

**CALIFORNIA COASTAL COMMISSION**

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# W10a

DATE: February 18, 2021

TO: Commissioners and Interested Persons

FROM: Karl Schwing, Deputy Director  
Eric Stevens, District Supervisor  
Meg Vaughn, Coastal Program Analyst

SUBJECT: Major Amendment Request No. **LCP-5-HNB-19-0011-1** (Five Changes) to the City of Huntington Beach Certified Local Coastal Program, for Public Hearing and Commission Action at its March 10, 2021 remote meeting.

## SUMMARY OF LCP AMENDMENT REQUEST

The City of Huntington Beach (City) requests to amend the Implementation Plan (IP) of the certified Local Coastal Program (LCP) to: 1) change the name of the “Planning and Building Department and Director” to “Community Development Department and Director” (ZTA 16-001; Ordinance Nos. 4089 – 4093 and 4096 – 4103); 2) make changes to Section 230.96 Wireless Communications Facilities (ZTA 17-003; Ordinance No. 4136); 3) prohibit sale, distribution, deliveries, and outdoor cultivation of non-medical marijuana within the City (ZTA 17-001; Ordinance No. 4137); 4) remove six references to the California Government Code from the Zoning Code/Implementation Plan (ZTA 17-006; Ordinance Nos. 4131, 4132, 4133, 4144, 4145, and 4146); and 5) establish a Zoning Administrator level conditional use permit process to permit the ancillary on-site sale, service and consumption of alcohol within the Open Space – Parks and Recreation zoning district (ZTA 18-001; Ordinance No. 4156). The amendment request was submitted via City Council Resolution No. 2018-60. All of the changes are proposed to the City’s Zoning Code which is the City’s certified Local Coastal Program Implementation Plan. The ordinances reflecting the proposed changes are attached as [Exhibits](#).

## SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission, after public hearing, **APPROVE** the amendment to the Implementation Plan (IP) as submitted. As described in greater detail in the staff report, the proposed IP amendment, as submitted, is in conformance with and adequate to carry out the provisions of the certified LUP.

The motion and resolution to accomplish this recommendation are found on **Page 6**.

**DEADLINE FOR COMMISSION ACTION:** The application was received on May 4, 2020. Under the Permit Streamlining Act, the Commission was required to act on this LCP amendment request on or before July 30, 2020. However, on April 16, 2020, the Governor of the State of California issued Executive Order N-52-20 tolling the time frame for action in the Permit Streamlining Act for 60 days. Additionally, the City agreed to a one year extension. Accordingly, the Commission must act on this LCP amendment request on or before 9/29/2021.

**ADDITIONAL INFORMATION**

Copies of the staff report are available on the Commission's website at [www.coastal.ca.gov](http://www.coastal.ca.gov). For additional information, contact Meg Vaughn in the South Coast District Office of the Coastal Commission at [Meg.Vaughn@coastal.ca.gov](mailto:Meg.Vaughn@coastal.ca.gov) or (562) 590-5071.

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**EXHIBITS**

Exhibit 1 – City Council Resolution No. 2018-60

**Department Name Change**

Exhibit 2 – Ordinance Nos. 4089 – 4093 and 4096 – 4103

Exhibit 3 – Legislative Drafts of Ordinance Nos. 4089 – 4093 and 4096 – 4103

**Wireless Communication Facilities**

Exhibit 4 – Ordinance No. 4136

Exhibit 5 – Legislative Draft of Ordinance No. 4136

**Non-Medical Marijuana**

Exhibit 6 – Ordinance No. 4137

Exhibit 7 – Legislative Draft of Ordinance No. 4137

**Remove References to California Government Code**

Exhibit 8 - Ordinance Nos. 4131, 4132, 4133, 4144, 4145, and 4146

Exhibit 9 – Legislative Drafts of Ordinance Nos. 4131, 4132, 4133, 4144, 4145, and 4146

**Permitting Alcohol in Open Space – Parks and Recreation District**

Exhibit 10 - Ordinance No. 4156

Exhibit 11 – Legislative Draft of Ordinance No. 4156

Exhibit 12 - Public Works Design Criteia for Wireless Facility

## **I. PROCEDURAL ISSUES**

### **A. STANDARD OF REVIEW**

The standard of review for the proposed amendment to the Implementation Plan (Zoning Code) of the City of Huntington Beach certified LCP, pursuant to Section 30513 and 30514 of the Coastal Act, is whether the Implementation Plan (IP) would be in conformance with, and adequate to carry out, the provisions of the Land Use Plan (LUP) portion of the City of Huntington Beach's certified LCP.

### **B. PUBLIC PARTICIPATION**

Section 30503 of the Coastal Act requires public input in LCP development. It states: "During the preparation, approval, certification, and amendment of any LCP, the public, as well as all affected governmental agencies, including special districts, shall be provided maximum opportunities to participate. Prior to submission of an LCP for approval, local governments shall hold a public hearing or hearings on that portion of the program, which has not been subjected to public hearings within four years of such submission."

Section 30503 of the Coastal Act requires local governments to provide the public with the maximum amount of opportunities to participate in the development of the LCP amendment prior to submittal to the Commission for review. The City held a number of public hearings on the various changes, as listed below. All of the local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties. The City held the following public meetings for the various Zoning Text Amendments proposed via this LCPA:

ZTA 16-001 (Ordinance Nos. Ordinance Nos. 4089 – 4093 and 4096 – 4103)

Department Name Change

City Council Meetings: 9/6/2016, 9/19/2016

Planning Commission Meeting: 7/26/2016

Public Participation: No members of the public spoke on this item.

ZTA 17-001 (Ordinance No. 4137)

Non-Medical Marijuana

City Council Meetings: 8/21/2017, 9/5/2017

Planning Commission Meetings: 7/11/2017, 7/25/2017

Public Participation: Nine members of the public spoke in opposition of this item; two members of the public spoke in support. Issues raised by the public at the hearing(s) were: questions regarding statistics about marijuana published on the City's website and compared them to statistics in the State of Colorado where marijuana use has been made legal; voter statistics from Proposition 64; in support of cannabis related health benefits; and questions regarding proper zoning for marijuana businesses.

ZTA 17-003 (Ordinance No. 4136)

Wireless Communication Facilities

City Council Meetings: 8/7/2017, 8/21/2017

Planning Commission Meetings: 6/13/2017, 6/27/2017

Public Participation: one member of the public spoke in support of the item and discussed how it was important to maintain local control regarding wireless communication facilities.

ZTA 17-006 (Ordinance Nos. 4131, 4132, 4133, 4144, 4145, and 4146)

Remove References to California Government Code

City Council Meetings: 3/19/2018, 4/2/2018

Planning Commission Meetings: 11/28/2017, 12/12/2017

Public Participation: No members of the public spoke on this item.

ZTA18-001 (Ordinance No. 4156)

Alcohol Sales in Open Space – Parks & Recreation

City Council Meetings: 5/7/2018, 5/21/2018

Planning Commission Meetings: 3/27/2018, 4/10/2018

Public Participation: one member of the public spoke in support of the item because it limits alcohol sales to only Central Park and golf courses; one member spoke in opposition to the item due to issues related to any government jurisdiction selling alcohol on its property.

### **C. PROCEDURAL REQUIREMENTS**

If the Commission certifies the LCP amendment as submitted, no further City Council action will be necessary. City staff has indicated that the ordinance will only become final after certification by the Commission, but pursuant to Section 13544(b)(2) of Title 14 of the California Code of Regulations, no further formal action is required. Should the Commission deny the LCP Amendment, as submitted, without suggested modifications, no further action is required by either the Commission or the City, and the LCP amendment is not effective, pursuant to Section 13542(f). Should the Commission deny the LCP Amendment, as submitted, but then approve it with suggested modifications, then the City Council may consider accepting the suggested modifications and submitting them by resolution to the Executive Director for a determination that the City's acceptance is consistent with the Commission's action. In that scenario, pursuant to Section 13544(c) of Title 14 of the California Code of Regulations, the modified LCP Amendment will become final at a subsequent Commission meeting if the Commission concurs with the Executive Director's Determination that the City's action in accepting the suggested modifications approved by the Commission for LCP Amendment No. LCP-5-HNB-19-0011-1 is legally adequate. If the City does not accept the suggested modifications within six months of the Commission's action, then the LCP amendment remains uncertified and not effective within the coastal zone.

### **D. DEADLINE FOR COMMISSION ACTION**

The City of Huntington Beach submitted LCP Amendment No. LCP-5-HNB-19-0011-1 on February 27, 2019. The submission was filed as complete on May 4, 2020. Pursuant to Section 30517 of the Coastal Act, a one-year time extension was granted on June 13, 2020. Coupled with Governor Newsom's Executive Order N-52-20, which tolled this

permitting deadline for an additional 60 days due to COVID-19 restrictions, the deadline for Commission action on this item is September 29, 2021.

## **II. MOTION AND RESOLUTION**

Motion:

**I move that the Commission reject the City of Huntington Beach Implementation Program Amendment No. 5-HNB-19-0011-1 as submitted.**

Staff recommends a **NO** vote. Following staff's recommendation 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:**

The Commission hereby certifies the Implementation Program Amendment for the City of Huntington Beach 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 Huntington Beach LUP, 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 Amendment.

## **III. FINDINGS**

The Commission hereby finds and declares:

### **A. Amendment Description**

The City of Huntington Beach requests an amendment to the Implementation Plan (IP) of the certified Local Coastal Program (LCP) to make changes based on five unrelated Zoning Text Amendments/Ordinances. The changes proposed include: 1) Department name change; 2) prohibitions regarding non-medical marijuana; 3) establishment of a conditional use permit process by the Zoning Administrator for alcohol sales and consumption in the Open Space – Parks and Recreation (OS-PR) zoning district; 4) deletion of references to California Government Code sections in four locations in the IP, and 5) changes to Section 230.96 Wireless Communications Facilities. Each of these five changes is described in greater detail below. The amendment request was submitted via City of Huntington Beach City Council Resolution No. 2018-60.

## **B. LCP Background**

The LCP for the City of Huntington Beach, with the exception of two geographic areas, was effectively certified in March 1985. The two geographic areas that were initially excluded have since been certified and are incorporated into the LCP. However, two areas of the City's coastal zone were annexed since certification; these areas are known as Sunset Beach and Brightwater. No LCP has been certified for the Sunset Beach and Brightwater annexation areas. A comprehensive update to the City's LUP was certified by the Commission on June 14, 2001 via Huntington Beach LCP Amendment 3-99. The City also updated the IP by replacing it with the Zoning and Subdivision Ordinance (while retaining existing specific plans without changes for areas located within the Coastal Zone). The updated IP was certified by the Coastal Commission in April 1996 via LCP Amendment 1-95. The City's certified LUP is the City's Coastal Element. The City's certified IP consists of the City's Zoning Code (formally called the Zoning and Subdivision Ordinance) and various specific plans.

## **C. APPROVAL OF THE LCP AMENDMENT AS SUBMITTED**

The standard of review for the proposed amendment to the Implementation Plan (IP) of the certified Local Coastal Program (LCP) is whether the IP, as amended, is in conformance with, and adequate to carry out, the policies of the certified Land Use Plan (LUP) of the certified LCP. (Coastal Act sections 30513, 30514.)

### **1. Wireless Communication Facilities**

The City's certified LUP includes policies that promote preservation and enhancement of scenic public views. More specifically, the LUP includes policies addressing Wireless Communication Facilities (WCF) and protection of visual resources. The LUP policies specific to Wireless Communication Facilities state:

#### **C 4.2.4**

Wireless communication facilities shall be sited, to the maximum extent feasible, to minimize visual resource impacts. Minimization may be accomplished through one or more of the following techniques: co-locating antennas on one structure, stealth installations, locating facilities within existing building envelopes, or minimizing visual prominence through colorization or landscaping and removal of facilities that become obsolete.

#### **C 4.2.5**

New wireless communication facilities affecting the public view shed and/or located in areas designated Water Recreation, Conservation, Parks, and Shoreline shall be conditioned to require removal within six (6) months of termination of use and restoration of the site to its natural state.

The proposed IP amendment includes ZTA No. 17-003 (Ordinance No. 4136) which proposes changes to Section 230.96 (Wireless Communication Facilities) of Chapter 230 (Provisions Applying in All or Several Districts) of the certified IP/Zoning Code. The amendment proposes to add a new definition for "small cell site," and to modify the current

review process by adding “small cell site” (as proposed to be defined) to types of WCF that may be approved via a Wireless Permit (some WCF require approval of a Conditional Use Permit). In addition, the proposed amendment would newly allow the Director of Public Works to approve Wireless Permits for small cell sites on City-owned property/facilities or in the public right of way. All other Wireless Permits for WCF (those not on City owned facilities/rights of way) would continue to be processed by the Community Development Department, as occurs now. A Wireless Permit may be processed when no other discretionary approval is required and when the wireless proposal meets the requirements of Section 230.96. In addition, the proposed amendment would add a requirement for a “License agreement with the City” for all WCF on City-owned property/facilities or in the public right of way. The proposed amendment would also require that WCF on a City owned facilities conform to the Public Works Design Criteria ([Exhibit 12](#)).

The proposed definition of Small Cell Site (to be added to 230.96.B) is:

Small Cell Site. Equipment at a node/location that transmits and/or provides connection to a mobile communication system. Visible equipment at a small cell site shall be no larger than four cubic feet per location/site (excluding antennae) with a maximum of two antennas per location/site and may be affixed to an existing pole including a light standard. In addition, to qualify as a Small Cell Site, it must comply with public works design standards.

Small cell sites are utilized by telecommunications companies and wireless carriers to increase existing network capacity. These devices include antennas and equipment that provide connections to a mobile telecommunication system, such as Wi-Fi and data networks. Small cell sites are most commonly integrated into the design of existing light standards or street lights. ([Exhibit 12](#)).

The proposed amendment would also modify the definition of “Wireless Communication Facility or Wireless Antenna” (Section 230.96.B.16) as follows (proposed additions shown in underline text; proposed deletion shown in ~~strike through text~~):

~~An~~ Any antenna, structure, or device any way named and any appurtenant facilities or equipment that transmits electronic waves or is used for the transmission or receipt of waves or signals that are used in connection with the provision of wireless communication service, including, but not limited to, Small Cell Sites, digital, cellular and radio service.

The proposed amendment would also modify Section 230.96.E.2, to add “small cell sites” to the existing list of circumstances when a wireless facility may be approved administratively by the Director if no other discretionary permit is required. Section 230.96.E.2 already allows the Director to require conditions of approval in order to minimize adverse health, safety and welfare impacts. The proposed amendment would add to that the parenthetical “including aesthetic impacts.” This phrase is also proposed to be added to Section 230.96.E.3 for approvals by the Zoning Administrator, but that change includes additional changes as follows:



The Zoning Administrator may require, as a condition of approval of the CUP, that the applicant minimize significant adverse impacts to the community and public including aesthetic visual resources impacts by incorporating one or more of the following into project design and construction: ...”

Typically removing the word “public” would raise concern. But in this case, it seems the intent is not to exclude public visual impacts from consideration, but rather to include consideration of all visual impacts. It is important to note that, although the proposed language will refer to community views, and that is accepted as encompassing both public and private views, the certified LUP addresses and protects only public views. The Coastal Commission will continue to interpret this policy to protect only public views for purposes of Coastal Development Permits. It is recognized that the City may consider that community views may include views in addition to public views for purposes of non-Coastal Development Permits.

The conditions that may be imposed on a WCF include requirements for screening, use of stealth techniques, co-location, colorization, or landscaping to minimize visual prominence, as well as a requirement to remove obsolete facilities. Additionally, signs or advertising on the facilities are prohibited (other than owner identification). Section 230.96.I requires that any facility affecting the public view and/or located in areas designated Water Recreation, Conservation, Parks and Shoreline and Public Rights-of-Way shall be removed in its entirety within six months of termination of use and the site restored to its natural state. No change is proposed to these requirements. Furthermore, the newly proposed small cell sites are limited to four cubic feet in size.

Section 230.96.E.4 currently requires Design Review for all wireless facilities, except for Wireless Permits approved by the Director (Community Development or Public Works). Section 230.96.G.3 requires all WCF to comply with the Huntington Beach Urban Design Guidelines.

The primary concern raised by WCFs is whether public views could be adversely impacted. This is especially true in this case because LCPA submittal information indicates that the City has acquired ownership of 11,045 existing streetlights from Southern California Edison. In addition, the City already owns 2,300 streetlights and beach parking lot lights. Small cell sites are most typically mounted on street light or light standards. The proposed amendment would add a requirement for a “License agreement with the City” for all WCF on City-owned property/facilities or in the public right of way. The City will be able to generate revenue from leasing small cell site space on their street lights and beach parking lot lights.

However, all WCF, including the newly added small cell sites (that are most commonly attached to street lights), must still comply with the requirements of Section 230.96 to minimize visual impacts. And all WCF must still conform with LUP Policies C 4.2.4 and C 4.2.5. Policy C 4.2.4 requires that WCF be sited, to the maximum extent feasible, to minimize visual impacts, and suggests this be accomplished through one or more of the following techniques: co-location, stealth installations, colorization, landscaping, and removal of facilities that become obsolete. Policy C 4.2.5 requires that new WCF affecting the public view shed and/or located in Water Recreation, Conservation, Parks, and

Shoreline be conditioned to require removal within six months of termination of use and restoration of the site to its natural state. Protection of views is maintained with the LCPA as proposed, as described in further detail below. The proposed amendment will continue to require these standards in Section 230.96, as discussed above.

The portion of the IP to be modified, Section 230.96 Wireless Communication Facilities, was originally added to the City's IP via Huntington Beach LCPA 1-03, approved by the Commission with suggested modifications on 6/10/2004. The City accepted the suggested modifications via City Council Resolution No. 2004-73 and the Commission concurred with the Executive Director's determination that the City's action was legally adequate on 12/8/2004. Section 230.96 was further modified via Huntington Beach LCPA 2-16, approved as submitted on 5/11/2018.

When the Commission originally approved the addition of Section 230.96 Wireless Communication Facilities into the IP via LCPA 1-03, it required a suggested modification to the language then proposed by the City, as follows (the LCPA 1-03 suggested modification added all of the language of Subsection F.5 and 6, below):

**F. Site Selection**

5. Significant adverse impacts to public visual resources shall be minimized by incorporating one or more of the following into project design and construction:
  - a. Co-locating antennas on one structure;
  - b. Stealth installations;
  - c. Locating facilities within existing building envelopes;
  - d. Minimizing visual prominence through colorization or landscaping;
  - e. Removal of facilities that become obsolete.
6. Wireless communication facilities affecting the public viewshed and/or located in areas designated Water Recreation, Conservation, Parks, and Shoreline shall be removed within six (6) months of termination of use and the site restored to its natural state.

LCPA 2-06 rearranged much of the originally certified Section 230.96. Many of the certified provisions (including those added as the suggested modification above), however, remained intact then, and are still present with the proposed LCPA. For example, of the suggested modification cited above (which was required by the Commission in approving Huntington Beach LCPA 1-03), although no longer found in the same context, still remains in the ordinance. For example, Section 230.96.G WCF Standards requires WCF to provide visual screening, co-location, landscaping and compliance with the Huntington Beach Urban Design Guidelines, among other requirements. Section 230.96.I requires that a WCF affecting the public view and/or located in areas designated Water Recreation, Conservation, Parks and Shoreline, and Public Right of Ways shall be removed in its entirety within six months of termination of use and restored to its natural state. Section 230.96.J establishes provisions for removal of Wireless Communication Facilities when operation ceases.

No changes are proposed to Chapter 245 Coastal Development Permits and so there will be no change to when a proposed WCF project will require a coastal development permit. If a WCF constitutes development, as defined in Section 245.04.J, and is not otherwise exempt under Section 245.08, the project will require approval of a coastal development permit. Section 230.96 recognizes that WCF may require other discretionary approvals, which would include a CDP if applicable.

As proposed, the changes to Section 230.96 Wireless Communication Facilities retains the language of the LUP WCF policies. In addition, the language of the suggested modification required in the Commission's approval of LCPA 1-03 remains intact, though rearranged. The changes proposed by the LCP amendment will not alter the requirement that visual resources be protected. As described above, the Commission finds that the amendment, with regard to changes proposed to Section 230.96 Wireless Communication Facilities, conforms with and is adequate to carry out the policies of the City's certified LUP.

## 2. Remove References to State Law

Zoning Text Amendment 17-006 (Ordinance Nos. 4131, 4132, 4133, 4144, 4145, and 4146) proposes to remove from the IP four references to State Law "to eliminate any confusion regarding the City's local authority over land use laws that are not otherwise preempted by State Law."<sup>1</sup> ([Exhibits 8 and 9](#)) Three of the affected sections refer to specific plans. One reference is in a section addressing affordable housing density bonuses. And a fifth change is proposed in the introductory section of the Zoning Code/IP, where the phrase below is proposed to be added. Section 201.06 is proposed to be modified as follows (proposed addition in underline text):

The purpose of the zoning and subdivision ordinance is to implement the policies of the City of Huntington Beach General Plan, and without limiting the Huntington Beach Charter authority regarding local control of land use, as provided in the California Government Code, Title 7, Division 1, Planning and Zoning, and Division 2, Subdivisions, and in the California Constitution, Chapter 11, Section 7. The purpose of the Local Coastal Program Implementation Plan is to implement the policies of the City of Huntington Beach certified Land Use Plan (Coastal Element) and the public access and recreation policies of the Coastal Act. It is further adopted for the purpose of promoting and protecting the public health, safety, and general welfare of Huntington Beach residents and to provide the physical, economic and social advantages which result from a comprehensive and orderly planned use of land resources. This zoning and subdivision ordinance is not intended to authorize, and shall not be construed as authorizing the City of Huntington Beach to exercise its power in a manner which will take or damage private property for public use. This zoning ordinance is not intended to increase or decrease the rights of any owner of property under the constitution of the State of California or the United States.

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<sup>1</sup> City Staff Report: RCA 3/19/2018.

The sections of the IP proposed to be modified by deleting references to the California Government Code are described below (proposed additions shown in underlined text; proposed deletions shown in ~~strike-through text~~).

#### Section 203.06 Definitions

Specific Plan. A plan for a defined geographic area that is consistent with the General Plan ~~and with the provisions of the California Government Code, Section 65450 et seq. (Specific Plans).~~

#### Section 215.02 Specific Plan District Established

The SP Specific Plan District is established by this chapter. This district provides areas for the development and administration of specific plans, prepared in accord with the City of Huntington Beach Charter, ~~Government Code~~ and consistent with the General Plan and, for specific plans located within the coastal zone, the Local Coastal Program.

#### Section 215.14 Status of Specific Plan

A specific plan adopted by resolution of the City Council shall be administered as prescribed by the Council, and adopted pursuant to the City of Huntington Beach Charter authority. ~~consistent with the Government Code, Section 654650 et seq.~~ A specific plan shall not become effective unless a Local Coastal Program amendment is effectively certified by the California Coastal Commission.

It should be noted that City of Huntington Beach LCPA 1-07B included a suggested modification to Section 230.14.C. That suggested modification includes a reference to Government Code Section 65915. That suggested modification was accepted by the City on 7/6/2009 via City Council Resolution No. 2009-35. The Commission concurred with the Executive Director's determination that the City's action was legally adequate on 9/9/2009. No change is proposed to Section 230.14.C that was added as a suggested modification by the Coastal Commission. However, later in Section 230.14 (at Section 230.14.H.4), a reference to the same California Government Code section is proposed to be modified as follows (proposed addition in underline text; proposed ~~deletion in strike-through text~~):

4. The Planning Commission/City Council may place reasonable conditions on the granting of the density bonus and any other incentives as proposed by the applicant; however, such conditions must not have the effect, individually or cumulatively, of violating applicable State law. ~~impairing the objective of California Government Code Section 65915 et seq., and this section, of providing affordable housing for qualifying residents.~~

It does not appear that these proposed changes are necessary or that the existing language is confusing. However, the changes proposed do not contradict state law, or mistakenly say state law does not apply. The proposed changes are fairly innocuous and raise no issue with continued conformance of the IP to the certified LUP.

### **3. Department Name Change**

Zoning Text Amendment No. 16-001 (Ordinance Nos. 4089 – 4093 and 4096 and 4103) proposes a name change from “Department of Planning and Building” to “Department of Community Development” and also the associated change to the title of the department head from “Director of Planning and Building” to “Director of Community Development.” The proposed changes will occur throughout the Implementation Plan ([Exhibits 2 and 3](#)). These proposed changes raise no issue with continued conformance of the IP to the certified LUP.

### **4. Non-Medical Marijuana**

Zoning Text Amendment No. 17-001 (Ordinance No. 4137) proposes to amend Chapter 204 Use Classifications ([Exhibits 6 and 7](#)). Changes are proposed to Section 204.18 Prohibited Uses, the addition of new Section 204.20 Prohibited Uses-Commercial Non-Medical Marijuana Businesses and Deliveries, and the addition of new Section 204.22 Non-Medical Marijuana Cultivation. The proposed changes would prohibit all sale, distribution, deliveries, and outdoor cultivation of non-medical marijuana within the City. The proposed amendment would allow indoor cultivation of non-medical marijuana at residential properties when it complies with the following criteria: 1) it is located within a fully enclosed or secure structure or within a residential structure; 2) it is not visible to the general public; 3) when odor created by non-medical marijuana plants is prevented from impacting adjacent properties; and 4) when such cultivation provides for the health, safety, and welfare of the public. Huntington Beach LCPA 2-16 was approved by the Coastal Commission as submitted on 5/11/2018. LCPA 2-16, among other things, added a prohibition of medical marijuana businesses in the City. The proposed amendment would prohibit non-medical marijuana businesses in the City. These proposed changes raise no issue with continued conformance of the IP to the certified LUP.

### **5. CUP for Alcohol Sales in Open Space-Parks & Recreation**

Zoning Text Amendment No. 18-001 (Ordinance No. 4156) proposes to amend Section 213.06 to establish a Zoning Administrator level conditional use permit process to permit the ancillary on-site sale, service and consumption of alcohol within the Open Space – Parks and Recreation (OS-PR) zoning district ([Exhibits 10 and 11](#)). The proposed amendment limits the service of alcohol only to restaurants with full table service located within the City’s Central Park or on public or private golf courses. Central Park is located outside the coastal zone. There are currently two golf courses in Huntington Beach, Meadowlark and Sea Cliff. Meadowlark is located outside the coastal zone. A portion of the private Sea Cliff golf course falls within the coastal zone. Alcohol is already allowed at these facilities, but the proposed amendment would newly establish a process for a conditional use permit for this use to be reviewed at the Zoning Administrator level. The City’s ocean beaches are designated Open Space – Shoreline, and so this proposed amendment will have no effect on the public beaches. These proposed changes raise no issue with continued conformance of the IP to the certified LUP.

## **Conclusion**

None of the changes included in the proposed Implementation Plan amendment raise coastal issues. For these reasons, the Commission finds these proposed changes are in conformance with and adequate to carry out the certified Land Use Plan. Therefore, the Commission approves the proposed LCP amendment as submitted.

## **D. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

As set forth in Section 21080.9 of the California Public Resources Code, the California Environmental Quality Act (CEQA) exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program (LCP). The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. (14 CCR § 15251(f).)

Nevertheless, the Commission is required in approving an LCP submittal to find that the LCP does conform with the provisions of CEQA, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

As outlined in this staff report, the proposed LCP IP Amendment as submitted will be in conformance with and adequate to carry out the policies of the City's certified LUP. There are no feasible alternatives or feasible mitigation measures available which would substantially lessen significant adverse impacts because the proposed IP amendment is not expected to result in adverse impacts to coastal resources. Thus, the Commission finds that the LCP IP Amendment, as submitted, is in conformity with and adequate to carry out the land use policies of the certified LUP. Therefore, the Commission finds that approval of the LCP Amendment as submitted will not result in significant adverse environmental impacts under the meaning of CEQA. Therefore, the Commission certifies LCP Amendment request LCP-5-HNB-19-0011-1 to the City of Huntington Beach Implementation Plan of the certified LCP.