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Prepared July 27, 2018 for the August 10, 2018 Hearing

To: Commissioners and Interested Persons

From: Jeannine Manna, District Manager
Patrick Foster, Coastal Planner

Subject: City of Pacifica LCP Amendment No. LCP-2-PAC-18-0037-1 (Cannabis Regulations)

SUMMARY OF STAFF RECOMMENDATION

The City of Pacifica proposes to amend the Local Coastal Program's (LCP) Implementation Plan (IP) to allow residential and commercial cannabis activities in designated areas. Specifically, the proposed amendment would create three categories of permissible cannabis-related commercial uses involving both medical and non-medical cannabis, namely retail, testing, and limited manufacturing categories. The amendment would also provide for a new City-issued discretionary permit (Marijuana Use Permit) with associated findings, which would be required in order to operate any of the above cannabis-related commercial establishments (in addition to potential coastal development permit (CDP) requirements). Such establishments would be explicitly excluded from consideration as "visitor-serving uses" and would be prohibited within certain distances of K-12 schools, youth centers, and day care centers. In addition, the amendment would allow for cultivation of up to six cannabis plants on residential property subject to certain standards. The proposed amendment does not modify existing provisions in the LCP applicable to new development or alterations to existing development, including development associated with new cannabis-related commercial uses, which would remain subject to existing CDP standards.

The proposed amendment allows for cannabis testing and manufacturing within two existing commercial zoning districts, and creates an overlay zoning district for retail operations in areas already designated Commercial on the LCP's neighborhood land use maps. While these areas currently do not allow for cannabis uses, they already allow for a broad range of commercial uses, including retail shops, liquor stores, bars and restaurants, personal and business service establishments, warehouses and storage facilities, and machine shops. Thus, the introduction of cannabis activities (retail, testing, and manufacturing) into these districts will provide for a use of a similar kind and intensity as existing allowed uses. Furthermore, the amendment includes development standards specific to cannabis uses to ensure potential impacts engendered by this unique land use will be appropriately addressed and mitigated, including a limit of two retail

establishments in certain designated neighborhoods to ensure that such commercial uses will not predominate in any particular area of the City.

The outdoor cultivation of up to six cannabis plants for personal use would only be permitted on the property of a private residence, and would be further limited by requirements related to setbacks, security, and screening. Given the amendment does not propose to allow for commercial marijuana cultivation, additional related impacts to community services such as water supply and energy use are not at issue at this time.

In short, the proposed IP amendment allows for limited outdoor cultivation for personal use and adds cannabis activities to existing commercial zones that already allow for uses of a similar type and scope, and includes additional protective standards to address cannabis-specific concerns. The amendment will not cause any impacts to coastal resources, and can be found consistent with and adequate to carry out the certified Land Use Plan (LUP), as submitted. Therefore, staff recommends that the Commission find the proposed amendment consistent with and adequate to carry out the policies of the LUP, and that the Commission approve the amendment as submitted. The motion and resolution are found on page 4 below.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on June 25, 2018. It amends the IP only, and thus the 60-day action deadline is August 25, 2018 (pursuant to Coastal Act Sections 30513 and 30514(b)). Therefore, unless the Commission extends the action deadline (it may be extended by up to one year per Coastal Act Section 30517), the Commission has until August 25, 2018 to take a final action on this LCP amendment.

TABLE OF CONTENTS

I. MOTIONS AND RESOLUTIONS.....	4
II. FINDINGS AND DECLARATIONS	5
A. DESCRIPTION OF PROPOSED LCP AMENDMENT.....	5
B. CONSISTENCY ANALYSIS.....	5
C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)	7

EXHIBITS

Exhibit 1 – City of Pacifica’s Proposed LCP Amendment

Exhibit 2 – City of Pacifica’s Proposed Overlay and Zoning Maps

I. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, approve the proposed LCP Implementation Plan (IP) amendment as submitted. This amendment applies to the IP only, so the Commission needs to make only a single motion in order to act on this recommendation. Thus, staff recommends a **NO** vote on the motion below. Failure of the motion will result in the certification of the IP amendment as submitted and adoption of the following resolution and findings. The motion passes only upon an affirmative vote of a majority of the Commissioners present.

Motion: *I move that the Commission **reject** Implementation Plan Amendment LCP-2-PAC-18-0037-1 as submitted by the City of Pacifica, and I recommend a **no** vote.*

Resolution: *The Commission hereby certifies Implementation Plan Amendment LCP-2-PAC-18-0037-1 as submitted by the City of Pacifica and adopts the findings set forth below on the grounds that the amendment is consistent with and adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Implementation Plan amendment may have on the environment.*

II. FINDINGS AND DECLARATIONS

A. DESCRIPTION OF PROPOSED LCP AMENDMENT

The proposed amendment would make changes to the City’s certified Local Coastal Program (LCP) related to residential and commercial cannabis activities. Specifically, key provisions of the proposed amendment would modify the City’s LCP Implementation Plan (IP) to: (1) create three categories of permissible cannabis-related commercial uses involving both medical and recreational cannabis, namely retail, testing, and limited manufacturing operations; (2) provide for a new discretionary permit (Marijuana Use Permit) with associated findings, in order to operate a cannabis-related commercial use (in addition to potential coastal development permit (CDP) requirements); (3) establish an overlay zoning district to regulate the location of marijuana retail operations; (4) prohibit all marijuana operations within certain distances of K-12 schools, youth centers, and day care centers; (5) exclude cannabis-related commercial uses from consideration as “visitor-serving uses”; and (6) allow outdoor cultivation of up to six cannabis plants on residential property subject to certain standards. The proposed amendment does not modify existing provisions in the LCP applicable to new development or alterations to existing development, including development associated with new cannabis-related commercial uses, which would remain subject to existing CDP standards. Please see **Exhibit 1** for the proposed IP amendment text.

B. CONSISTENCY ANALYSIS

Standard of Review

The proposed amendment affects only the IP component of the City of Pacifica LCP. The standard of review for IP amendments is that they must be consistent with and adequate to carry out the policies of the certified LUP. Applicable City of Pacifica LUP policies generally dictate appropriate commercial uses and provide guidelines for community cohesion and services in the neighborhoods impacted by the proposed IP amendments. Specifically, these LUP policies include:

Coastal Land Use Designation Definitions

Commercial - indicates the variety of potential commercial uses the City might attract, including visitor-serving commercial, retail commercial, office, heavy commercial and light industrial. The type of commercial recommended for a site is stated in the General Plan Land Use Description. (C-15)

West Sharp Park

Integral to the successful implementation of a vibrant commercial Palmetto strip is the creation of a visually attractive streetscape. (C-36)

Sharp Park Municipal Golf Course – West Fairway Park – Mori Point – Rockaway Beach

Although visitor-serving uses should predominate, a mixture of some local-serving businesses, such as offices and personal service establishments will complement the area and meet community needs. (C-45)

Pedro Point – Shelter Cove

The designated land use for this area is commercial with emphasis on coastal related

and/or visitor-serving uses ... this small, oceanside commercial center could be rejuvenated and expanded to become an attractive visitor destination, as well as provide for neighborhood retail needs. (C-55)

Plan Conclusions

Neighborhood serving commercial uses to support local residents' needs shall also be allowed in designated coastal neighborhoods, but shall not predominate. (C-107)

If the capacity of community services is approached, priority among allocations shall be given to new coastally-dependent land uses, essential public services, public recreation, visitor-serving commercial uses and other coastal uses designated in the certified Coastal Plan. Needed facility expansion shall be phased so that allocations among uses are not necessary. (C-110)

IP Amendment Consistency Analysis

The proposed amendment establishes three categories of permissible marijuana-related activities (“Marijuana Operations”), including Marijuana Retail Operations, Marijuana Manufacturing Operations, and Marijuana Testing Operations.

Marijuana Manufacturing Operations would be limited to the C-3 (Service Commercial) zoning district, an existing zoning district within the City’s certified LCP. Such operations would function as light industrial land uses in that they would combine already extracted compounds into various products such as foods, lotions, and medicines, but would not be permitted to conduct hazardous extraction processes utilizing volatile or non-volatile solvents associated with a heavy industrial land use. Marijuana Testing Operations would be limited to the existing C-2 (Community Commercial) or C-3 (Service Commercial) zoning districts, and would operate as business service establishments. Specifically, they would examine marijuana products for other businesses but would not be licensed to sell or manufacture marijuana products. Marijuana Retail Operations would function as retail commercial uses, limited to a new Marijuana Operation Overlay (MO) zoning district in five neighborhoods throughout the City, three of which are in the coastal zone (West Sharp Park, Rockaway Beach, and Pedro Point).

While the affected, existing zoning districts (C-2 and C-3) currently do not allow for cannabis uses specifically, these areas are designated Commercial pursuant to the LUP, and thus they already allow for a broad range of commercial uses including retail shops, liquor stores, bars and restaurants, personal and business service establishments, warehouses and storage facilities, and machine shops. Likewise, the new MO overlay district would be established entirely within areas already designated Commercial on the neighborhood land use maps that have historically been in commercial use and remain in commercial use today. Thus, the introduction of commercial cannabis activities, including retail, manufacturing, and testing into these districts allows a use of similar kind and intensity as other uses allowable within these commercial zoning districts. Furthermore, the amendment includes standards specific to cannabis uses so as to appropriately address potential impacts engendered by this unique land use, including with respect to visual impacts and community character. For example, all Marijuana Operations must be appropriately set at least 600 feet from K-12 schools or youth centers, and at least 200 feet from day care centers. All such operations must also obtain approval of a City-issued Marijuana Use Permit (MUP) prior to commencing operations, which would require the design of the subject storefront

or structure to be “architecturally compatible with surrounding storefronts and structures in terms of materials, color, windows, lighting, sound, and overall design.” Such requirements will ensure consistency with LUP policies related to maintenance of a visually attractive streetscape compatible with the character of surrounding areas. In addition, the proposed limit of two Marijuana Retail Operations per neighborhood would also ensure that such commercial uses will not predominate in any particular area of the City, in accordance with LUP standards.

The outdoor cultivation of cannabis for personal use in residential zoning districts would be considered an accessory use only where a private residence exists, and would be further limited to six plants, along with requirements related to setbacks, security, and screening. All such standards, as well as the prohibition on the use of artificial light, will preserve the residential character of properties utilized for cultivation.

Given the amendment does not propose to allow commercial marijuana cultivation, additional related impacts to water supply or energy use are not at issue, thereby maintaining consistency with the LUP related to the allocation of community services.

Overall, as described above, the proposed changes to the City’s IP included in the subject amendment are consistent with and adequate to carry out the certified LUP.

C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Coastal Commission’s review and development process for LCPs and LCP amendments has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of the environmental review required by CEQA. Local governments are not required to undertake environmental analysis of proposed LCP amendments, although the Commission can and does use any environmental information that the local government has developed. CEQA requires that alternatives to the proposed action be reviewed and considered for their potential impact on the environment and that the least damaging feasible alternative be chosen as the alternative to undertake.

The City of Pacifica, as the CEQA lead agency, determined that adoption of the proposed LCP amendment was exempt from environmental review under CEQA pursuant to CEQA Guidelines Section 15061(b)(3) because the City determined that it could be seen with certainty that there was no possibility that adoption of the amendment might have a significant effect on the environment, either from a direct physical change in the environment, or a reasonably foreseeable indirect physical change. Nevertheless, the Commission is required in an LCP submittal, or as in this case, an LCP amendment submittal, to find that the LCP as amended conforms with CEQA provisions. This LCP amendment report has discussed the relevant coastal resource issues with the proposed amendment and concludes that the amendment would not result in an intensification of land uses, or have adverse impacts on coastal resources.

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