

CALIFORNIA COASTAL COMMISSION

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Date: January 24, 2022

To: COMMISSIONERS AND INTERESTED PERSONS

From: JOHN AINSWORTH, EXECUTIVE DIRECTOR

Subject: CITY OF OCEANSIDE DE MINIMIS LOCAL COASTAL PROGRAM AMENDMENT LCP-6-OCN-21-0066-1 (Cannabis Regulations II) FOR COMMISSION REVIEW AT ITS MEETING OF FEBRUARY 10, 2022

The Coastal Act was amended January 1, 1995 to provide for a more streamlined method to review amendments to local coastal programs. Section 30514(d) allows the Executive Director to make a determination that a proposed LCP amendment is de minimis in nature. The Executive Director must determine that the proposed amendment: 1) has no impact, either individually or cumulatively, on coastal resources; 2) is consistent with the policies of Chapter 3; and 3) does not propose any change in land use or water use or any change in the allowable use of property. Section 30514(d) requires the local government to notice the proposed de minimis LCP amendment 21 days prior to submitting it to the Executive Director either through: 1) publication in a newspaper of general circulation; 2) posting onsite and offsite the area affected by the amendment; or 3) direct mailing to owners of contiguous property. If the Executive Director makes the determination that the proposed amendment qualifies as a “de minimis” amendment and finds the public notice measures have been satisfied, such determination is then reported to the Commission.

If three or more commissioners object to the de minimis LCP amendment determination, then the amendment shall be set for a future public hearing; if three or more commissioners do not object to the de minimis determination, then the amendment is deemed approved, and it becomes a certified part of the LCP ten days after the date of the Commission meeting (February 21, 2022).

PROPOSED AMENDMENT

The City Oceanside’s LCP amendment request was filed on October 18, 2021. At its December 2021 hearing, the Commission approved a one-year time extension to January 12, 2023. As such, the last date for Commission action on this item is the January 2023 meeting.

In August 2019, the Commission certified an LCP Amendment (ref. LCP-6-OCN-18-0103-5/Medical Cannabis Regulations) that introduced 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. In June 2021, the Commission certified an additional LCP Amendment (ref. LCP-6-OCN-0085-2/Cannabis Ordinance Revision) that expanded some of the existing cannabis uses from medical only to include commercial cannabis uses, including commercial cannabis cultivation and commercial cannabis nurseries.

The City is now proposing to modify its implementation plan (IP) to remove the medical restriction for cannabis manufacturing, distribution, testing lab, and non-storefront uses. As proposed, no new types of facilities are proposed, and all cannabis uses remain unpermitted in the Coastal Zone. While no cannabis uses are permitted in the City's Coastal Zone, an LCP Amendment is required as the amendment includes revisions to Articles 4 (Use Classifications), 4a (Redevelopment Project Area/ D-Downtown District), Article 12 (Downtown District) and Article 36 (Separation of Regulated Uses), all of which are a part of the City's IP; and therefore, require certification by the Commission.

The proposed amendment (Ordinance Number 21-OR0476-1) is included as an exhibit. The amendment affected only the certified Implementation Plan and was properly noticed. If you have any questions or need additional information regarding this proposed amendment, please contact Toni Ross as SanDiegoCoast@coastal.ca.gov.

DISCUSSION

In past Commission actions regarding LCP amendments addressing cannabis facilities, the Commission has consistently found that the subject of cannabis and its availability to the public is not a Coastal Act issue. As proposed, no cannabis facilities are permitted within the Coastal Zone. Instead, the amendment will remove the medical restriction for cannabis manufacturing, distribution, testing lab, and non-storefront uses outside the Coastal Zone. Therefore, 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 proposed amendment is consistent with Chapter 3 of the Coastal Act.

DETERMINATION

The Executive Director determines that the City of Oceanside LCP amendment is de minimis. Based on the information submitted by the City, the proposed LCP amendment will have no impact, either individually or cumulatively, on coastal resources. It is consistent with the policies of Chapter 3 of the Coastal Act. The amendment does not propose any change in land use or any change in the allowable use of property. The City has properly noticed the proposed amendment. As such, the amendment is de minimis pursuant to Section 30514(d).

CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.5 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. Instead, the CEQA responsibilities are assigned

to the Coastal Commission and 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. The City found that implementation of this LCPA would not result in new significant direct, indirect, or cumulative impacts over and above those disclosed in the previously certified per CEQA Guidelines Section 15162. The City also determined that the changes would not be subject to CEQA as they would not result in any physical changes to the environment.

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 with CEQA provisions. In the case of the subject LCP amendment request, the Commission finds that approval of the de minimis LCP amendment, as submitted, would not result in any significant adverse environmental impacts under the meaning of the California Environmental Quality Act.