will have no impact on recreation.

References

City of Fort Bragg, (2022, January). Local Parks and Aquatic Center. Retrieved from:
<https://www.city.fortbragg.com/services/local-parks-aquatic-center>

Transportation

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVII. TRANSPORTATION. Would the project:				
a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

The City of Fort Bragg has two state highways, Highway 20 which connects the City to Willits, and Highway 1 which connects the City to southern and northern coastal areas. All other roads in the City are local or private roads.

The Mendocino Transit Authority (MTA) is responsible for public transportation in and out of Fort Bragg. MTA provides daily service (one bus each direction) from Fort Bragg to inland Mendocino County and Santa Rosa Airport where passengers can transfer to various services that go to the Bay Area and beyond. The MTA's Coaster also provides service from Fort Bragg south on Highway 1 to Navarro Junction. There are five bus stops in the City limits located for convenience of access to Highway 1, downtown, and Highway 20. Additionally, on-demand, door-to-door service is available in Fort Bragg and Ukiah on MTA buses specially outfitted to meet the transportation needs of paratransit customers. In Fort Bragg, Dial-A-Ride is open to the general public and discounted fares are provided for seniors (62+) and persons with disabilities. MTA customers in Fort Bragg can reserve a Dial-A-Ride bus up to two weeks in advance and at least 24 hours in advance for a guaranteed scheduled ride. (MTA, 2022)

The City is also home to the Mendocino Railway dba Skunk Train. Historically, the Skunk Train provided rail service from Fort Bragg to Willits carrying passengers and lumber. With the introduction of the modern vehicle, the development of Highway 20, and the abandonment of connecting rail lines from Willits to Eureka, the Skunk Train transitioned from a functional transportation route to a novelty/tourist attraction. In 2013, a tunnel collapse just a few miles east of Fort Bragg eliminated the possibility of the route being used as a means to transporting goods and passengers to and from the Coast. Currently, Mendocino Railway operates a train that travels between Fort Bragg to the tunnel collapse where it turns around and returns to Fort Bragg.

In addition to land transportation, the Noyo Harbor is an all-weather port located mostly outside the City limits in unincorporated Mendocino County. It is the busiest Harbor between Bodega Bay and Humboldt Bay. (Noyo Harbor District, 2019)

There is no airport inside the City limits, but the Fort Bragg Airport is a private airport located 2 miles north of the City center and less than a half mile from the most northern boundary of the City limits on North Highway 1. The airport is private use only and requires permission prior to landing. The airport is locally owned with an average of 68 aircraft operating per month made up of 98% local general aviation. The Fort Bragg Airport is regulated by the Federal Aviation Administration. (FAA, 2022)

Regulatory Setting

The Federal Government regulates and supports the development of transportation through the Department of Transportation. The State regulates and manages transportation through the California Department of Transportation and the State of California Transportation Commission.

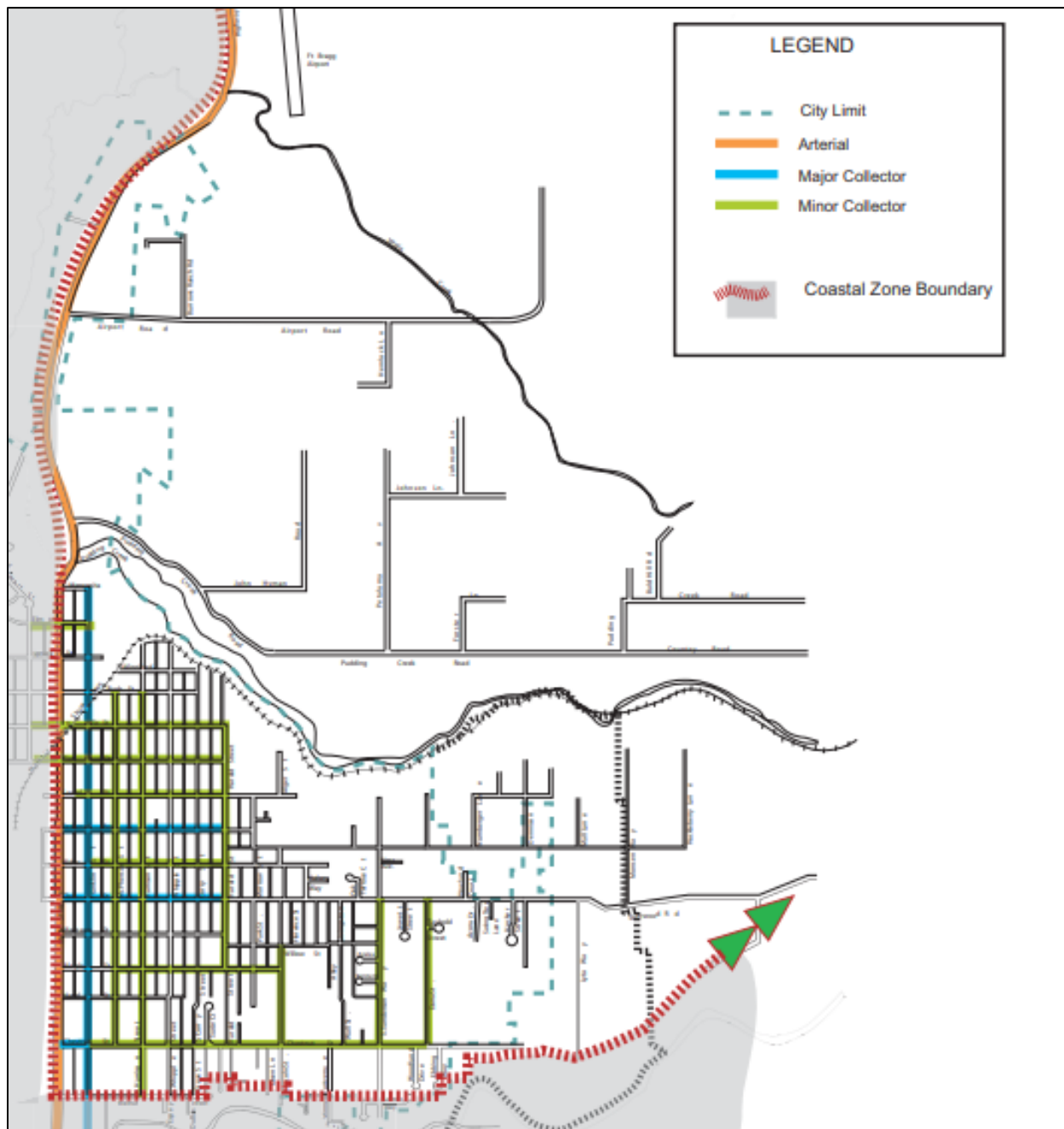
At the state level, a significant change took place on the evaluation of transportation impacts with the passage of SB 743 in 2013. The law required a change from using Level of Service (LOS) as the metric to determine if a project would have significant impacts to the Vehicle Miles Traveled (VMT). (OPR, 2022)

Transportation planning is coordinated at the regional level by the Mendocino Council of Governments (MCOG) who prepares the Regional Transportation Plan (RTP) which includes projects in the City of Fort Bragg. The MCOG's Board of Directors also adopt an Overall Work Program (OWP) which typically comprises of 14 work elements including transportation planning projects in the City of Fort Bragg. (MCOG, 2022)

The City also sets standards for transportation in the Inland General Plan Element 5 – Circulation. While the State now requires that the metric for transportation related impacts be based on VMT, the City uses Level of Service to determine consistency with the Inland General Plan. This means that projects must meet both criteria when undergoing discretionary review to ensure compliance with the state CEQA process and to be consistent with the City's General Plan.

Figure 16 shows the Inland General Plan Map of the City Roadway System.

Figure 16: General Plan Map C-1 Existing Roadway System



The roads in the City follow a standard system of determining Level of Serve (LOS) on a scale of A (free flowing) to F (excessive delays) as noted in Table C-2 of the Inland General Plan:

**Table C-2
Level of Service Definitions**

Level of Service	Description	V/C Ratio*
Free Flowing LOS A	Relatively free-flow. No restrictions to vehicle maneuverability or speed. Very slight delay.	0.00-0.60
Minimal Delays LOS B	Stable Flow. Some slight reduction in maneuverability and speed. Vehicle platoons form. This is a suitable level of operation for rural design. Slight delay	0.61-0.70
Acceptable Delays LOS C	Stable flow operation. Higher volumes. More restrictions on maneuverability and speed. Acceptable delay.	0.71-0.80
Tolerable Delays LOS D	Approaching unstable flow operation. Queues develop. Little freedom to maneuver. Tolerable delays for short periods.	0.81-0.90
Significant Delays LOS E	Unstable flow or operation. Low operating speed; momentary stoppages. This condition is not uncommon in peak hours. Congestion and intolerable delays.	0.91-1.00
Excessive Delays LOS F	Forced flow or operation. There are many stoppages. The highway acts as a vehicle storage area. Jammed. Gridlock.	1.00+

Source: Highway Capacity Manual, HRB Special Report 87.

Some of the applicable goals, policies, and programs in the Circulation element might include:

Circulation Goal C-1 Policy C-1.3 Complete Streets: New development, that includes new streets or street segments, shall build multi-modal “complete streets” that are designed for the safety and comfort of cyclists and pedestrians, including children, the elderly, and people with disabilities, consistent with US Department of Transportation complete streets guidelines
Circulation Goal C-1 Policy C-1.3 Program C1.3.2 Through the Capital Improvement Plan and related impact fees, the City shall ensure that adequate funds are provided to maintain the existing circulation network, and where feasible upgrade it to “complete street” design.
Circulation Goal C-2 Policy C-2.2 Coordinate Land Use and Transportation: Ensure that the amount and phasing of development can be adequately served by transportation facilities.
Circulation Goal C-2 Policy C-2.3 Do not permit new development that would result in the exceedance of roadway and intersection Levels of Service standards unless one of the following conditions is met: <ul style="list-style-type: none"> a) Revisions are incorporated in the proposed development project which prevent the Level of Service from deteriorating below the adopted Level of Service standards; or b) Funding of pro rata share of the cost of circulation improvements and/or the construction of roadway improvements needed to maintain the established Level of Service is included as a condition or development standard of project approval.
Circulation Goal C-3 Policy C-3.3 High Trip Generating Uses: Traffic studies shall be required for all major development proposals that require a conditional approval, including but not limited to, drive-through facilities, fast food outlets, convenience markets, major tourist accommodations, shopping centers, commercial development, residential subdivisions, and other generators of high traffic volumes that would affect a Level of Service. Traffic studies shall identify, at a minimum: <ul style="list-style-type: none"> a) The amount of traffic to be added to the street system by the proposed development; b) Other known and foreseeable projects and their effects on the street system;

<ul style="list-style-type: none"> c) The direct, indirect, and cumulative adverse impacts of project traffic on street system operations, safety, and public access to the coast; d) Mitigation measures necessary to provide for project traffic while maintaining City Level of Service standards; e) The responsibility of the developer to provide improvements; and f) The timing of all improvements.
<p>Circulation Goal C-3 Policy C-3.4 Program C-3.4.1 Review site plans for new development to facilitate the continuation of streets to improve local circulation. Where streets are not feasible, priority shall be given to providing pedestrian and bicycle trails that establish bicycle and pedestrian connections to streets wherever possible.</p>
<p>Circulation Goal C-3 Policy C-3.5 Right-of-Way Acquisition: Require right-of-way dedications for new development to meet the City's roadway width standards</p>
<p>Circulation Goal C-4 Policy C-4.1 Reduce Through-Traffic on Local Streets: Reduce through-traffic on local streets to preserve the peace and quiet of residential areas.</p>

Additionally, ILUDC §18.36.090 and §18.36.100 provide standards for parking design and development and driveways. These standards are intended to ensure safety of the ingress/egress for traffic and sufficient parking to avert traffic hazards or the creation of hazards due to geometric design features.

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones and does not include any physical development. All cannabis related proposals that would be conditionally allowable under the new regulations would be discretionary. While some projects may qualify for a CEQA exemption, such as a fully conforming dispensary in an existing commercial building, all cannabis related projects would be reviewed at the time they are proposed to determine if they would have transportation impacts. All future applications involving cannabis would be evaluated for consistency with the City's Inland General Plan and the above noted regulations and requirements for transportation. The subject zoning code amendment makes minor modifications to cannabis activities in commercial zones and establishes regulation for commercial cannabis cultivation in industrial zones. There is no physical development under the proposed project and no changes to transportation or circulation. Therefore, the proposed project will have no impact on transportation.

References

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Tribal Cultural Resources

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>XVIII. TRIBAL CULTURAL RESOURCES. Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:</p>				
<p>a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

The area in and around the City was traditionally inhabited by the Mato Pomo, a division of the Hokan language-speaking Northern Pomo (Kroeber 1976:222). What anthropologists know of Northern Pomo ethno-geography comes from interviews recorded from Native descendants fifty to one hundred years or more after the contact period with the colonizing Euro-Americans, and the subsequent displacement of these Pomo people from their homelands. Barrett (1908), Kroeber (1925), Heizer (1978), Stewart (1943), Harrington (1942-3), and others provide published anthropological reference sources for the Mato Pomo.

The contact period with the Euro-Americans in northern California was violent and oppressive, as it was for many Native people in California. In 1855, an exploration party

from the Bureau of Indian Affairs visited the area in search of a site on which to establish a reservation and, the following year, the Mendocino Indian Reservation was established. It spanned an area from the south side of the Noyo River to north of the Ten Mile River, and east to Little Valley and Glen Blair.

In 1857, the Fort Bragg military post was established on the Mendocino Indian Reservation approximately 1.5 miles north of the Noyo River, its purpose was to maintain order on the reservation. Also in 1857, a lumber mill was established on the Noyo River starting what would become the major industry of the region. In 1865, after 300 Native Americans were marched forcibly from the Mendocino Indian Reservation to a reservation in Round Valley, Fort Bragg as a military post was abandoned. (City of Fort Bragg, 2022)

In Sherwood Valley, about thirty miles to the east of the City, the modern day Sherwood Valley Band of Pomo Rancheria includes descendants from the Mato and Little Lake (Willits) Mitom tribelets and villages. Other descendants may also be part of other tribes identified in the Cultural Resources Section of this document.

Regulatory Setting

A tribal cultural resource (TCR) is defined as a site, feature, place, cultural landscape, or sacred place or object that has cultural value to California Native American tribes. In order to be considered a TCR, the resource must be included in or determined eligible for inclusion in the CRHR or is included in a local register of historical resources. Pursuant to Public Resource Code [PRC] §2107, a TCR is defined as either:

1. *A site, feature, place, cultural landscape, sacred place, or object that has cultural value to California Native American Tribes that is included or determined to be eligible for inclusion in the California Register of Historical Resources (California Register) or a local register of historical resources.*
2. *A resources determined by the lead agency to be significant and is supported by substantial evidence.*
3. *A geographically defined cultural landscape that meets the criteria set forth in PRC §21074.*
4. *A historical resource described in PRC §21084.1, a unique archeological resource or “nonunique archaeological resource” described in PRC §21083.2 (g) and (h).*

The CEQA Guidelines state that California Native American tribes traditionally and culturally affiliated with a geographic area may have expertise concerning their TCRs. Lead agencies shall consult with these tribes who respond in writing and requests the consultation within 30 days of receipt of the formal notification of the project (PRC §21080.3.1). Traditionally and culturally affiliated tribes of a project area may suggest mitigation measures, including, but not limited to, those recommended in §21084.3.

Additionally, the City regulates the discovery, treatment, and preservation of archaeological resources in ILUDC §18.50.030 as detailed in the Cultural Resources discussion of this document.

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones and does not propose any physical development. All future cannabis related proposals would continue be conditionally allowable under the new regulations and subject to review under CEQA. While some future CBP applications may be exempt, all CBP applications would be reviewed at the time they are proposed to determine if they would have a significant impact on Tribal Cultural Resources.

When an application for a discretionary permit is received, it is evaluated to determine if the project is located in an area with the potential for archaeological resources as noted in the above cultural resources section. Discretionary projects are referred to local tribal governments, individuals, and entities, and are invited to comment. A tribe may request an archaeological review, site visit, and/or that a tribal monitor be present on site during ground disturbance, excavation, and construction. The City of Fort Bragg is committed to working with tribes through the AB 52 notice and consultation process to ensure that known and undiscovered tribal cultural resources are protected and any concerns raised through the AB 52 process are adequately addressed.

The proposed code amendments do not change any goals, policies or programs established for the protection of tribal cultural resources, and the proposed amendments do not include any physical development, ground disturbance or other activities that could directly or indirectly affect tribal cultural resources. Therefore, the proposed ordinances will have no impacts on Tribal Cultural Resources.

References

City of Fort Bragg, "*Inland Land Use Development Code*." March, 2014.

City of Fort Bragg. (2022, January) City History. Retrieved from:
<https://www.city.fortbragg.com/departments/city-clerk/city-history#ad-image-11>

State of California, "*California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000– 15387, CEQA Guidelines*." Updated January 1, 2021.
<http://leginfo.legislature.ca.gov/faces/home.xhtml>

Utilities and Service Systems

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIX. UTILITIES AND SERVICE SYSTEMS. Would the project:				
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

Water

The City's water system is comprised of three surface water sources; two raw water transmission mains, totaling about 6 miles in length; two raw water storage ponds located at the Water Treatment Plant (WTP); three 1.5 million gallon (MG) steel storage

tanks, and one 300,000 gallon storage tank; over 30 miles of distribution lines that deliver water throughout Fort Bragg; and one booster pump station for the East Fort Bragg pressure zone. The WTP was originally constructed in the 1950's, and upgraded in the 1980's, and has a capacity of 2.2 million gallons per day (MGD).

The City's water supply system draws raw water primarily from the Noyo River, which has a limitation that pumping does not exceed 3.0 cubic feet per second (cfs). The Noyo River direct diversion flows by gravity into a 5,000 gallon wet well, and is then pumped via pipeline to the WTP from a pump station located on the river bank. The Newman Reservoir is an on-stream reservoir located on a 54-acre parcel owned by the City of Fort Bragg, and impounds water from Newman Gulch. Summers Lane Reservoir (SLR) was constructed in 2016 and has a capacity of 45 acre-feet (AF). It is located on the same property as Newman Reservoir, and draws its water from Waterfall Gulch. Approximately 20% of the City's water supply during the summer months is stored water drawn from the Newman and Summers Lane Reservoirs. Water from Newman and Waterfall Gulch is gravity fed through a single six- to ten-inch pipeline to the raw water storage ponds at the WTP.

SLR provides an additional 15 million gallons MG of raw water storage to help ensure a reliable water supply during the late summer months when flows are low at the City's three water sources (Fort Bragg, December 2019). This additional storage assists in ensuring an adequate water supply during severe drought years. Additionally, in 2021, the City purchased a mobile desalination unit to ensure adequate water supply in severe drought years. (City of Fort Bragg, 2021)

Wastewater System

Sewage treatment and disposal are provided by the Fort Bragg Municipal Improvement District No. 1 (MID). The MID is somewhat larger than the City; it includes some of the Local Agency Formation Commission (LaFCO) proposed Sphere of Influence. The MID accepts wastewater from residences and businesses outside the City boundaries but within the MID boundaries.

The MID wastewater system is comprised of over 25 miles of gravity-fed pipelines and pressure force mains, six sewage lift stations, the Wastewater Treatment Plant (WWTP), and an ocean outfall pipeline that extends 690 feet into the Pacific Ocean. The WWTP was constructed in 1971 and recently underwent a substantial upgrade which was completed in 2020. It has a secondary treatment level capacity of 0.8 million gallons per day (MGD) for average dry weather flow (ADWF) and 4.9 MGD Peak Hydraulic Flow. The MID completed upgrades to the pump stations in 2020. The City ensures functionality of sewer piping through Cure in Place Projects every other year as part of the Capital Improvement Program.

Storm Drain System

While some of the priority storm drain improvements in the 2004 Storm Drain Master Plan have been implemented, there are additional problems identified in that report that still need to be addressed. In addition, many of the areas north of Pudding Creek and south of the Noyo River generally do not have improved drainage systems in place. Drainage in these areas is generally provided by natural channels. New development in

the City is required to either make or pay for improvements necessary to ensure adequate capacity within the storm drain system.

Solid Waste

The City of Fort Bragg has a franchise agreement with a private service provider for the residential and commercial collection, transportation, and disposal of solid waste. This includes recycling and green waste services. Historically, the services have been provided to the City by Waste Management Inc. However, the City put the service out to bid in 2021 and a new provider was selected. Beginning on July 1, 2022, C&S Waste Solutions, which is a subsidiary of Waste Connections will provide the service.

Energy

There are currently two energy providers in the City of Fort Bragg, Pacific Gas and Electric and Sonoma Clean Power (SCP) which is the community choice aggregate energy provider. Both companies offer 100% renewable energy packages in addition to their standard energy portfolios. The City does not have a natural gas pipeline. Propane is available through several independent companies that provide propane tanks and propane gas delivery.

Regulatory Setting

Water

In California, water rights law is administered by the State Water Resources Control Board (SWRCB), it is the only agency with authority to administer water rights in California, but shares the authority to enforce water right laws with the state courts. The SWRCB defines a water right as legal permission to use a reasonable amount of water for a beneficial purpose such as swimming, fishing, farming or industry. The North Coast Regional Water Quality Control Board (NCRWQCB) is the regional agency that regulates water quality for drinking water, ocean discharge, and stormwater. Applicable laws are mentioned in the discussion of hydrology and water quality. (SWRCB, 2022)

Waste

In 1989, the State of California passed the Integrated Waste Management Act which is in statute as Division 30 of the Public Resources Code [40000-49654]. The State Agency responsible for regulating and permitting waste management is Cal Recycle which operates under Title 14 and Title 27 of the California Code of Regulations. (CalRecycle, 2022)

The California Department of Cannabis Control (DCC) also regulates waste management specific to cannabis businesses under California Code of Regulations Title 4, Division 19, Chapter 9 [§17223].

At the local level, the City's Municipal Code regulates solid waste under Chapter 6.08 Refuse and Recyclable Collection. Specific regulations in the current Chapter 9.30 ((§9.30.050(N)(6)) require that cannabis businesses provide a solid waste disposal plan with certification that waste transport entities and disposal facilities have agreed to haul and receive solid waste produced by the cannabis business.

Energy

Public Utilities, including electrical service providers fall under the authority of the California Public Utilities Commission. The CPUC investigates alleged violations of the Public Utilities Code, CPUC regulations, and other California statutes involving stationary utilities, including telephone (both wireline and wireless), electric, gas and water companies. These investigations generally involve consumer fraud, marketing abuse and other utility misconduct. (CPUC, 2022)

Local Regulations

The Public Facilities Element of the Inland General Plan has goals, policies and programs to manage the impacts of growth on the City's infrastructure. These can be found in Page 3-3 through 3-6 of the City's General Plan. Included in these policies are:

Public Facilities Goal PF-1 Ensure that new development is served by adequate public services and infrastructure.
Public Facilities Goal PF-1 Policy PF-1.1 Ensure Adequate Services and Infrastructure for New Development: Review new development proposals to ensure that the development can be served with adequate potable water; wastewater collection, treatment, and disposal; storm drainage; fire and emergency medical response; police protection; transportation; schools; and solid waste collection and disposal.
Public Facilities Goal PF-1 Policy PF-1.2 All new development proposals shall be reviewed and conditioned to ensure that adequate public services and infrastructure can be provided to the development without substantially reducing the services provided to existing residents and businesses.
Public Facilities Goal PF-1 Policy PF-1.2 Program PF-1.2.1: New development shall be responsible for any improvements or extensions of infrastructure or the service capacity necessary to serve the development.

Discussion

The proposed ordinances would establish regulation for commercial cannabis cultivation in industrial zones and make minor modifications to the existing regulations for allowable cannabis business activities in commercial zones. As an amendment to the zoning code, the subject project does not include any physical development. There would be no substantial changes to demands on utilities and services systems relative to the existing code, which currently allows for industrial and commercial business that would generate demand for services and no change in the size or location of where commercial and industrial activities are allowed.

All future cannabis related applications received under the proposed code amendments would be conditionally allowable and subject to discretionary review. Depending on the methods employed, indoor commercial cannabis cultivation can be resource intensive in terms of water and power. A small efficient cultivation may have negligible resource demands whereas a very large inefficient cultivation may result in significant demands for utilities and services. In order to determine whether a project would have an impact

on water and energy usage, cannabis applicants are currently required under Municipal Code to include the following:

§9.30.050(O)(2) A water usage plan that indicates the planned source of water, month by month annual usage in gallons, and any plans for water conservation which may include water recycling, on-site water storage, development of a well, or use of reclaimed City water;

§9.30.050(O)(3) An energy plan that indicates the estimated monthly energy usage in kilowatt-hours, the source(s) of energy, and any planned energy conservation practices including plans that utilize natural sunlight, solar panels, LED lighting, a community choice aggregate energy provider, or other methods to reduce energy consumption;

The proposed changes to the ILUDC, §18.42.055(B)(3)(b) will require that an applicant provide proof of the utility provider's ability to provide reliable power to the cultivation. This will be similar to the current requirement in Municipal Code 9.30.050(N)(6) for waste disposal and is typically received in the form of a letter from the utility provider.

The City's Public Works/Engineering Department would review the operating plans including an evaluation of both potable and wastewater capacity. The City's Municipal Code establishes regulation for the efficient use of utilities and service systems including Chapter 14.06 Water Conservation, Chapter 14.17 Wastewater, and Chapter 12.14 Drainage Facility Improvements. As part of the cannabis business permit review process, the City would review applications for consistency with the General Plan and Municipal Code including the capacity of utility and services systems to serve the proposed project. Furthermore, in addition to design standard for new construction, as required in the General Plan, development impacts fees are collected to fund the maintenance of the water and wastewater systems as it is built out.

As stated previously, the proposed code amendment adds cannabis cultivation as a conditionally allowable use to the industrial zones and make minor modifications to existing regulations for cannabis business activities in commercial zones. There is no change to the location or size of the zones and there is no proposed physical development. Therefore, the project will have no impacts on utilities and service systems.

References

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Wildfire

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XX. WILDFIRE. If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Wildfire Setting

Most of the City of Fort Brag is located outside of high fire risk zones but there are some areas showing high risk in Figure 17 and in Figure 18.

The City of Fort Bragg has an evacuation map (see Figure 19) which would be used in the event of a wildfire or other emergency to evacuate the City.

Figure 17: CalFire Fire Threat in the City of Fort Bragg

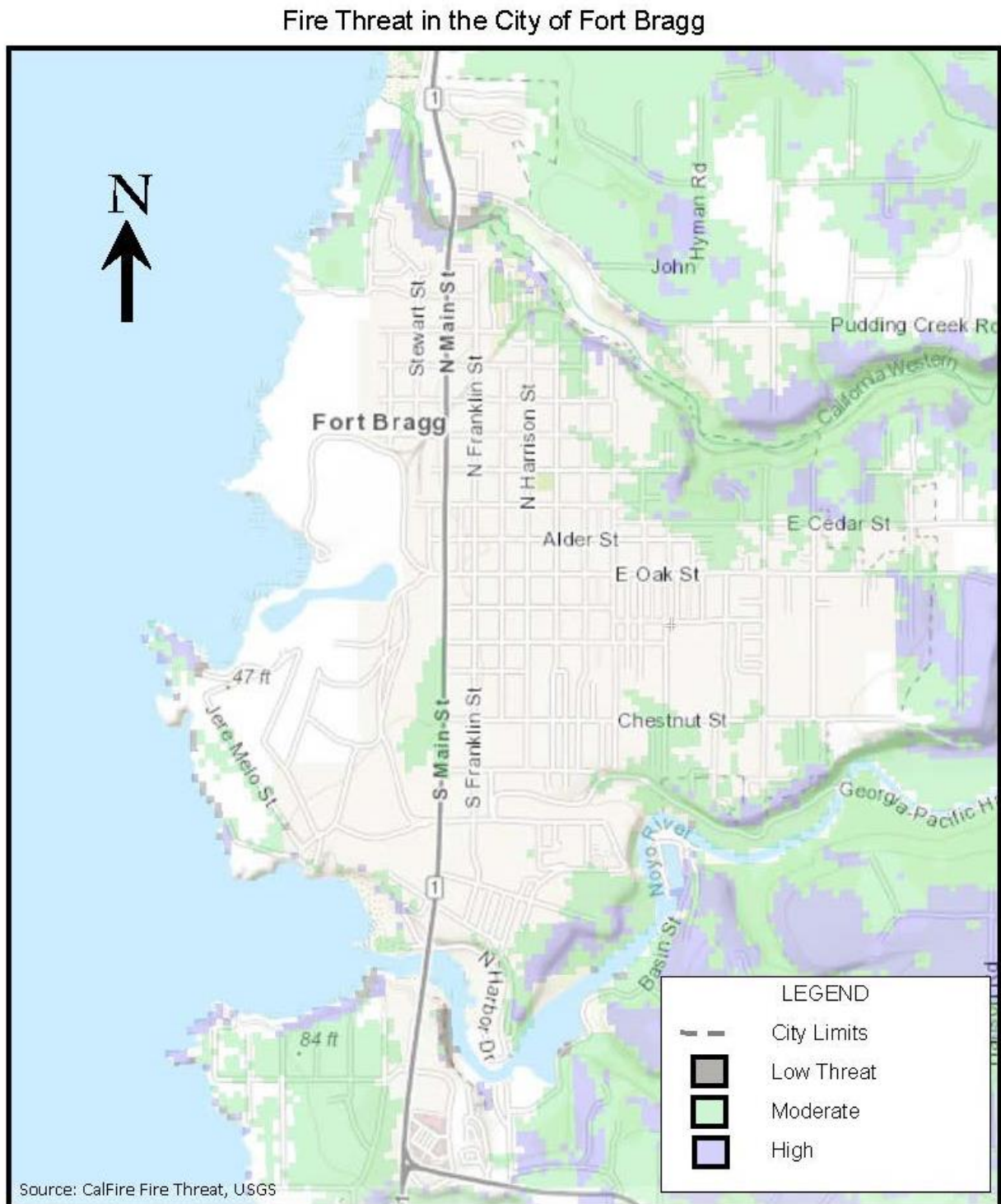
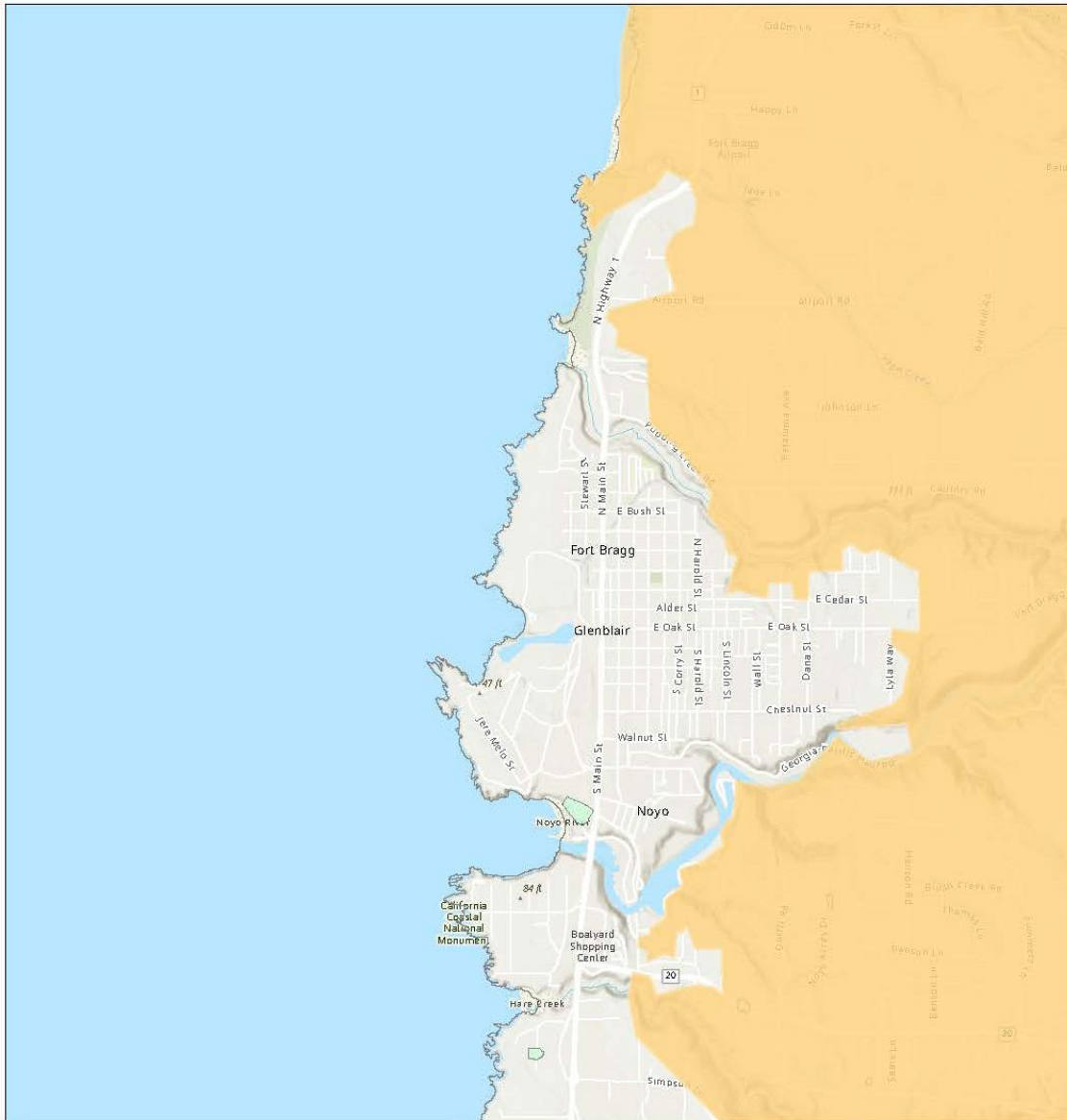


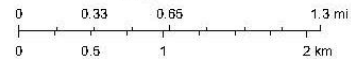
Figure 18: California Public Utilities Commission High Fire Threat Map
Fort Bragg Fire Threat Map



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- CPUC High Fire Threat District - Tier 2
- CPUC HFTD-Zone 1 (CAL FIRE High Hazard Zones Tier 1)
- California County Boundaries

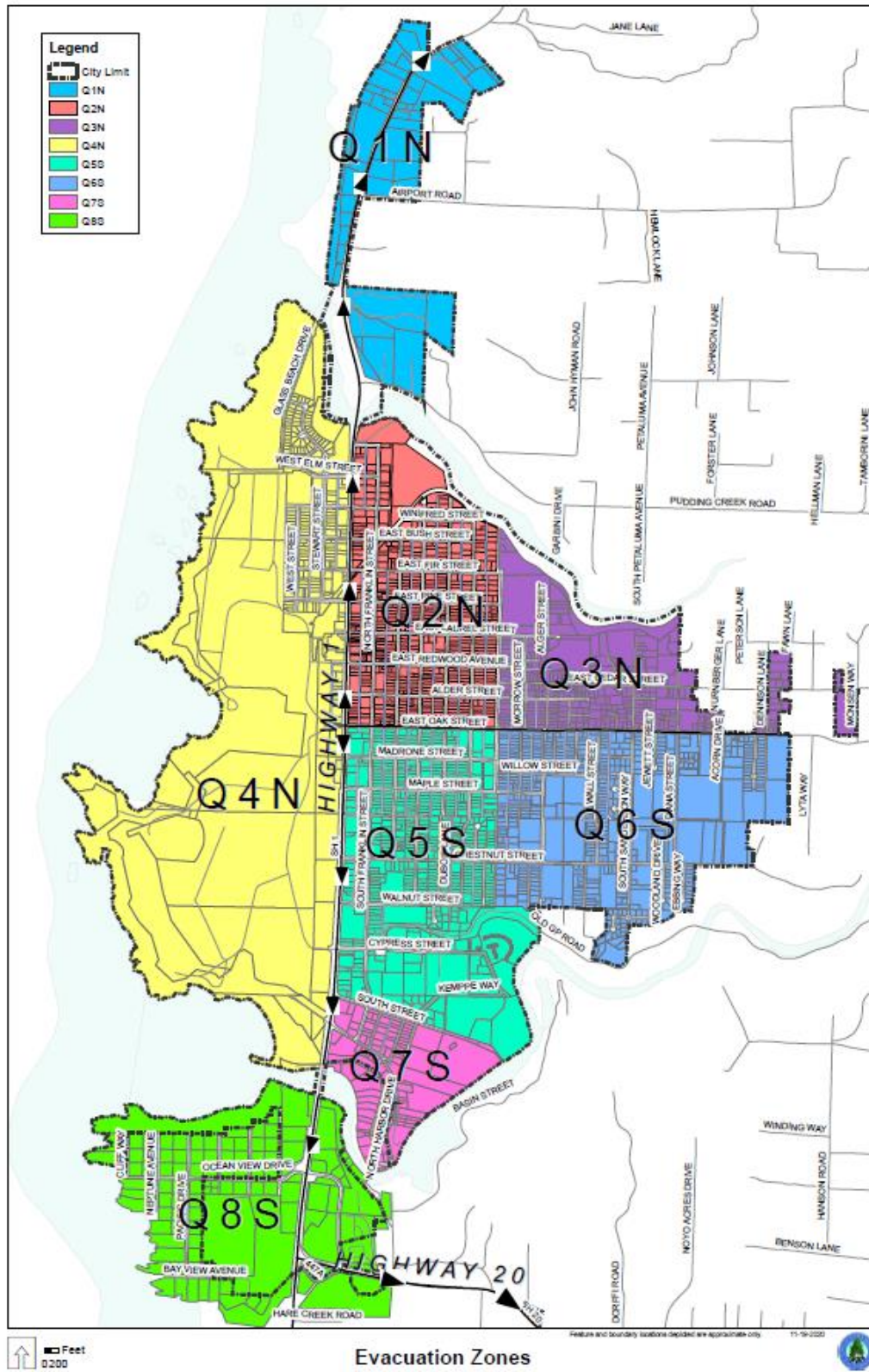
1:36,112



Esri, NASA, NGA, USGS, FEMA, California State Parks, Esri, HERE, Garmin, SafeGraph, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, US Census Bureau, USDA

CPUC-SED
Esri, NASA, NGA, USGS, FEMA | Esri Community Maps Contributors, California State Parks, Esri, HERE, Garmin, SafeGraph, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, US Census Bureau, USDA |

Figure 19: City of Fort Bragg Evacuation Map



Regulatory Setting

Wildfires are a hazard and fall under the same authority at the federal level as other hazards (see above Hazards and Hazardous Materials section).

Since 1995, the Office of the State Fire Marshal (OSFM) supports the CAL FIRE mission to protect life and property through fire prevention engineering programs, law and code enforcement and education. The OSFM provides for fire prevention by enforcing fire-related laws in state-owned or operated buildings, investigating arson fires in California, licensing those who inspect and service fire protection systems, approving fireworks as safe and sane for use in California, regulating the use of chemical flame retardants, evaluating building materials against fire safety standards, regulating hazardous liquid pipelines, and tracking incident statistics for local and state government emergency response agencies. (Cal Fire, 2022) Cal Fire has a local station at 802 N Main St. in the City limits.

The City is also part of the Fort Bragg Fire Protection Authority. Goal SF-4 - Reduce fire hazards of the Inland General Plan Element 7- Safety has specific policies and programs to reduce fire hazards:

Safety Goal SF-4 Policy SF-4.1 Minimize Fire Risk in New Development: Review all development proposals for fire risk and require mitigation measures to reduce the probability of fire.
Safety Goal SF-4 Policy SF-4.1 Program SF-4.1.1: Continue to consult the Fort Bragg Fire Protection Authority in the review of development proposals to identify the projected demand for fire protection services and implement measures to maintain adequate fire protection services. Mitigation measures may include levying fire protection impact fees for capital facilities, if warranted.
Safety Goal SF-4 Policy SF-4.2 Maintain a High Level of Fire Protection: Work with the Fire Protection Authority to ensure a continued high level of fire protection.
Safety Goal SF-4 Policy SF-4.2 Program SF-4.2.1: Increase water main sizes or loop existing water mains where necessary to provide adequate flows for fire protection. The standard for water flow for fire protection purposes in commercial uses should be a minimum of 1,000 gallons per minute for 2 hours with 20 pounds per square inch residual pressure.
Safety Goal SF-4 Policy SF-4.2 Program SF-4.2.2 Develop a plan to provide sprinklers for commercial structures in the Central Business District. The plan shall include consideration of City funding to construct risers for this area.
Safety Goal SF-4 Policy SF-4.2 Program SF-4.2.3 Work with the Fort Bragg Fire Protection Authority to establish a regular schedule for periodic inspections of commercial and industrial premises by the Fire Prevention Officer.

The City regulates fire safety through the Municipal Code Title 15 Building and Construction Chapter 15.05 California Fire Code, Chapter 15.06 Fire Sprinklers, as well as Chapter 6.20 Burning Regulations and Restrictions of the Health and Sanitation Code. Additionally, §6.12.040(E)(3) of the Municipal Code declares that overgrown

vegetation causing a fire hazard is subject to abatement requirements and violation penalties in Chapter 6.12 Nuisances.

Discussion

The proposed ordinances would establish regulation for cannabis cultivation in industrial zones and make minor modifications to the existing regulations for cannabis business activities in commercial zones and precludes any physical development.

All future CBP applications would be conditionally allowable under the new regulations and would be subject to discretionary review, including an assessment of wildfire risk. All commercial/industrial remodel or new construction projects require a building permit, all of which are reviewed by the Fire Marshall at the Fort Bragg Fire Department. The Fire Marshall is responsible for placing conditions on projects to ensure that it meets the City's Fire Code, California Fire Code, and does not increase the risk of fire in the City. All new and remodeled construction are further subject to review by the building official including compliance with the California Building Code.

The proposed ordinances will not change the rules or regulations that protect the community from wildfire. The proposed ordinances do not propose any physical development and applies exclusively to properties that are already zoned to allow for commercial or industrial uses. All future development projects would be subject to the existing regulations, compliance with the California Building Code and the Fire Code. Therefore, the proposed project would have no impact on wildfire hazards.

References

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Mandatory Findings of Significance

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XXI. MANDATORY FINDINGS OF SIGNIFICANCE.				
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Regulatory Setting

The federal, state, and City governments have existing laws and regulations in place that regulate and manage development to define, prevent, and/or mitigate environmental impacts. Cannabis business activity is heavily regulated by the State of California Department of Cannabis Control (DCC). As discretionary projects, all projects proposed in the City limits are subject to review under CEQA, though some projects (such as a cannabis dispensary in an existing retail building) may be found to

be exempt. Any proposed project is subject to the City's regulations in the Municipal Code and Inland Land Use Development Code.

And, as previously noted, the Department of Cannabis Control Regulations include §16304. General Environmental Protection Measures which says:

(a) All licensed cultivators shall comply with all of the following environmental protection measures:

(1) Principles, guidelines, and requirements adopted pursuant to section 13149 of the Water Code and implemented by the State Water Resources Control Board, Regional Water Quality Control Boards, or California Department of Fish and Wildlife;

(2) Any conditions of licensure included pursuant to section 26060.1(b)(1) of the Business and Professions Code;

(3) Requirements of section 7050.5(b) of the Health and Safety Code if human remains are discovered during cultivation activities;

(4) Requirements for generators pursuant to section 16306;

(5) Requirements for pesticides pursuant to section 16307;

(6) Outdoor lights used for safety or security purposes are shielded and downward facing; and

(7) Lights used for indoor or mixed-light cultivation are shielded from sunset to sunrise to reduce nighttime glare.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26013, 26060, 26066 and 26201, Business and Professions Code.

Discussion

The proposed code amendments do not change the environmental protections established in the City's codes for the protection of habitat, cultural resources, and public health and safety. There is no proposed change to the size or location of the industrial or commercial zones and as a zoning text amendment, the project does not include any physical development. The proposed code amendments will add regulations for a conditionally allowable use to the industrial zones and make minor modifications to existing regulations for cannabis businesses in the commercial zones. All proposed cannabis business activity is subject to a cannabis business permit, which is fully discretionary. Because these regulations are in place and will apply to future projects, the addition of a new conditional use and the minor modifications to existing regulations for cannabis business activity in commercial zones will not have cumulative impacts on the environment, directly or indirectly. Therefore, there would be no impacts under the proposed zoning text amendment relative to the existing zoning code.

Attachments

Attachment A	Proposed Amendments to City of Fort Bragg Municipal Code Chapter 9.30 Cannabis Businesses
Attachment B	Proposed Amendments to ILUDC Chapter 2 Including Revised Section §18.22.030 Commercial District Land Uses and Permit Requirements and Revised Section §18.42.030 Industrial Land Uses and Permit Requirements
Attachment C	Proposed Amendments to ILUDC Chapter 4 Including New §18.42.055 Cannabis Cultivation, Revised §18.42.057 Cannabis Retail, and New §18.42.058 Cannabis Microbusiness
Attachment D	Proposed Amendment to ILUDC Chapter 10 Definitions Including New and Revised Definitions in §18.100.020
Attachment E	MCAQMD Adopted Air Quality CEQA Thresholds of Significance
Attachment F	State of California Department of Cannabis Control Regulations