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Date: May 20, 2021

To: COMMISSIONERS AND INTERESTED PERSONS

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Subject: STAFF RECOMMENDATION ON CITY OF OCEANSIDE MAJOR  
AMENDMENT NO. LCP-6-OCN-20-0085-2 (Cannabis Ordinance Revisions)  
for Commission Meeting of June 9-11, 2021

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## SYNOPSIS

On December 7, 2020, the subject Local Coastal Program (LCP) implementation plan amendment was submitted and filed as complete. A one-year time extension was granted on February 10, 2021. As such, the last date for Commission action on this item is March 7, 2022. This report addresses one of two components of the City of Oceanside's batched submittal regarding cannabis ordinance regulations. The other component, LCP-6-OCN-20-0084-2 (Accessory Dwelling Unit Revisions), is currently undergoing Commission review.

### SUMMARY OF AMENDMENT REQUEST

The City is proposing to modify its implementation plan (IP) to include regulations for commercial (adult use) cannabis cultivation and cannabis nurseries within the City's Agricultural zone. While there is no land designated for agriculture in the City's Coastal Zone, the amendment includes revisions to Article 4 (Use Classifications) and Article 36 (Separation of Regulated Uses), both of which are a part of the City's IP; therefore, the proposed changes require certification by the Commission. The City's LCP currently includes provisions for the cultivation, manufacturing, sale and distribution of medical cannabis within the Industrial (Inland) and Agricultural zones. As proposed, medical cannabis cultivation facilities and medical cannabis nurseries permitted within the Agricultural Zone would be expanded to include commercial/adult-use cannabis. The manufacturing, distribution and research of cannabis permitted within the City's Industrial Zone would remain limited to medical cannabis facilities only.

### SUMMARY OF STAFF RECOMMENDATION

Staff is recommending the amendment be approved as submitted. The proposed amendment will allow certain commercial cannabis facilities within the City's Agricultural

zone which is located exclusively outside the coastal zone and therefore cannot be applied to any properties with the Coastal Zone. Therefore, the proposed amendment 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 motion and resolution begin on Page 5. The findings for approval of the Implementation Plan Amendment as submitted begin on Page 5.

## **BACKGROUND**

In August 2019, the Commission certified an LCP Amendment (ref. LCP-6-OCN-18-0103-5, Medical Cannabis Regulations) that included a number of provisions addressing the cultivation, manufacturing, sale and distribution of medical cannabis in a limited number of industrial and agricultural zones, all of which applied to properties located outside the Coastal Zone only. In June 2020, and in response to the 2016 Adult Use of Marijuana Act, the City expanded the uses from medical only to include commercial cannabis cultivation and commercial cannabis nurseries.

## **ADDITIONAL INFORMATION**

Further information on the Oceanside LCP Amendment No. LCP-6-OCN-20-0085-2 may be obtained from Toni Ross, Coastal Planner, at [toni.ross@coastal.ca.gov](mailto:toni.ross@coastal.ca.gov).

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### EXHIBITS

[Exhibit No. 1 – Resolution No. 20-R0395-1](#)

[Exhibit No. 2 – Ordinance No. 20-ORO463-1](#)

[Exhibit No. 3 – Proposed Text Changes in Strike-out/Underline](#)

## **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**

Section 30503 of the Coastal Act requires local governments to provide the public with the maximum opportunities to participate in the development of the LCP amendment prior to submittal to the Commission for review. The City held Planning Commission and City Council meetings with regard to the subject amendment request on November 4, 2019, June 17, 2020, June 24, 2020, August 5, 2020. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

## **II. MOTION AND RESOLUTION**

### **MOTION:**

I move that the Commission reject the City of Oceanside Implementation Program Amendment No. LCP-6-OCN-20-0085-2 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.

## **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 commercial cannabis facilities within the City's Agricultural zone, a zone which does not currently apply to any property located within the Coastal Zone. The amendment will expand cannabis development types from medical only to include commercial cannabis cultivation and commercial cannabis nursery sites within the Agricultural Use Classifications sections in Article 4 (Use Classifications). The proposed amendment will also add commercial cannabis facilities to the list of regulated uses contained in Article 36 (Separation of Regulated Uses). No medical or commercial cannabis uses are permitted within the Coastal Zone.

### **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 of cannabis.

b) Major Provisions of the Ordinance.

The major provisions of the ordinance include regulations for the establishment and operation of commercial cannabis cultivation and commercial cannabis nurseries within the Agricultural zoning district; which is located exclusively outside the Coastal Zone, where previously only medical cannabis uses were permitted.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments.

The amendment request is to add descriptions of two uses related to commercial cannabis to the City's LCP. As proposed, no cannabis facilities are permitted within the Coastal Zone. Instead, cannabis cultivation and cannabis nurseries will be permitted within the City's Agricultural zone; which is 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 or commercial cannabis facilities, the City would need to amend the LCP, and any potential impacts to coastal resources associated with these cannabis facilities would be reviewed by the Commission at that time. Therefore, the Commission finds the LCP amendment can be approved as submitted.

#### **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

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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.