

CALIFORNIA COASTAL COMMISSION

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July 18, 2019

Th 20c**TO: COMMISSIONERS AND INTERESTED PERSONS****FROM: KARL SCHWING, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT
TONI ROSS, COASTAL PROGRAM ANALYST, SD COAST DISTRICT****SUBJECT: STAFF RECOMMENDATION ON CITY OF OCEANSIDE LOCAL COASTAL
PROGRAM AMENDMENT NO. LCP-6-OCN-18-0103-5 (Medical Cannabis
Regulations) for Commission Meeting of August 7-9, 2019**

SYNOPSIS

The subject LCP implementation plan amendment was submitted and filed as complete on April 2, 2019. A one-year time extension was granted on May 9, 2019. As such, the last date for Commission action on this item is June 24, 2020. This report addresses one of three components of the City's submittal regarding medical cannabis regulations. The other two items include LCP-6-OCN-18-0102-4 which introduces Tier I Agritourism activities into an inland portion of the City and LCP-6-OCN-18-0101-3 provides regulation for Emergency Shelters and Transitional/Supportive Housing, both of which are also scheduled for the August 2019 Commission meeting. This amendment request only affects the City's certified implementation plan.

SUMMARY OF AMENDMENT REQUEST

The City of Oceanside is proposing to amend its implementation plan to include regulations for medical cannabis facilities in a limited number of industrial and agricultural zones, all of which are applied to properties located outside the Coastal Zone. Therefore, the amendment does not propose to allow medical cannabis facilities anywhere in the coastal zone. However, the amendment does include revisions to Article 4 (Use Classifications) and Article 36 (Separation of Regulated Uses), both of which are a part of the City's IP, and; therefore, require certification by the Commission. Specifically, the amendment will add a number of new development types related to medical cannabis facilities including distribution, manufacturing, testing, cultivation and nursery sites within the Industrial and Commercial Use Classifications sections in Article 4. The proposed amendment will also add medical cannabis facilities to the list of regulated uses contained in Article 36.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending the amendment be approved as submitted. The proposed amendment will not allow medical cannabis facilities within the Coastal Zone, and does not raise any Land Use Plan (LUP) consistency concerns. Should the City desire to permit such activities in the Coastal Zone in the future, an additional Local Coastal Program (LCP) amendment will be necessary and any LUP consistency concerns will be reviewed at that time.

The appropriate resolutions and motions begin on Page 4. The findings for approval of the Implementation Plan Amendment as submitted begin on Page 4.

BACKGROUND

In 1996, voters approved Proposition 215, the Compassionate Use Act, which allowed the use of medical marijuana for medical purposes. The [Medicinal and Adult-Use Cannabis Regulation and Safety Act \(MAUCRSA\)](#), which was signed into law in June 2017, creates the general framework for the regulation of commercial medicinal and adult-use cannabis in California, including the ability of local governments to further regulate cannabis activities.

In 2017, the City of Oceanside designated an ad-hoc committee to assist in the development of regulations for medical marijuana businesses in Oceanside. Since that time, the City has reviewed a number of potential regulations; and, in September 2018, the City Council adopted this zoning ordinance. Among other provisions, the ordinance bars medical cannabis facilities within the Coastal Zone. In November 2018, the City approved the subject LCP amendment reflecting these changes as a part of the certified Implementation Plan (IP).

ADDITIONAL INFORMATION

Further information on the Oceanside LCP Amendment No. LCP-6-OCN-18-0103-5 may be obtained from **Toni Ross**, Coastal Planner, at (619) 767-2370.

EXHIBITS

[Exhibit 1 – Resolution No. 18-R0590-1](#)

[Exhibit 2 – Ordinance Nos. 18-OR0199-1; 18-OR0399-1; 18-OR0449-1](#)

[Exhibit 3 – Proposed Text Changes in Strike-out/Underline](#)

PART I. OVERVIEW

A. LCP HISTORY

The City of Oceanside first submitted its Land Use Plan (LUP) to the Commission in July 1980, and it was certified with suggested modifications on February 19, 1981. This action, however, deferred certification on a portion of the San Luis Rey River valley where an extension of State Route 76 was proposed. On January 25, 1985, the Commission approved with suggested modifications the resubmitted LUP and Implementing Ordinances. The suggested modifications for this approval were related to the guaranteed provision of recreation and visitor-serving facilities, assurance of the safety of shorefront structures, and the provision of an environmentally sensitive routing of the proposed Route 76 east of Interstate 5. The suggested modifications to the Zoning/Implementation phase resulted in ordinances and other implementation measures that were consistent with the conditionally certified LUP policies.

With one exception, the conditionally certified LUP and Implementing Ordinances were reviewed and approved by the City on May 8, 1985. The City requested that certification be deferred on one parcel adjacent to Buena Vista Lagoon designated by the City for “Commercial” use; the Commission's suggested modification designated it as “Open Space.” On July 10, 1985, the Commission certified the City's LCP as resubmitted by the City, including deferred certification on the above parcel.

B. STANDARD OF REVIEW

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

C. PUBLIC PARTICIPATION

The City held a Planning Commission meeting on this matter on October 22, 2018. The City also held a City Council meeting on November 28, 2018. Both of the local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

Following a public hearing, staff recommends the Commission adopt the following resolution and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to each resolution.

- I. **MOTION:** *I move that the Commission reject the Implementation Program Amendment No. LCP-6-OCN-18-0103-5 for the City of Oceanside as submitted.*

STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Program Amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO CERTIFY IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby certifies the Implementation Program Amendment for the City of Oceanside as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan, and certification of the Implementation Program Amendment will meet the requirements of 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 Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program.

PART III. FINDINGS FOR APPROVAL OF THE OCEANSIDE IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED

A. AMENDMENT DESCRIPTION

The City of Oceanside is proposing to modify its implementation plan to include regulations for medical cannabis facilities in a limited number of industrial and agricultural zones, all of which are located exclusively outside the Coastal Zone. However, the amendment will add a number of new development types related to medical cannabis facilities, including distribution, manufacturing, testing, cultivation and nursery sites within the Industrial and Commercial Use Classifications sections in Article 4 (Use Classifications). The proposed amendment will also add medical cannabis facilities to the list of regulated uses contained in Article 36 (Separation of Regulated Uses).

B. FINDINGS FOR APPROVAL

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP.

a) **Purpose and Intent of the Ordinance.** The purpose and intent of the amendment is to implement recent state law and to locally regulate the cultivation, distribution and sale of medical cannabis.

b) **Major Provisions of the Ordinance.** The major provisions of the ordinance include the addition of various development types related to medical cannabis, such as Medical Cannabis Distribution Site, Medical Cannabis Manufacturing, Medical Cannabis Testing Laboratory and Medical Cannabis Cultivation Facility to the list of Industrial Use Classifications, and to add Medical Cannabis Facility to the list of Regulated Uses.

c) **Adequacy of the Ordinance to Implement the Certified LUP Segments.** The amendment request is to add descriptions of various uses related to medical cannabis to the City's LCP. As proposed, no medical cannabis facilities are permitted within the Coastal Zone. Instead, medical cannabis facilities will be permitted in certain industrial and agricultural zones located exclusively outside the Coastal Zone. Therefore, with this action, there are no potential LUP consistency concerns. Additionally, should the City ever wish to designate and rezone any parcels in the coastal zone to allow for medical cannabis facilities, the City would need to amend the LCP, and any potential impacts to coastal resources associated with medical cannabis facilities would be reviewed by the Commission at that time. Therefore, the Commission finds the LCP amendment can be approved as submitted.

PART IV. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.9 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP.

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP as amended, does conform to CEQA provisions. At the local level, the City found that proposed project would not, in and of itself, occasion land development or any other material change to the environment, and does not have the potential to cause a significant effect on the environment and is not subject to CEQA review. In the case of the subject LCP amendment request, the Commission also finds that approval of the LCP amendment, as submitted, would not

result in significant environmental impacts under the meaning of the California Environmental Quality Act. Therefore, the Commission finds that there are no feasible alternatives under the meaning of CEQA which would reduce the potential for any impacts which have not been explored and the LCP amendment, as submitted, can be supported.

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