

CALIFORNIA COASTAL COMMISSION

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DATE: August 29, 2018

TO: Commissioners and Interested Persons

FROM: Steve Hudson, Deputy Director, South Coast District
Teresa Henry, South Coast District Manager
Charles Posner, Supervisor of Planning
Mandy Revell, Coastal Program Analyst

RE: Amendment Request No. 1-18 (LCP-5-MNB-18-0056-1) to the City of Manhattan Beach Local Coastal Program (LCP), for Commission Action at its September 13, 2018 meeting at Fort Bragg.

Local Coastal Program Amendment No. 1-18 (Minor)

The City of Manhattan Beach is requesting that the Commission certify an amendment to the implementing ordinances portion of the Manhattan Beach certified Local Coastal Program (LCP), which includes three separate amendments that the City has requested be combined in one amendment. The requested LCP amendment would amend Section A.52.110 of the Implementation Plan (IP) to address residential condominium standards, add Section A.82 to the IP defining commercial cannabis and allow limited indoor cannabis cultivation consistent with state law, and amend sections A.08.040, A.08.050, and A.64.030 of the IP to refine medical-related land use classifications and parking requirements for Urgent Care Offices. Amendment request 1-18 was deemed complete on July 16, 2018, and Pursuant to Section Section 13522 of the Commission's regulations, an amendment to the certified LCP that modifies only the IP portion must be scheduled for a public hearing and the Commission must take action within 60 days of a complete submittal, which in this case would be September 14, 2018. All three amendments are combined in LCP Amendment 1-18, and are analyzed separately below.

Condominium Regulations

LCP Amendment Request No. 1-18, submitted with City Council Resolution No. RES-18-0037, and contained in City Council Ordinance No. ORD-18-0008, affects only the implementing ordinances portion of the certified LCP and does not propose any rezoning or land use changes. The Manhattan Beach City Council conducted a public hearing for the zoning code changes and the LCP amendment on May 1, 2018 and passed City Council Resolution No. RES-18-0037 authorizing City staff to submit the LCP amendment to the Coastal Commission ([Exhibit A](#)). The City Council adopted Ordinance No. ORD-18-0008 on May 1, 2018 to clarify residential condominium standards.

First, the ordinance eliminates the "same age" rule, adopted by the City in 1980 to regulate condominium conversions before comprehensive condominium conversion standards were adopted. The "same age" rule required that the two condominium units in a two-unit condominium development be of approximately the "same age." The practical effect of the same age rule was to prevent some condominium owners in a two-unit condominium development from substantially redeveloping their unit,

because a new condominium replacing the existing structure would not be of the “same age” as the remaining unit on the lot. The City has determined the same age rule to be unduly restrictive on property owners. The City modified the “same age” rule to prohibit one of the two condominiums in a two-unit condominium development from exceeding 55% of the maximum buildable floor area allowed on the entire lot, in order to prevent construction of two disparately sized units (i.e. one very large unit and one very small unit). In addition, as part of the current LCP amendment the City adopted several other refinements to residential condominium standards independent of the “same age” rule, including requiring enclosed trash areas, deleting redundant “use permit” requirements, neighbor notification requirements for exterior modifications and/or structural alterations to condominiums, and requiring dedicated space in condominiums for air conditioning units.

This portion of the City of Manhattan Beach LCP Amendment No. 1-18 has been determined by the Executive Director to be a “minor” LCP amendment because it does not raise issues with regard to the coastal resource or public access policies of the City’s certified Land Use Plan (LUP), including protection of community character, which is a fundamental objective of the City’s LCP. Additionally, this portion of the amendment only regulates condominium building standards and will not impact affordable housing stock, nor would it change the kind, location, intensity or density of any uses. The proposed changes to the implementing ordinances are attached as [Exhibit B](#) (Ordinance No. 18-0008).

Cannabis Regulations

LCP Amendment Request No. 1-18, submitted with City Council Resolution No. RES-17-0131, and contained in City Council Ordinance No. ORD-17-0025, affects only the implementing ordinances portion of the certified LCP and does not propose any rezoning or land use changes. The Manhattan Beach City Council conducted a public hearing for the zoning code changes and the LCP amendment on October 17, 2017 and passed City Council Resolution No. RES-17-0031 authorizing City staff to submit the LCP amendment to the Coastal Commission ([Exhibit C](#)). The City Council adopted Ordinance No. ORD-17-0025 on November 7, 2017 to define commercial cannabis and allow limited non-commercial indoor cannabis cultivation consistent with state law.

The Control, Regulate and Tax Adult Use of Marijuana Act of 2016 (AUMA) was approved by a majority of California voters in November of 2016. As a result, it is now legal for persons 21 years of age or older to: 1) smoke or ingest cannabis or cannabis products; 2) possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older one ounce of cannabis, or eight grams of concentrated cannabis; and 3) possess, plant, cultivate, harvest, dry or process up to six cannabis plants for personal use in, or on the grounds of a private residence. Furthermore, the Medicinal and Adult-Use Cannabis Regulation and Safety Act of 2017 (MAUCRSA) creates the general framework for the regulation of commercial medicinal and adult-use cannabis in California, which retains the provisions of prior cannabis regulations that granted local jurisdictions certain control over whether cannabis businesses can operate in a particular jurisdiction. The provisions of MAUCRSA also allow the City to completely prohibit cultivation activities outdoors upon the grounds of a private residence unless the California Attorney General determines that non-medical use of cannabis is lawful in the State under Federal law.

Consistent with the provisions in the AUMA and the MAUCRSA, the City’s proposed amendment deletes Section A.60.160 (which expressly prohibited medical marijuana dispensaries and commercial medical marijuana activities anywhere in the City and prohibited indoor and outdoor cultivation of both medical and non-medical marijuana for commercial or non-commercial purposes), and adds Chapter

A.82 which adds the definition of commercial cannabis activity, and continues to prohibit commercial cannabis activities for both medical and non-medical cannabis. The proposed ordinance also includes a “catch all exception” that states that the proposed law shall not prohibit any commercial cannabis activity that the City is required by State law to permit within its jurisdiction pursuant to MAUCRSA. Finally, the proposed ordinance clarifies that indoor cultivation of up to six cannabis plants for personal use in a private residence, or inside a fully enclosed and secured structure located at the residential site is consistent with State law.

This portion of the City of Manhattan Beach LCP Amendment No. 1-18 has been determined by the Executive Director to be a “minor” LCP amendment because it does not raise issues with regard to the coastal resource or public access policies of the City’s certified LUP, including protection of community character, which is a fundamental objective of the City’s LCP. The cultivation of marijuana for personal use on residential property consistent with State law is an activity that can be considered to be part of the residential use of the property. The amendment does not alter the pre-existing prohibition of the *commercial* cultivation of marijuana, both for medical and non-medical purposes, and instead provides more specifics and clarity regarding the prohibition. Thus, the fundamental residential use of property would not change as a result of adoption of the proposed amendment. Accordingly, this portion of the amendment request does not change the kind, location, intensity, or density of use and is, therefore, minor in nature. The proposed changes to the implementing ordinances are attached as [Exhibit D](#) (Ordinance No. 17-0025).

Medical Related Land Use Classifications and Parking Requirements for Urgent Care Offices
LCP Amendment Request No. 1-18, submitted with City Council Resolution No. RES-17-0171, and contained in City Council Ordinance No. ORD-17-0029, affects only the implementing ordinances portion of the certified LCP and does not propose any rezoning or land use changes. The Manhattan Beach City Council conducted a public hearing for the zoning code changes and the LCP amendment on December 5, 2017, and passed City Council Resolution No. RES-17-0171 authorizing City staff to submit the LCP amendment to the Coastal Commission ([Exhibit E](#)). The City Council adopted Ordinance No. ORD-17-0029 on December 19, 2017 to refine existing medical-related land use classifications and off-street parking requirements for urgent care offices.

Urgent care offices are a newer type of medical care facility that are sometimes considered to be a more convenient and affordable alternative to both the doctor’s office and emergency room for health issues that require immediate attention but are not life threatening. In response to the increase in the number of urgent care offices in the City, the City of Manhattan Beach amended LCP Section A.08.040 to incorporate “urgent care offices” into the definition of “office-business and professional land use”, and refines definitions for “Emergency Health Care Facility” and “Hospitals” to draw a sharper distinction between hospital use, emergency health care use, and urgent care facility use. Additionally, the City amended LCP Section A.64.030, which contains off-street parking requirements to add in “Offices, Medical Urgent Care” to provide one parking space per 200 square feet of floor area, consistent with the certified LCP’s parking requirement for Medical and Dental Offices.

This portion of the City of Manhattan Beach LCP Amendment No. 1-18 has been determined by the Executive Director to be a “minor” LCP amendment because it does not raise issues with regard to the coastal resource or public access policies of the City’s certified LCP, including protection of community character, which is a fundamental objective of the City’s LCP. Additionally, this portion of the amendment merely provides more specifics and additional clarity regarding Urgent Care facilities, and

would not change the kind, location, intensity or density of any uses. The proposed changes to the implementing ordinances are attached as [Exhibit F](#) (Ordinance No. 17-0029).

In conclusion, LCP Amendment Request No. 1-18 will clarify the City's definitions of, and would not change the density of, development allowed in the City's residential zones. The proposed changes are consistent with the City of Manhattan Beach certified LUP and Implementation Measures which set forth the following policies:

- POLICY II.1:*** *Control development within the Manhattan Beach coastal zone.*
- SECTION A.01.030 A.1:*** *Preserve the character and quality of residential neighborhoods consistent with the character of the two area districts of the Coastal Zone*
- SECTION A.01.030 A.2.:*** *Foster convenient, harmonious, and workable relationships among land uses*

Therefore, the proposed amendment does not raise issues with regard to the coastal resource or public access policies of the City's certified LUP. Therefore, the Commission finds that Amendment Request No. 1-18, as submitted, does not raise any LUP consistency issues and does not change the kind, location, intensity, or density of use of land.

Procedures

Pursuant to Section 30514(c) of the Coastal Act and Section 13554(a) of Title 14 of the California Code of Regulations, the Executive Director has determined that the proposed LCP amendment is "minor" in nature. Section 13554(a) of Title 14 of the California Code of Regulations defines a minor LCP amendment as changes in wording which make the use as designated in the zoning ordinances, zoning district maps or other implementing actions more specific and which do not change the kind, location, intensity, or density of use and are consistent with the certified LUP.

When the Executive Director determines that an LCP amendment is minor, that determination must be reported to the Commission. If one-third of the appointed members of the Commission request that it be processed as a major LCP amendment, then the amendment shall be set for a future public hearing; if less than one-third of the appointed members of the Commission object to the minor LCP amendment determination, then the amendment is deemed approved, and it becomes a certified part of the LCP immediately. The Executive Director will report this minor LCP amendment determination, and any comments received on it, to the Coastal Commission at its September 13, 2018 meeting at Fort Bragg. For any questions or additional information regarding the proposed amendment or the process under which it is being certified, please contact Mandy Revell at the South Coast District Office in Long Beach.