

CALIFORNIA COASTAL COMMISSION

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Date: June 29, 2023

TO: Commissioners and Interested Persons

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SUBJECT: Staff Recommendation on City of Huntington Beach Major LCP Amendment Request No. LCP-5-HNB-21-0057-1 (Magnolia Tank Farm) for Commission Meeting of July 12 -14, 2023.

SUMMARY OF LCP AMENDMENT REQUEST NO. LCP-5-HNB-21-0057-1

Local Coastal Program Amendment Request No. LCP-5-HNB-21-0057-1 (LCPA) would affect property located at the 29-acre Magnolia Tank Farm (MTF) site, in the Southeastern part of the City. The MTF site is bounded by Magnolia Street to the east, the ASCON Superfund site to the north, the AES electrical generating station to the west, the Orange County Flood Control District's (OCFD) Huntington Beach flood control channel to the southwest, and the Magnolia Marsh to the south. This LCPA is project driven, and changes to the LUP are intended to support the proposed MTF Specific Plan. The City has requested action on the proposed LCPA via City Council Resolution No. 2021-04 (**Exhibit 5**).

The Land Use Plan Amendment (LUPA) would change the land use designation at the MTF site from public uses and infrastructure to a combination of residential, commercial and open space uses. More specifically, the proposed designation for the 29-acre MTF site would include 19 acres of Residential Medium Density (RM), 4.4 acres of Commercial Visitor (CV), 2.8 acres of Open Space-Park (OS-P), and 2.8 acres of Open Space-Conservation (OS-C), all with a Specific Plan Overlay. The proposed LCPA would also make changes to related figures and text in the certified LUP.

In addition, the Implementation Plan Amendment (IPA) would amend the zoning at the site to allow a mixed-use project, including up to 250 medium-density residential units; a new hotel with market-rate rooms and affordable rooms; and new park and recreation facilities. The IPA also proposes to add the Magnolia Tank Farm Specific Plan (MTFSP/Specific Plan 18) to the Implementation Plan portion of the certified LCP. While the proposed IPA would allow the aforementioned project to be developed, the City would need to approve a local CDP for the project after final approval of the LCPA in order for the development to occur.

SUMMARY OF STAFF RECOMMENDATION

Hazards

The site is located in Southeast Huntington Beach, a low-lying area. Were it not for the protection provided by the City's and County's existing extensive system of flood channels, floodwalls, stormwater pumps, and other drainage infrastructure, large portions of Southeast Huntington Beach would be inundated by high tides under existing sea levels and tidal ranges based on elevation data.¹ With climate change and related sea level rise (SLR), the area's hazard risk increases, and it is unknown if the current flood control infrastructure will be able to accommodate the increased risk. Existing development in the Southeast Huntington Beach area that will become vulnerable with SLR includes residential development, and Orange County's regional wastewater treatment plant (Plant No. 2).

Although both acknowledge the need, neither the County nor the City has identified any comprehensive plans to assess the specific vulnerabilities of the area's existing flood control system and identify pathways to accommodate the expected increased hazards related to climate change. Current planning decisions regarding ways to implement future adaptation measures are often significantly constrained by existing, occupied development. However, in this case, the Magnolia Tank Farm (MTF) site is a vacant, 29-acre site, located immediately adjacent to existing flood control infrastructure. The location, vacant status and current zoning of the site may provide a critical opportunity to implement adaptation strategies that would ensure that this portion of the City is resilient to sea level rise and increasing hazard risks.

The primary change requested by the LCPA is a land use designation and zone change. The current land use designation and zoning could allow climate change adaptation infrastructure to be installed at the site. Such infrastructure is universally acknowledged as necessary to protect the Southeast Huntington Beach area from climate change impacts, primarily flooding. The proposed land use designation and zoning would effectively limit climate change adaptation infrastructure by reducing the available area to develop such infrastructure if the mixed-use project comes to fruition. In addition, the proposed zoning designations- which do not explicitly list climate change adaptation infrastructure as allowed uses- would require additional Planning Commission approvals, which could pose additional obstacles if there is public opposition to siting infrastructure near residences and visitor-serving facilities. This stage of planning presents the opportunity to consider appropriate land use on a broader, community scale. The primary decision before the Commission is whether: 1) changing the land use designation and zoning to allow dense residential and commercial development in a vulnerable area is appropriate, or, 2) retention of the current land use designation and zoning would better serve to protect existing and future uses in this part of the City.

Based on its current land use designation and zoning, the City and County should examine whether and how the MTF site might play a role in implementing adaptation strategies to minimize risk and mitigate climate change impacts. Consideration on a broader, community

¹ City of Huntington Beach Sea Level Rise Vulnerability Assessment, November 2021, Moffatt & Nichol.

scale also allows evaluation of low-impact development, stormwater pumps, tide gates, and alternative stormwater and flood management strategies at the site and others.

The City has done significant work to date to assess how and where it is vulnerable to climate change effects. It has also identified potential adaptation options that may be available to address current and future risks. However, neither specific measures nor specific locations suitable for climate adaptation infrastructure have been developed. Also, the hazard assessments conducted to date have not evaluated the operational vulnerabilities of the City's existing drainage infrastructure or how it interacts with the County flood control infrastructure. It is at the land use planning stage that the City needs to evaluate the various options available to address vulnerability to sea level rise, flooding, and other coastal hazards.

Given the lack of community-scale adaptation planning, uncertainty regarding future adaptation options, and the potential for increased SLR-induced flood hazard risks at and around the MTF site, the proposed land use designation change cannot currently be found consistent with the hazard policies of the Coastal Act. Changing the land use designation would foreclose opportunities for the MTF site to contribute to solutions to address known and future flooding hazards in the southeast Huntington Beach area and could enable development that would exacerbate such hazards. As such, in the absence of more comprehensive planning, the proposed land use designation change would not minimize risk to life and property in this flood prone area, and could instead contribute to the destruction of the surrounding area, inconsistent with Section 30253 of the Coastal Act.

Housing

The City and project proponent have recently presented this LCPA as a conflict between providing much needed additional housing units and addressing climate impacts; suggesting the MTF Specific Plan is necessary for the City to meet HCD's required Regional Housing Needs Assessment (RHNA). First, it is important to be clear that the proposed LCPA is a land use and zoning change and would not require any on-site affordable housing. Although the City and project proponent have indicated that affordable housing on-site will be proposed, the specifics of how that would be provided or required have not been outlined in the LCPA. The Commission recognizes the critical housing shortage in California and strongly supports increased housing, particularly affordable housing, throughout the State's coastal zone. Additional housing in a highly vulnerable area, however, will not address the housing crisis in the long run. New housing must be sited and designed to be safe from coastal hazards. In addition, it is critical that local governments work swiftly to develop and implement sea level rise and climate change adaptation plans to ensure that existing housing and development is protected from future hazards, and thus ensure that the housing crisis is not further exacerbated with worsening climate change.

The Regional Housing Needs Assessment (RHNA) for the City of Huntington Beach, as determined by the Southern California Association of Governments (SCAG) and approved by the State Department of Housing and Community Development (HCD), is 13,368 units, across a number of affordability levels. Based on the most recent draft version of the City's 6th Cycle Housing Element, the MTF proposed residential units have not been recognized as a required component to meet the RHNA requirement. Although the most recent draft version

of the City's 6th Cycle Housing Element indicates the City is not relying on the MTF project to meet its RHNA requirement, Figure B-1 of Appendix B of the Housing Element depicts 454 "Sites to Accommodate the 2021-2029 RHNA." as suitable to satisfy its RHNA requirements. A majority of the sites are located outside the coastal zone, but are located in urbanized areas that easily accommodate new development, within easy access to major beach access routes (e.g. Beach Blvd.), and away from areas that are anticipated to be impacted by sea level rise induced hazards. From a planning perspective, these sites would be considered less environmentally damaging development alternatives and should be prioritized to concentrate new residential development. However, the City is choosing to utilize a more hazardous area to site new residential development. Although the property owner and City have recently indicated that they are willing to accept suggested modifications to the LCPA requiring the provision of affordable units on site, no affordable units are included in the LCPA as proposed and the details of such an arrangement are not known.

Conclusion

For the reasons described above, the LCPA is not consistent with 30253. In addition, as described in more detail in Section B1, the LCPA is also not consistent with 30250 and 30270. Staff is thus recommending denial of the proposed LCPA because, in the absence of comprehensive planning for addressing the impacts of anticipated coastal hazards in the City, it cannot be found consistent with the hazard policies of the Coastal Act and LCP. There are no suggested modifications that would make the LCPA consistent with the Coastal Act and LCP, given the lack of information about long term planning. The current land use designation and zoning would allow for potentially needed climate change adaptation strategies and infrastructure (including flood control or drainage facilities) on site. In the absence of information and planning from the City demonstrating that this site is not necessary to ensure resiliency of this part of the City, it would be inconsistent with the Coastal Acts' hazards policies to change the land use designation to allow for additional residential and commercial development in a highly vulnerable area. It is important to note that denial of this LCPA simply maintains the status quo; it does not eliminate an existing land use, nor does it preclude a different land use that would allow some development while also providing the community with greater adaptation options. It also does not preclude approval of a similar LCPA in the future, once the City has (1) undertaken an analysis of the adaptation strategies necessary to ensure that the City is protected from and resilient to current and future coastal hazards, and (2) determined that the MTF site is not needed to implement such strategies. The motion to deny the LUPA is on page 12. The motion to deny the IPA is on page 12.

ADDITIONAL INFORMATION

The file is available for review at the South Coast District office located at 301 East Ocean Blvd., Suite 300, Long Beach, 90802. The staff report can be viewed on the Commission's website: <http://www.coastal.ca.gov/mtgcurr.html>. For additional information, contact Meg Vaughn in the South Coast District office at meg.vaughn@coastal.ca.gov or (562) 590-5071.

Contents

I. OVERVIEW	7
A. LCP HISTORY.....	7
B. STANDARD OF REVIEW.....	7
C. PUBLIC PARTICIPATION	7
II. MOTIONS AND RESOLUTIONS	8
III. FINDINGS FOR REJECTION OF THE LCPA AS SUBMITTED	9
A. AMENDMENT DESCRIPTION.....	9
B. FINDINGS FOR DENIAL OF THE LUPA	17
1. Hazards.....	17
2. Housing Needs City of Huntington Beach	35
3. Comparison to City of Del Mar LCPA LCP-6-DMR-20-0079-3	37
4. Priority of Use.....	38
C. FINDINGS FOR DENIAL OF THE IPA.....	40
1. LUPA Denial Findings	41
2. Hazards.....	41
3. Public Access and Recreation.....	45
4. Priority of Use.....	52
5. Recent Claims by Project Proponent of Specific Plan Benefits	54
IV. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)	57

EXHIBITS

- [1. Vicinity Maps](#)
- [2. Existing/Proposed Land Use Designation](#)
- [3. Existing/Proposed Zoning](#)
- [4. Proposed Specific Plan Planning Areas](#)
- [5. City Council Resolution No. 2021-04 \(Note: see Exhibit 18 for MTF Specific Plan\)](#)
- [6. CA Dept. of Toxic Substances Control Letter, dated 8/12/2021](#)
- [7. Orange County Public Works Letter, dated 11/19/2021](#)
- [8. SLR Flood Hazard Map from SLR VA](#)
- [9. Protected Critical Areas](#)
- [10. Existing Low-Lying Areas](#)
- [11. Topographic Map of MTF Site](#)

[12. MTF Site Fill Cross Section](#)

[13. Photos of Past Flooding in Southeast Huntington Beach](#)

[14. LUP Figure C-33 Flood Map](#)

[15. Existing Low-Lying Areas](#)

[16. Ground Elevations Relative to Tides](#)

[17. Groundwater](#)

[18. Proposed Magnolia Tank Farm Specific Plan](#)

[19. Fluvial Flood Risk on MTF Site with SLR](#)

I. OVERVIEW

A. LCP HISTORY

The City of Huntington Beach Local Coastal Program (LCP) was certified in 1985 with the City assuming permit issuing authority at that time. The LCP is divided into two components: the Land Use Plan (LUP), which is the City's Coastal Element; and an Implementation Plan (IP), which includes the Huntington Beach Zoning and Subdivision Ordinance (HBZSO), Zoning District Maps, and the Specific Plans located within the Coastal Zone. The Magnolia Tank Farm (MTF) site is within the area included in the originally certified LCP. The IP portion of the LCP was comprehensively updated via LCP Amendment (LCPA) 1-95 in 1997. The LUP portion of the certified LCP was comprehensively updated via LCPA 3-99 in 2001.

B. STANDARD OF REVIEW

The standard of review for the proposed amendment to the LUP/Coastal Element is consistency with the Chapter 3 policies of the Coastal Act. The standard of review for the proposed amendment to the IP/zoning code (MTF Specific Plan), is the certified LUP/Coastal Element.

C. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires local governments to provide the public with maximum opportunities to participate in the development of the LCP amendment prior to submittal to the Commission for review. The City of Huntington Beach Planning Commission held a public hearing for the LCP amendment on October 22, 2019. Prior to that, the Planning Commission conducted four public study sessions. The City Council held a public hearing on January 19, 2021. Prior to that, the City Council held one public study session on November 18, 2019. The City Council public hearing was advertised in the city's local newspaper and notice sent to property owners and occupants within a 1,000-foot radius of the project site and interested parties.

Planning Commission public study sessions were held on July 23 and September 10, 2019. There were 11 speakers on July 23 who expressed concerns about the project's compatibility with the area and contamination onsite and from the ASCON site located to the north. There were 8 speakers on September 10 who spoke about air quality/dust, contamination, and pile driving. The Planning Commission held a public hearing on October 22, 2019. There were 39 speakers at the public hearing. Those in favor cited the project's potential benefits to the economy, housing stock, city revenue, job creation, neighborhood beautification, and provision of additional recreation and open space opportunities. Those in opposition indicated concerns primarily about contamination, public health, incompatibility of residential with surrounding industrial uses and ASCON, conflicts with General Plan Policy HAZ-5C which prohibits the future placement of sensitive land uses in close proximity to hazardous material and waste sites, incompatibility of the hotel with surrounding residential uses, noise, congestion, traffic, impacts to wetlands, and parking.

The City Council held a public study session on November 18, 2019. There were 6 speakers who spoke about concerns regarding contamination onsite and from ASCON. The City

Council held a public hearing on January 19, 2021. There were 41 speakers at the public hearing. Those in favor cited the project's potential benefits to the economy, housing stock, city revenue, job creation, neighborhood beautification, and provision of additional recreation and open space opportunities. Those in opposition were mostly representatives of Unite 11 Hotel Workers Union. One speaker favored a golf course instead of the proposed project and another expressed concerns about proximity to ASCON.

In addition, the City submitted EIR No. 17-001 to the State Clearinghouse and made it available for public review on the City's website and at the City of Huntington Beach Department of Community Development. A Tribal Consultation letter was sent by email to Native American tribal leaders list provided by the Native American Heritage Commission. One tribal leader suggested mitigation measures, which were incorporated in the EIR.

D. DEADLINE FOR COMMISSION ACTION

On August 8, 2021, the City submitted the LCP amendment request for Coastal Commission certification via City Council Resolution No. 2021-04. On October 10, 2022, the LCPA submittal was deemed complete. On December 14, 2022, the Commission authorized a one-year extension for action on the LCP Amendment request. As such, the deadline for Commission action on this item is **February 16, 2024**.

II. MOTIONS AND 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.

1. Deny the LUPA as submitted:

MOTION:

I move that the Commission certify Land Use Plan Amendment No. LCP-5-HNB-21-0057-1 as submitted by the City of Huntington Beach.

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

Resolution To Deny Certification of the Implementation Plan Amendment as Submitted:

The Commission hereby denies certification of Land Use Plan Amendment No. LCP-5-HNB-21-0057-1 as submitted by the City of Huntington Beach and adopts the findings set forth below on grounds that the amendment does not conform with the Chapter 3 policies of the Coastal Act. Certification of the Land Use Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures

which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

2. Deny the IPA as submitted:

MOTION:

I move that the Commission reject Implementation Plan Amendment No. LCP-5-HNB-21-0057-1 as submitted by the City of Huntington Beach.

Staff recommends a **YES** vote of the motion. Passage of this motion will result in rejection of the IP Amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of the majority of the Commissioners present.

Resolution To Deny Certification of the Implementation Plan Amendment as Submitted:

The Commission hereby denies certification of Implementation Plan Amendment No. LCP-5-HNB-21-0057-1 as submitted by the City of Huntington Beach and adopts the findings set forth below on grounds that the amendment does not conform with the provisions of the certified Land Use Plan. Certification of the Implementation Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Implementation Plan Amendment may have on the environment.

III. FINDINGS FOR REJECTION OF THE LCPA AS SUBMITTED

A. AMENDMENT DESCRIPTION

Local Coastal Program Amendment Request No. LCP-5-HNB-21-0057-1 is a project driven amendment intended to allow the MTF Specific Plan to be implemented. The MTF Specific Plan would allow future development (subject to a future CDP) including up to 250 residential units on 19 acres, a hotel with up to 175 market rate units and no fewer than 40 lower cost units, and 5.6 acres of open space (2.8 acre of Open Space – Recreation, and 2.8 acres of Open Space - Conservation). Currently the land use designation at the site is Public (P) and the zoning is Public-Semipublic with Oil and Coastal Zone Overlays (PS-O-CZ) ². The proposed LCPA would change the land use designation at the site to 19 acres of Residential Medium Intensity (RM), 4.4 acres of Commercial Visitor (CV) (1.5 maximum floor area ratio), 2.8 acres of Open Space-Park (OS-P), and 2.8 acres of Open Space-Conservation (OS-C), all with a Specific Plan Overlay. The RM land use designation allows up to 15 dwelling units per acre. The LCPA would change the zoning at the site to Specific Plan 18 with Coastal Zone Overlay (SP-18-CZ) and would add the MTF Specific Plan (Specific Plan 18) to the

² The current land use designation and zoning of Public and Public-Semi Public allow uses such as governmental administrative and related facilities, such as public utilities, infrastructure, schools, libraries, museums, public parking lots, religious uses, or similar types of uses. They are not open space designations.

IP/Zoning Code. The proposed changes to the LUP and IP are described in greater detail below.

The LCPA was submitted for Coastal Commission action via City Council Resolution No. 2021-04 which includes LCPA No. 17-001. City Council Resolution No. 2021-04 requests certification by the Coastal Commission of:

General Plan Amendment (GPA) 17-001/Resolution No. 2021-03 (Exhibit A of City Council Resolution No. 2020-04);

Zoning Map Amendment (ZMA) No. 17-001/Ordinance No. 4225 (Exhibit B of City Council Resolution No. 2021-04);

Zoning Text Amendment (ZTA) No. 17-005/Resolution 2021-03 (Exhibit C of City Council Resolution No. 2021-04); and

Amended Coastal Element Land Use Plan (Extract of Figure C-9) Text and Figures (Exhibit D of City Council Resolution No. 2021-04).

Project Site

1. Location

The 29-acre vacant site is located in the Southeast area of the City of Huntington Beach. It is northwest of the Santa Ana River, and immediately inland of Magnolia Marsh and Orange County's flood control channel (Huntington Beach Channel). Huntington State Beach is located to the south, seaward of Magnolia Marsh and Pacific Coast Highway ([Exhibit 1](#)). Magnolia Marsh is part of the larger Huntington Beach Wetlands Complex, which also includes restored Talbert and Brookhurst Marshes, and Newland Marsh (restoration of which is pending). The flood control channel wall on the seaward side of the channel, immediately adjacent to Magnolia Marsh, was removed at the time it was restored, about 2008. The nearest streets to the site are Magnolia Street, immediately east of the site, and Pacific Coast Highway, south of the site. The current site address is 21845 Magnolia Street (west side of Magnolia Street at Banning Avenue, Huntington Beach). There are berms along the northern and eastern property lines, with elevations ranging up to 17 feet. Otherwise, the site is relatively flat and generally slopes from the northwest to the Southeast, with an elevation range from 4.3 to 12.5 NAVD88³, with an average elevation of approximately 8.4 feet NAVD88 (not including the elevation of the on-site berms).

2. History

The site was originally part of the larger wetlands complex, but at some point appears to have been drained and/or filled and was used for agriculture from the mid 1800s through the 1960s. In the 1950s, the County of Orange constructed a regional flood control channel along the west/southwest side of the property (Huntington Beach Channel). Between 1972 and 2013, the site supported three, above-ground, 25-million-gallon tanks that stored fuel for the nearby electrical generating station. It is these tanks and its proximity to Magnolia Street that

³ NAVD88 or North American Vertical Datum of 1988 is the official vertical datum for the U.S. and California. Zero (0) feet NAVD88 is approximately 2.6 feet below mean sea level in the Huntington Beach area.

give the site its name. In addition to the the three tanks, the site was developed with other oil-related facilities including pipelines and ancillary buildings. A six-acre earthen berm adjacent to Magnolia Street, landscaped with turf and ornamental trees, screened the oil facilities from general public view. The berm remains in place today.

The nearby SCE power plant was replaced in about 2013 (pursuant to the California Energy Commission's (CEC) approval of the power plant project, Certification 12-AFC-02 – AES Huntington Beach Energy Project). The new AES power plant is fueled by natural gas rather than oil, making the oil storage tanks obsolete. In 2013, local coastal development permit HNB CDP 10-11 allowed for the demolition of the three fuel storage tanks and associated pipelines and ancillary facilities, as well as some minor grading intended to facilitate drainage. The demolition was completed in 2017. The site was subsequently used as a staging and parking area in support of the demolition and construction of the new power plant, as allowed under the CEC approval. More recently, the site has been used for new car storage (approximately 2,000 vehicles), pursuant to local CDP HNB 19-012. The CEC approval required fill on the subject site and any remnant wetlands that may have been present on site were filled. Current Biological Surveys⁴ of the site determined that no wetlands are present. This conclusion was reviewed and concurred with by the Coastal Commission's staff ecologist.

From the 1970s to mid-1990s, the subject site and the adjacent power plant were land use designated Industrial Energy Production to reflect the onsite uses. The land use designation was updated to Public as part of a comprehensive Coastal Element update pursuant to HNB LCPA 3-99. The zone name was updated pursuant to HNB LCPA No. 1-02. The subject site's existing Public land use designation and associated Public/Semi-Public zoning would allow institutional, public, and commercial uses such as utilities, infrastructure (including flood control and drainage facilities), government facilities, convalescent/assisted living, cultural institutions, hospitals, parks, religious assembly, and schools.

3. Surrounding Development

To the east of the site, across Magnolia Street, are single family residences on lots that are at least 6,000 square feet in size. The Huntington Beach Channel forms the site's southwesterly property boundary, and seaward of and interconnected with the channel is Magnolia Marsh. An Orange County flood control channel maintenance road is located between the site and the flood control channel. Near the midpoint of the westerly property line a bridge extends from the maintenance road across the channel to Huntington Beach Wetlands Conservancy's (HBWC) Magnolia Marsh property. To the west of the subject site, and inland of and adjacent to the AES power plant site, is the site previously proposed for the Poseidon desalination plant.

Adjacent to the site to the north is the 38-acre Ascon Superfund site, a former landfill. The landfill operated from 1938 to 1984. Originally the landfill received drilling waste from oil

⁴ Magnolia Tank Farm Project Biological Assessment Update, Steven G. Nelson, 12/8/2021; Magnolia Tank Farm Project Biological Assessment Update – Response to CCC Second Round of Comments, Steven G. Nelson, 3/15/2022; Magnolia Tank Farm Project Biological Technical Letter Report, Blackhawk Environmental, 9/5/2018; Magnolia Tank Farm Project Jurisdictional Delineation Report, ESA, 9/2018.

production until 1971. From 1971 to 1984, construction debris was disposed of at the site. Between 2003 and now, there have been two major remediation efforts at this site, which removed waste materials, graded, and installed stormwater control features. Oversight of this site is provided by the California Department of Toxic Substances Control (DTSC). Regarding the subject MTF site, on August 12, 2021, DTSC issued a Notice of Corrective Action Completion ([Exhibit 6](#)).⁵ The DTSC Notice states:

“In July 2020, SCE prepared a comprehensive RFI Report summarizing all work conducted at the Site. The RFI Report concluded that the Site met the conditions for unrestricted closure, as long as it is subject to recording of a future land use covenant (LUC) restricting groundwater from being used as a potable source.”

Although the DTSC Notice indicates the site is safe for the development that would be allowed under the proposed Specific Plan, the DTSC Notice did not consider potential future impacts due to sea level rise, including potential groundwater rise or changes in groundwater flow as a result of the City’s drainage infrastructure.

LUP Amendment Description

The purpose of the LUP⁶ portion of the LCPA, and the changes proposed therein, is to facilitate and support the addition of the MTF Specific Plan and the changes contained therein, into the Implementation Plan portion of the LCP. The changes proposed to the LUP are contained in Exhibit D to City Council Resolution No. 2021 - 04. The LUPA would make the land use designation changes at the site described earlier by adding a new Figure C-9a to the LUP and by modifying existing LUP Figure C-9 to reference the proposed Figure C-9a ([Exhibit 5](#)). Figure C-9 is a map of the land use designations within Zone 5 of the City’s coastal zone, which includes the Magnolia Tank Farm site. The change in land use designation at the site is the most significant part of the LUPA. The additional changes to the LUP are intended to update the existing maps and charts within the LUP to reflect the proposed land use designation change.

The other changes proposed to the LUP are:

The LUPA would modify the *Sub-Area Descriptions and Land Use Plan* section of the Coastal Zone Overview in the Technical Synopsis section of the LUP. This would be achieved by modifying the section titled Zone 5 – Beach Boulevard to the Santa Ana River. Zone 5 includes all of the land within the City’s coastal zone located between Beach Blvd. and the Santa Ana River, including the MTF site.

⁵ The DTSC 8/12/2021 Notice’s full title is: Notice of Corrective Action Completion Without Controls for Unrestricted Land Use, Magnolia Tank Farms A.K.A. Shopoff Portion of the Former SCE – Generating Station, 217 Newland Street, Huntington Beach 92464 Huntington Beach, CA (EPA ID Number: CAD 00631085)

⁶ The City’s LCP Land Use Plan (LUP) is the Coastal Element of the General Plan, hereinafter referred to as LUP.

The Zone 5 subsection would be modified by adding a reference to Open Space – Park as a land use designation that occurs within Zone 5 to the Zone 5 area discussion and by adding that land use designation to the chart that lists all the land use designations within Zone 5. That same chart also lists all the Specific Plans that fall within the boundary of Zone 5, so that chart would be further modified to add a reference to the MTF Specific Plan. [\(Exhibit 5\)](#).

Figure C-10 is a map depicting each of the Sub-Areas within the LUP Technical Synopsis Coastal Zone Overview. Zone 5 includes Sub-Areas 4G, 9F, 4H, and 4G. The MTF site is currently located in Sub-Area 4G, in Zone 5. Sub-Area 4G applied to the site of the former Edison (now AES) Power Plant. Because the MTF site is no longer a part of the power plant facility, the LUPA would modify Figure C-10 by removing the 29-acre MTF site from Subarea 4G of Figure C-10 [\(Exhibit 5\)](#).

IP Amendment Description

As described earlier, the IP would change the zoning at the site from Public-Semipublic – Oil Production Overlay – Coastal Zone Overlay (PS-O-CZ) to Specific Plan 18 - Coastal Zone Overlay (SP-18-CZ) and would add the MTF Specific Plan (Specific Plan 18) to the IP/Zoning Code. The MTF Specific Plan identifies land uses which correspond to the land uses proposed in the LUPA. These are depicted on Figure 3.1 of the Specific Plan and include: 19 acres of “for sale residential” (Planning Area 3), 4.4 acres of commercial visitor (Planning area 4), 2.8 acres of Open Space-Parks & Recreation (Planning Areas 2A, 2B, 2C and 2D), and 2.8 acres of Open Space-Conservation (Planning Area 1). The IP Amendment is comprised of a change to the zoning map and the addition of the MTF Specific Plan. The contents of the Specific Plan provide the detail of what would be allowed on the site pursuant to the LCPA.

The changes proposed to the IP are contained in City Council Resolution No. 2021-04 [\(Exhibit 5\)](#):

Exhibit A General Plan Amendment No. 17-001/Resolution No. 2021-02;

Exhibit B Zoning Map Amendment No. 17-001/Ordinance No. 4225; and

Exhibit C Zoning Text Amendment No. 17-005/Resolution No. 2021-03.

Magnolia Tank Farm Specific Plan (SP-18) Description⁷

⁷ The City and property owner have indicated a willingness to accept suggested modifications to this LCPA, including suggested modifications to add a requirement for affordable housing on-site, increase open space area, require long term funding for the HBWC, provide additional public parking, among others. However, none of these are part of the LCPA as proposed. This is addressed near the end of the staff report. However, there are no suggested modifications that would make the LCPA consistent with the Coastal Act and LCP hazard policies. Therefore, staff is recommending denial of the LCPA. This staff report addresses issues raised by the LCPA as it was approved and submitted by the City. In other words, as it is proposed.

The MTF Specific Plan would allow future development (subject to a future CDP) including up to 250 residential units on 19 acres, a hotel with up to 175 market rate units and no fewer than 40 lower cost units, and 5.6 acres of open space (2.8 acre of Open Space – Recreation, and 2.8 acres of Open Space - Conservation).

The MTF Specific Plan includes three volumes. Volume 1 includes four chapters which provide an overview and background of the site (Chapter 1), Administration (Chapter 2), Land Use Plan and Development Standards (Chapter 3), and Infrastructure & Services (Chapter 4). These Chapters are followed by three Appendices: Appendix A: Legal Description (of the property subject to the specific plan), Appendix B Coastal Hazards; and Appendix C Planning Area Legal Descriptions. Volume II includes design guidelines for, among other things, architecture, landscaping, and site planning. Volume III includes four planning areas and establishes the zoning standards for development as follows:

Planning Area 1: Open Space - Conservation: 2.8 acres of wetland buffer area;

Planning Area 2: Open Space-Parks and Recreation: 2.8 acres of park;

Planning Area 3: Residential: 19 acres of 250 medium intensity for-sale residential units; and

Planning Area 4: Commercial Visitor: 230,000 square foot lodge with a maximum of 175 market rate guest rooms; 40 rooms of guesthouse-style, budget-oriented, family/group overnight accommodations; and ancillary retail and restaurant facilities

1. Residential Development

Nineteen acres of the subject 29-acre property would be developed with up to 250 new residential units. These units are described in Volume 1 of the specific plan as the following types of “single family” attached and detached homes: detached single family small lots, detached condominiums, duplex/single family senior condominiums, triplex condominiums, and attached townhome and flats condominiums. However, Volume 2 of the specific plan, in Section 5 Residential Guidelines, refers to both single family buildings and multi-family buildings. Although the Specific Plan provides general design preferences, the distinctions between the different housing types are not described in the Plan. Regardless, each residential unit would be individually owned as the Specific Plan requires all homes to be “for sale” residential units⁸. Setback and parking requirements would be decreased and height limits increased under the Specific Plan, compared to requirements in the rest of the IP/Zoning Code. These lesser restrictions, the City has indicated in the staff report for the Planning Commission (10/22/2019), are intended to allow for “attainable housing.”

“Attainable housing” was described in the City Council staff report (1/19/2021) as follows: “In order to create attainable housing, the applicant is proposing development standards that would allow product types that have been built in other parts of Orange County that are more compact and taller with reduced yards and parking compared to what the HBZSO permits.”

⁸ MTF Specific Plan Vol. 1, Section 1.1 states a goal is to provide “for sale” housing; Section 3.2 & Fig. 3.1 describe Planning Area 3 as “For Sale Residential;” same in Table 3-1.

No further description of attainable housing has been provided, including how more compact and taller units with reduced yards and parking would make the units more “attainable” and to whom.

The same City Council Staff Report (1/19/2021) further states:

“If approved, the residential units would be constructed during the 2021-2029 Housing Element planning period (6th Cycle). All of the units would be counted toward the City’s RHNA targets. **Most of the units would be counted toward the above moderate/market rate income category.** The proposed project is required to comply with the City’s affordable housing requirements of ten percent of the proposed dwelling units, which may be provided on-site, off-site or through in-lieu fees. In any instance, the project would also result in the creation of low-income RHNA units.” [emphasis added]

However, no on-site affordable units are required by the proposed Specific Plan. The only reference to affordable housing in the Specific Plan is Section 3.8, which requires:

Section 230.26 of the HBZSO [Huntington Beach Zoning and Subdivision Ordinance which is also the LCP Implementation Plan] applies and requires that at least ten percent (10%) of all new residential construction shall be affordable units. As an alternative to complying with Section 230.26, the City and the Property Owner may enter into an agreement that allows provides [sic] for payment of in lieu fees for 100% affordable housing obligation.

This is the same standard that applies to all larger residential development projects throughout the City.

2. Commercial Visitor Development (CV)

The 4.4-acre Commercial Visitor (CV) area of the Specific Plan would allow up to 175 market rate hotel rooms and no fewer than 40 lower-cost overnight accommodations. The 175 market rate rooms are envisioned in a single building called the Lodge. The 40 lower cost rooms are envisioned in a single building called the Guesthouse. However, the Specific Plan would also allow all rooms to be provided in a single, integrated facility. The up to 175 guest room Lodge is expected to be housed in a 230,000 square foot structure. The Guesthouse is expected to provide “budget-oriented, family/group overnight accommodations in the 40 guest rooms.” In addition to the overnight guest rooms, the Commercial Visitor area will include ancillary retail and dining. The Specific Plan’s development standards require that at least five percent of the gross CV area be public open space, and of that 5%, at least 30% must contain landscaping. The CV area would provide outdoor or unenclosed public open space area on the ground floor, with up to 25% allowed above ground floor. The public open space would include seating and other amenities such as decorative lighting, low-water use water features, distinctive paving, decorative tiles, public art, and bicycle racks. Five percent of 4.4 acres is .22 acres. Thirty percent of .22 acres is about .066 acres, which is the minimum area that must be landscaped, leaving approximately 0.154 acres (6,708.24 square feet) or less available for public open space associated with the hotel use available to the public (depending on the extent of landscaped area within the 5% public open space area).

The Specific Plan does not require signage to inform the public of the availability of this public open space.

3. Open Space

Of the subject 29-acre property, 5.6 acres would be designated as open space. A 2.8-acre strip along the boundary with the flood control channel is proposed to be Open Space - Conservation. This segment extends from Magnolia Street on the east, along the flood control channel, to the northwestern property boundary ([Exhibit 2](#)). The width of this area is expected to be approximately 70 feet. The 2.8 acres of Open Space – Parks & Recreation will be located along Magnolia Street from the northern property boundary to the flood control channel, and a small area northwest of the CV designated area, near the location of the bridge over the flood control channel.

The Open Space – Parks & Recreation area that would parallel Magnolia Street (Magnolia Park), would fall within a portion of the area of the existing landscaped berm. However, at 55 feet wide, it would be narrower than the existing berm's width, except for a small 75-foot-wide area at one of the site entry roads. Overall, this area would be reduced from the landscaped berm's existing area of six acres, to fewer than 2.8 acres (acreage figures for each of the separate park areas are not provided). A trail is proposed over the length of Magnolia Park. In addition, there would be an area near the proposed site's entrance road at the commercial area, that would be wider than the rest of the park. The Specific Plan indicates that benches would be provided here. Although there is already a six-ft. sidewalk across the length of Magnolia Street, the Specific Plan indicates that the trail parallel to Magnolia Street is intended to facilitate pedestrian access between Edison Park and Huntington State Beach. Edison Park is located just inland of the ASCON Superfund site adjacent to the subject site's northern property line.

The other open space parks area proposed at the site, near the bridge over the channel, is intended to serve as a staging point for wetlands tours (Marsh Park). The Specific Plan describes future wetland tours, which would begin at the proposed Marsh Park. However, there is nothing in the Specific Plan approved by the City and submitted for Coastal Commission action to describe how these tours would be facilitated or how coordination with the HBWC, the owner and manager of the wetlands, would occur. The project proponent has suggested that funding for the HBWC could be required with every home sale of future residential development at the site, but this is not described in or a requirement of the Specific Plan.

The Open Space - Conservation area, along the boundary adjacent with the flood control channel is intended as a buffer between the proposed development and the Magnolia Marsh wetlands. However, the Specific Plan approved by the City and submitted for Coastal Commission action includes a 24-foot-wide public trail through the Open Space - Conservation area, that is intended to also serve as a Fire Department Access Lane.

The property owner discussed with City staff the possibility of dedicating the proposed parks to the City to meet other state requirements. However, city staff preferred, and the City approved, accepting park in lieu fees instead.

B. FINDINGS FOR DENIAL OF THE LUPA

The standard of review for an amendment to a LUP is whether the LUP as amended would conform with and be adequate to carry out the Chapter 3 policies of the Coastal Act.

1. Hazards

Coastal Act section 30253 states, in pertinent part:

New development shall do all of the following:

(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Coastal Act Section 30250 states, in pertinent part:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Coastal Act Section 30270 states:

The commission shall take into account the effects of sea level rise in coastal resources planning and management policies and activities in order to identify, assess, and, to the extent feasible, avoid and mitigate the adverse effects of sea level rise.

Summary

The MTF site is located in a historically flood prone area. An array of existing flood control infrastructure reduces, but does not eliminate, current flood risks. These risks will increase with SLR, and adaptation measures will be needed to address SLR impacts in this area. The current land use designation includes infrastructure as a permitted use and would allow for

the implementation of SLR adaptation measures to mitigate future hazards. In contrast, the proposed land use designation change would limit the ability to incorporate potential adaptation measures on the project site. Yet, flood risks in the Southeast Huntington Beach area, identified in a variety of studies, will need to be addressed. Further planning is needed to understand how the City will ensure that this area is resilient to hazards and sea level rise and how the MTF site, which is vacant and already land use designated to allow SLR adaptation measures, may fit in to a larger plan to address SLR impacts. Before such information is available, it is premature to change the current land use designation.

Project Setting & Existing Conditions

The MTF site is located about 2,000 feet inland from the present open ocean shoreline within an extensive low-lying area of Southeast Huntington Beach. The open ocean shoreline consists of a 600-foot-wide sandy beach, backed by a coastal bike trail, State Beach parking lots, and Pacific Coast Highway. Inland of Pacific Coast Highway is the Huntington Beach Wetlands complex which consists of restored marsh and subtidal areas. Inland of Magnolia Marsh is the Huntington Beach Channel which is the western boundary of the MTF site. The MTF site is adjacent to the AES power station, ASCON landfill, and residential areas.

Much of Southeast Huntington Beach historically was tidal wetlands, which extended approximately 0.5 to 1.5 miles inland⁹. The MTF site was once part of this former extensive wetland network. Most of these wetlands have since been drained, filled, or otherwise developed, including those that used to exist at the MTF site. Even with this development practice, large portions of the area have elevations near, at or below the elevation of the current average daily higher tide, which reaches 5.3 feet NAVD88¹⁰ ([Exhibit 10](#)). The MTF site is relatively flat and generally slopes towards the center, forming a bowl near the middle, with an elevation range from 4.3 to 12.5 feet NAVD88. The MTF site is bounded by flood control channels with crest elevations ranging from 12.6 to 13.3 feet NAVD88 on the western side, the ASCON landfill on the northern side, and a landscaped berm on the eastern side averaging 17 feet in elevation, but with two gaps at the current access road and the north boundary which reach as low as approximately 11 and nine feet NAVD88 respectively.

In the 1960s, and in response to flood events of the previous several decades, the Orange County Department of Public Works (OCPW) built the Huntington Beach Channel, a portion of which runs along the south/southwest side of the MTF site, and the Talbert Channel, which runs roughly north-south about 1,300 feet east of the MTF site. Both flood control channels are excavated channels with vertical flood walls on either side and serve to transfer inland runoff to the coast. Because of the low-lying nature of the southeast Huntington Beach area, the City of Huntington Beach Public Works Department operates and maintains a network of storm drains and 15 pump stations, which collect drainage and pump it to the nearest flood control channel outlet to prevent flooding during wet weather conditions. During dry weather

⁹ Grossinger, RM, ED Stein, KN Cayce, RA Askevold, S Dark, and AA Whipple 2011. Historical Wetlands of the Southern California Coast: An Atlas of US Coast Survey T-sheets, 1851- 1889. San Francisco Estuary Institute Contribution #586 and Southern California Coastal Water Research Project Technical Report #589.

¹⁰ The mean higher high water or MHHW tidal datum for the Los Angeles tide gage for the 1981-2001 National Tidal Datum Epoch is approximately 5.3 feet, NAVD88 and represents the average higher of the daily two high tides.

conditions, runoff is pumped to the wastewater treatment plant according to the City's Public Works website. Most of the MTF site currently drains to the low point within the site where an existing sump pump ultimately pumps flow directly into the Huntington Beach Channel. The remaining runoff that is not naturally infiltrated into the ground flows east towards Magnolia Street where it is then conveyed to the Newland Pump Station and ultimately pumped into the Huntington Beach Channel¹¹.

Access to the site occurs via Magnolia Street, which runs roughly north-south and crosses the Huntington Beach Channel via a small bridge, continues through the Huntington Beach wetlands complex on an embankment, and ultimately connects to Pacific Coast Highway – the nearest major east-west thoroughfare.

Present Coastal Hazards

Historical flooding of Huntington Beach is recorded at least back to 1825. For example, extensive flooding occurred in the Great Flood of 1862 when the Los Angeles, San Gabriel, and Santa Ana rivers merged, with surveys indicating that a solid expanse of water covered the area from Signal Hill to Huntington Beach¹². Another example of historic flooding with evidence of the project area flooded was the Great Flood of 1938 ([Exhibit 13](#)). Severe flooding occurred during the winters of 1983, when 17 flood control channels overtopped and portions of Pacific Coast Highway were submerged by up to seven feet of water,¹³ and 1998, when constant rainfall and heavy downpour caused street closures, intersection flooding, and up to 2-3-foot-deep flooding in a mobile home park. Present-day flooding events occur in parts of northern Huntington Beach, where Pacific Coast Highway floods regularly with high tides and/or storm conditions. Although flood control to the Santa Ana River has reduced potential flood impacts in south Huntington Beach, flooding still occurs near the river¹⁴. Residents in flood prone areas are warned of emergency flood conditions by the sounding of a siren provided by one or more of the local fire stations.

As noted previously, much of the Huntington Beach area is low-lying, with significant parts below the average daily higher tide elevation. Historically, the area including the MTF site was part of the larger Santa Ana River floodplain. In the 1960s, and in response to flood events of the previous several decades, the OCPW built the Huntington Beach Channel, a portion of which runs along the south/southwest side of the MTF site. It was originally designed to convey a 10-year storm event but was later modified in the 1990s and 2000s to allow conveyance of a 100-year storm event with a design discharge of about 2,300 cubic feet per second ("cfs") at a water surface elevation of about nine feet NAVD88¹⁵ near the MTF site. It is not clear to what extent the flood control channel, as currently designed, could accommodate more extreme flows. Large-scale modeling of extreme storm events such as

¹¹ See November 13, 2018 Magnolia Tank Farm Draft EIR, Appendix H1 – Infrastructure Technical Report for Hydrology, Fuscoe Engineering, Irvine, California.

¹² Kuhn, G. G., & Shepard, F. P. (1984). *Sea Cliffs, Beaches, and Coastal Valleys of San Diego County: Some Amazing Histories and Some Horrifying Implications*. Univ of California Press.

¹³ <https://www.latimes.com/archives/la-xpm-1997-nov-16-me-54418-story.html>

¹⁴ <https://www.huntingtonbeachca.gov/government/departments/planning/flood/>

¹⁵ See November 13, 2018 Magnolia Tank Farm Draft EIR, Appendix H1 – Infrastructure Technical Report for Hydrology, Fuscoe Engineering, Irvine, California.

the ARkStorm scenario (series of intense atmospheric river events with historical precedent) shows the southeast Huntington Beach area inundated, suggesting more intense flows could overwhelm the existing flood control system¹⁶.

Beyond fluvial flows, the flood control channels also need to accommodate extreme ocean water levels. The highest observed water level at the nearest active NOAA tide gauge (Los Angeles 9410660) is 7.7 feet NAVD88 which occurred in January of 2005¹⁷. The top of the existing Huntington Beach Channel floodwall ranges in elevation from +12.6 to +13.3 feet NAVD88 upstream of Magnolia Street and from +11.8 to +12.6 feet NAVD88 downstream of Magnolia Street, suggesting that the Huntington Beach Channel flood walls provide protection from current extreme coastal water levels.

While OCPW is conducting repair and maintenance projects along parts of the channel (for example, sheet pile replacement through CDP 5-20-0590-W), it has not identified any comprehensive plans to design or construct needed modifications to accommodate expected increased flows or higher tailwaters. Furthermore, the channel's recent sheet pile replacement project uses seismic design standards substantially less than those needed to resist the area's Maximum Credible Earthquake, which further puts the area at risk of flooding impacts in the event of damage to the flood channel walls. However, the existing system's capacity to handle a specific magnitude of event is unknown. To summarize, the County flood control channel system is designed to withstand 100-year flows under current conditions and OCPW has maintained the flood control channels recently; however, it is not clear that the existing flood channels can protect the MTF site and larger southeast Huntington Beach area from flooding under more extreme flow conditions.

The flood control channel walls keep tides and fluvial flows out. The City of Huntington Beach Public Works Department operates and maintains drainage infrastructure that keeps rainfall and groundwater from ponding inside the flood walls, including storm drains that collect stormwater runoff and convey it to a series of pump stations which then pump it over or through the flood walls to the flood control channels. While there aren't formal statewide standards for what magnitude rainfall event stormwater infrastructure needs to be designed for, typically infrastructure like storm drains and pump stations are designed for 10- to 25-year return period storms. It is unclear what magnitude the City's drainage infrastructure has been designed to handle, or what consequences higher magnitude storms would have on flooding. During a storm event in March of this year, the amount of rainfall exceeded the drainage capacity within the City, resulting in the partial flooding of Edison Park, located one block inland of the MTF site ([Exhibit 13](#)). As part of a larger regional study on flood risk conducted by researchers at UC Irvine, the southeast Huntington Beach area was projected to experience extensive pluvial¹⁸ flooding during a 100-year storm¹⁹. As noted above,

¹⁶ Porter, K., Wein, A., Alpers, C. N., Baez, A., Barnard, P. L., Carter, J., ... & Jones, L. (2011). *Overview of the ARkStorm scenario* (No. 2010-1312). US Geological Survey.

¹⁷ NOAA Tides and Currents, 2018, Extreme Water Levels for Los Angeles Tide Station 9410660.

¹⁸ "pluvial flooding" refers to flooding as result rainfall exceeding drainage systems and usually takes the form of shallow to moderately deep ponding.

¹⁹ Sanders, Brett & Schubert, Jochen & Kahl, Daniel & Mach, Katharine & Brady, David & AghaKouchak, Amir & Forman, Fonna & Matthew, Richard & Ulibarri, Nicola & Davis, Steven. (2022). Large and inequitable flood risks in Los Angeles, California. *Nature Sustainability*. 10.1038/s41893-022-00977-7.

typically stormwater infrastructure isn't usually designed to accommodate 100-year storms. However, low-lying areas, particularly those with limited natural drainage to the sea, can experience significant flooding as evidenced in other parts of the State hit hard during this year's atmospheric rivers. According to the City, the City's 15 storm drain pump station buildings are over 50 years old and need rehabilitation, and improvements were identified in the City's 2021 Capital Improvement Program. To summarize, while the County flood control channels have been designed to keep present-day 100-year flows contained within the channels, the capacity of the City's drainage infrastructure to handle extreme events is unknown and intense rainfall may overwhelm the system, flooding low-lying areas otherwise kept dry by storm drains and pumps.

Without the City's and County's extensive system of flood channels, floodwalls, stormwater pumps, and other drainage infrastructure, large portions of southeast Huntington Beach would be inundated by high tides under existing sea levels and tidal ranges based on elevation data.²⁰ Roughly a third of the MTF site is below king tide elevations, though these areas are not directly connected to the ocean and are largely on the interior of the site²¹. While the County flood control channels, City drainage infrastructure, and on-site sump pump provide significant protection from flooding, the site and the surrounding area are nonetheless vulnerable to flooding during extreme events such as extreme rainfall or a failure in the network of protective infrastructure.

As discussed in Anchor QEA's SLR Vulnerability Assessment and Adaptation Plan, tsunamis are also a major coastal hazard, particularly in low-lying coastal areas. Previous tsunami hazard models (such as the 2009 CalOES/CGS maps) showed the MTF site within the potential tsunami hazard zone. In 2021, CGS updated its tsunami evacuation maps for Orange County using results from a probabilistic tsunami hazard analysis for the 975-year return period tsunami hazard. The MTF site is outside of the updated Tsunami Hazard Area, likely due to presence of the existing flood control channel walls. The American Society of Civil Engineers published a Tsunami Design Geodatabase depicting the results of probabilistic tsunami hazard analysis for the 2475-year tsunami hazard statewide using modeling paid for by CGS. The MTF site is within the area for the 2475-year tsunami hazard with flow depths greater than three feet.

Future Coastal Hazards with Climate Change

Sea level rise considered: Recommended sea level rise (SLR) projections for Los Angeles, provided in the 2018 Ocean Protection Council Sea Level Rise Guidance, range from approximately 3.2 feet (low risk aversion) to 6.7 feet (medium-high risk aversion) to 9.9 feet (extreme risk aversion) by 2100. As our understanding of impacts from a warmer Earth continues to evolve, SLR projections will continue to change as well. While uncertainty will remain with regard to exactly how much sea levels will rise and when, the upward direction of sea-level change is clear.

²⁰ City of Huntington Beach Sea Level Rise Vulnerability Assessment, November 2021, Moffatt & Nichol.

²¹ King tide elevations are approximately seven feet NAVD88. The lowest parts of the MTF Site are around 4.3 feet NAVD88.

Summary of past studies: Past studies focused on current and future flood risk with SLR illustrate the extensive flood risk of the low-lying portions of southeast Huntington Beach. At the local level, the City of Huntington Beach recently completed two studies that assess the expected impacts within the City, including the proposed project site, from SLR and climate change. The City's 2014 Sea Level Rise Vulnerability Report identifies several severe consequences of SLR and climate change on Huntington Beach. The Report shows that areas adjacent to and surrounding the MTF site will experience short- and long-term inundation, though that report's analyses and projections only go to 2050, so it only identifies expected impacts during the first third of the life of any development at the MTF site (25 of the full 75-year life).

The City's 2021 update of a draft Sea Level Rise Vulnerability Analysis (The Sea Level Rise Vulnerability Assessment and Adaptation Plan, prepared by Anchor QEA) notes that the City's coastal development overall has low adaptive capacity and that over the short- to mid-term, some protection may be available through temporary flood protection measures, though these would not be expected to be sufficient for all areas or over the longer-term horizon. The report also notes that there is high hazard exposure to the stormwater and sewer infrastructure in the area near the MTF site and notes that two critical facilities - the adjacent AES power plant and the nearby Orange County Sanitation District wastewater treatment plant – would be vulnerable to flood hazards with an increase in sea level of about 4.9 feet. It notes, too, that these two facilities, as well as nearby potable water infrastructure, have low adaptive capacity and that it may be a challenge to keep them functioning while implementing necessary adaptive measures for the surrounding areas.

In 2017, the City published its Local Hazards Management Plan (LHMP), which describes the City's vulnerability to a number of different hazards, including sea level rise, flooding, and others. This Plan also includes mitigation measures the City identified as options to avoid or reduce its vulnerability to these hazards. The Plan is meant to ensure the City conforms to regulations of the Federal Emergency Management Agency ("FEMA") and make the City eligible for federal grants and other funding available through FEMA to help implement the identified measures. The LHMP includes several recommended mitigation actions, including Mitigation Action 2.4, which states: "Discourage major new development and redevelopment efforts within the Sea Level Rise Hazard Zone." The City's General Plan shows this Hazard Zone extends to the Upper Magnolia Marsh next to the MTF site, though the analysis goes only to 2050, and thus doesn't include longer-term sea level rise vulnerabilities.

High tide flooding: As previously discussed, large portions of southeast Huntington Beach are below both average and extreme high tides. The areas at risk of high tide flooding will increase with sea level rise, as will the potential for damage to occur as potential flood depths would increase. Because the effectiveness of the flood channel walls in the future is uncertain, it is clearer to describe the elevations of key facilities and infrastructure that would be below potential tide levels, understanding that the flood channel walls currently provide substantial flood protection.

Presently, roughly a third of the MTF site is below today's king tide elevations (seven feet NAVD88). The areas that are below the king tide elevations are largely on the interior of the site, but also includes areas directly adjacent to the County flood walls. This suggests that

failure of the flood walls at the southern end of the site could result in significant inundation during extreme high tides. As sea levels rise, the frequency that water levels would be high enough to flood the site should floodwalls fail would increase. That said, the MTF site is largely protected from coastal flooding by the County flood walls and would continue to be with sea level rise. The top of the flood walls at the southern end of the site is roughly 12.6 feet NAVD88. Extreme (100-year) coastal water levels could reach this elevation with between 4.5 and 5 feet of sea level rise²². King tide elevations could reach this elevation with over 5.5 feet of sea level rise.

Portions of Magnolia Street towards the north of the site are below king tide levels (**Exhibit 10**). With approximately two feet of sea level rise, these portions of Magnolia Street may not be passable daily during future high tides were it not for the County flood walls and City drainage infrastructure. Magnolia Street south of the project is not protected by any flood infrastructure and is roughly 10 to 11 feet NAVD88 in elevation. With three to four feet of sea level rise, king tides would flood Magnolia Street via the adjacent wetlands. Pacific Coast Highway near the MTF site has similar exposure to future flooding with three to four feet of sea level rise; however, portions of Pacific Coast Highway near Bolsa Chica, north of the MTF site, flood from waves overtopping the beach during high tides and strong swell suggesting Pacific Coast Highway may experience more frequent flooding with even lower amounts of sea level rise.

While the existing County and City infrastructure provide protection to the site for up to approximately five feet of sea level rise, Magnolia Street, which the site would use for access, would be vulnerable to the highest tides of the year with as little as three feet of sea level rise. While the degree of flooding may be relatively manageable through adaptations like temporary flood barriers or elevating the roads, neither these measures nor any other specific program of adaptation are currently proposed by the City.

Fluvial storm flows: Higher ocean water levels are expected to worsen flood risk during periods of intense storm flow through the OCFD flood control channels, as higher water levels in the channels during high tides back up flows and raise upstream flood levels. Anchor QEA conducted site-specific hydraulic modeling to analyze future fluvial flood risk for 100-year flows accounting for the effects of sea level rise. The model was run using 100-year peak flow conditions estimated for prior hydraulic studies of the Huntington Beach and Talbert flood control channels for existing and proposed site topography. The model results showed extensive flooding west of Huntington Beach Channel and east of Talbert Channel with 100-year flow conditions with 3.5 feet of sea level rise. The model results show no overtopping of the flood control channel walls protecting the area adjacent to the MTF site until five feet of sea level rise, when overtopping of the Huntington Beach channel occurs downstream of Magnolia Street, flooding some of the residential neighborhood east of the MTF site. With six feet of sea level rise, the model predicted extensive flooding throughout

²² FEMA BFEs in the Magnolia Marsh area are 8 feet NAVD88. NOAA estimates 100-year ocean water levels for the Los Angeles Tide Station 9410660 to be approximately 7.7 feet NAVD88.

the southeast Huntington Beach area including the project site with existing topography due to overtopping of the channel walls just downstream of Magnolia Street.

Typically, flood control structures such as levees are designed to incorporate multiple feet of freeboard to account for uncertainty in flood estimates. Anchor QEA's evaluation did not incorporate the likelihood that flood conveyance would be reduced due to blockages caused by debris being trapped within the channel and under bridges, which could result in increased upstream water elevations. Likewise, future likely restoration of Newland Marsh, could cause significant changes to the tide regime which could affect modeling of future fluvial flood risk. The existing flood risk from more extreme events such as the 500-year stormflow event are also expected to increase with sea level rise. Likewise, scientific understanding of the effects of climate change on precipitation frequency and intensity is uncertain, but recent studies suggest that storms will become more intense and more frequent for California²³, with the result that today's 100-year stormflow event (and other extreme storm events) could occur more frequently in the future.

Furthermore, the flooding suggested by the by Anchor QEA's model results would be disastrous. Flood depths of several feet could take weeks or more to fully drain from the larger areas as much of these areas are lower than high tide and direct drainage is blocked by the flood walls. Pumping and other stormwater infrastructure could be submerged and without power, leaving few ways for floodwaters to escape. While flooding may not be predicted to affect the project site for today's 100-year flows until six feet of sea level rise has occurred, flooding in the surrounding areas may greatly impact the availability of essential services like power, water, wastewater treatment, and emergency services.

To summarize, Anchor QEA's modeling suggests that the existing County flood control channel walls in the southeast Huntington Beach area would be overtopped by today's 100-year flow conditions with as little as 3.5 feet of sea level rise, causing extensive and damaging flooding. Flooding of the MTF site, with existing topography, is not expected by Anchor QEA until six feet of sea level rise has occurred. At this time, it is uncertain whether the County's flood control infrastructure will continue to adequately protect the MTF site and the surrounding area under more extreme flooding conditions and in light of additional uncertainties, such as changes to the tidal regime of the Huntington Beach wetlands complex.

Tsunamis: As discussed by Anchor QEA's Sea Level Rise Vulnerability Assessment and Adaptation Plan for the MTF site, the site is expected to be vulnerable to extreme tsunamis with SLR. A tsunami event of magnitudes great enough to overtop the County flood control channels would be devastating to the City and region. Like overtopping from a fluvial event, the recession of floodwaters may last for weeks, significant damage would occur to critical infrastructure including the City drainage and County flood control infrastructure, and recovery efforts would be slowed by lack of safe access.

Groundwater: Another coastal hazard related to SLR is groundwater rise. In coastal areas, as the sea rises, groundwater will also rise, and structures and areas may become impacted

²³ See Swain et al., Increased Flood Exposure Due to Climate Change and Population Growth in the United States, in "Earth's Future," American Geophysical Union, Volume 8, Issue 11, November 2020.

by rising groundwater. Groundwater changes are an evolving area of study and may also be a significant source of flooding impacts in low-lying coastal areas, such as southeast Huntington Beach. These impacts could occur from both daylighting of the water table as sea levels rise (i.e., when the groundwater table rises high enough that it emerges from the ground surface), or from the reduced ability of the ground to drain floodwaters and the reduced effectiveness of other stormwater management strategies (for example, reduced capacity of drainage infrastructure). Importantly, adaptation strategies like floodwalls generally will not prevent impacts from rising groundwater.

The surficial groundwater table at the project site and the surrounding area is brackish and is hydraulically connected to the ocean. Groundwater levels in the area are presumed to be primarily influenced by precipitation, evapotranspiration, and ocean water levels as well as by the City's drainage infrastructure. Site-specific groundwater monitoring was conducted at the site in 2017 showing maximum groundwater elevations ranges from +0.4 to +1.7 feet NAVD88, roughly three to 12 feet below existing site ground elevations. This is consistent with recent groundwater elevations observed at the nearby ASCON A-5 monitoring well at roughly 0.6 to 2.6 feet NAVD88²⁴. The ASCON monitoring also suggests that groundwater currently flows in the north-northwest direction, suggesting the groundwater table lowers in elevation as it moves towards the lower-lying areas to the north of the MTF site. Sea level rise can cause groundwater shoaling where elevated ocean water levels increase the surficial groundwater levels in coastal areas potentially to the point where the groundwater can become "emergent" and seep from the ground as runoff²⁵.

Groundwater is not expected to be emergent at the MTF site due to the proposed fill. However, recent modeling by USGS suggests that, as sea level rises, groundwater could increasingly be at risk of being emergent in the lower-lying areas around the MTF site, including the low-lying portions of Magnolia Street used to access the site. Emergent or extremely shallow groundwater tables can further strain the City's drainage infrastructure, and potentially cause issues for foundations and buried pipelines if not designed for increased buoyancy forces, in addition to reducing the infiltration storage capacity of the area during storms. While these risks are likely manageable through upgrades to infrastructure and increased maintenance, they contribute to the elevated risk in the area and the need for city or regional solutions.

MTF Proposals to Address Hazards

The Sea Level Rise Vulnerability Assessment and Adaptation Plan prepared by the project proponent's consultant (Anchor QEA, July 2021) determined that the MTF site, with the uses that would be allowed under the specific plan, would not be vulnerable to coastal hazards now through 2100 except for fluvial flooding of the MTF site's two open space areas located on the western and eastern sides of the site where no structures or roads are planned. Based

²⁴ The ASCON monitoring reports and other relevant documents are available at DTSC's EnviroStor site: https://www.envirostor.dtsc.ca.gov/public/profile_report?global_id=30490018

²⁵ See, for example, USGS, Projected groundwater emergence and shoaling for coastal California using present-day and future sea-level rise scenarios, August 2020, at: <https://data.usgs.gov/datacatalog/data/USGS:5bd9f318e4b0b3fc5cec20edx>

on this, the project proponent and City argue that, with the adaptation measures, which primarily rely on fill of the site (described below), the MTF site will be safe from hazards until the year 2100. However, the project proponent's adaptation measures do not address the increased flood elevation to surrounding neighborhoods, or how access to the site may be impacted when Magnolia Street and Pacific Coast Highway flood.

The MTF project proponent would elevate much of its site to an average of 11.3 feet NAVD88 to allow finished floor elevations for some of its structures at 14 to 16 feet NAVD88. This would place most of the site and the structures built on it above expected extreme water levels for the development's expected 75-year life (approximately year 2100). Elevating the site would also address on-site flood risk from the flood scenarios modeled by Anchor QEA and address groundwater rise risks on-site.

Unlike residential structural development, where the Commission generally analyzes whether the structure will be stable and safe for its expected life of 75 to 100 years, the land use designation change of a parcel would be more or less permanent. Thus, a proposed land use designation change should be analyzed to determine whether new, allowed uses could be constructed in a location and in a manner in which they will be stable, without the need for shoreline protection that has coastal resource impacts, for the foreseeable future.

Moreover, elevating with fill in floodplains can have impacts, namely by worsening flooding elsewhere. One way of understanding this phenomenon is that fill occupies space that could otherwise accommodate floodwaters, reducing a floodplain's "storage" capacity and therefore raising floodwater elevations in the rest of the floodplain faster. Because the existing topography of the site includes a large landscaping berm at the site's eastern edge, the effective change of filling the site is reduced compared to a condition where the berm is removed or fails (because it was not engineered as flood control measure). In Anchor QEA's modeling, they evaluated how the proposed topography either with fill and keeping all of the existing berms or with fill and with removing the existing berms, would affect floodwaters in the surrounding areas. With the proposed fill and keeping the existing berms, under their modeled 100-year flow with seven feet of sea level rise, floodwaters were projected to increase by 0.1 to 0.5 feet in the residential areas east of the MTF site. With the fill and removing the existing berms, the increases to floodwaters east of the MTF site were projected to be 0.1 to 0.25 feet due to the slight additional storage available with the berms' removal. While these amounts are small relative to the uncertainty in the model, they illustrate that even minor changes to fill in floodplains can have far-reaching effects. Were the floodwalls to fail in another location, the comparison to the existing unfilled condition may be greater.

Adjacent Superfund Site ASCON

The MTF site is located immediately south of the ASCON Superfund site. The site is undergoing on-going remediation. In 2019, the remediation efforts were slowed amid complaints of respiratory health issues from nearby residents. Neither the project proponent nor the City have prepared a plan to protect future residents and visitors to the MTF site from harm should SLR and groundwater rise lead to disturbance and mobilization of contaminants in the soil at the adjacent superfund site.

In a letter dated August 12, 2021, the California Department of Toxic Substances Control (DTSC) informed the MTF property owner that it had “made a final decision to approve the RCRA Corrective Action Completion Determination without controls for Unrestricted Land Use for the Magnolia Tank Farms (MTF), a.k.a. Shopoff portion of the former SCE – Huntington Beach Generating Station (HBGS) site.” DTSC further determined that “A post-excavation risk assessment concluded that the calculated risk for the residential scenario were acceptable and confirmed that all soils from the Site above acceptable risk thresholds had been removed.” (**Exhibit 7**) Although DTSC made these determinations, the determinations did not include consideration of the effects of coastal hazards such as groundwater rise at the ASCON site on the MTF site.

Nearby residents have raised concerns of siting additional housing near the ASCON and AES Plant—citing groundwater rise, disturbance of soils due to construction, and air quality concerns for existing and new residents. Development that could be allowed by the proposed land use designation change includes up to 250 new residential units. The Commission is concerned with locating such a substantial number of new residential units, which would be consistent with what the proposed land use designation change allows, adjacent to the Ascon Superfund site.

Status of HNB’s Coastal Resiliency & Adaptation Work

The City was awarded a Round 6 LCP grant in 2020 to complete an update to its SLR Vulnerability Assessment (SLR VA), Coastal Resiliency Plan (CRP), the LUP (Coastal Element), and the floodplain ordinance (part of the IP). The City originally completed a SLR VA in December of 2014 which led to the first iteration of a Coastal Resiliency Plan in June of 2016. An updated SLR VA was completed in 2021, and the City is currently working on an update to the Coastal Resiliency Plan. Due to the COVID-19 pandemic, the LUP update and flood plain ordinance work was delayed. The Huntington Beach City Council has recently approved plans for City staff to apply for a second LCP grant to complete the LUP and floodplain ordinance updates. All of this work collectively is intended to lead to a comprehensive LCP update, and these documents will identify areas of vulnerability and establish various feasible adaptation pathways to address the vulnerabilities.

On May 17, 2023, Commission staff received an administrative draft of the Coastal Resiliency Plan. The timing of submittal of the draft CRP has not allowed for a thorough review by Commission staff, or for discussion with City staff and their consultants about the plan. However, based on initial review of the draft CRP, it does not include an in-depth discussion of specific strategies or actions necessary to address regional flooding with SLR and intense rain events (conveyance, pumping, and storage or the tradeoffs between each of those strategies), a feasibility analysis for the identified adaptation strategies (including, but not limited to, costs, coastal resource impacts, impacts to environmental justice communities, and triggers and timeline for implementation), or specific recommendations of sites that could contribute to those goals, including sites that might be acquired for natural infrastructure. The CRP identifies the following library of adaptation strategies that could potentially be used for the Huntington Beach Wetlands Planning area, which includes the MTF site and the southeast portion of Huntington Beach:

- Explore opportunities for additional wetland restoration within low-lying areas (0 feet SLR).
- Evaluate capacity of underground infrastructure to tolerate elevated groundwater tables (0 feet SLR).
- Maintain and enhance flood control channel infrastructure as necessary and feasible to account for effects of SLR (1.6 feet SLR).
- Enhance existing pump operations or other groundwater table management practices as needed to mitigate impacts from higher groundwater table to pumping capacity and underground infrastructure (1.6 feet SLR).
- Continue any necessary and feasible improvements to flood control channel infrastructure to account for SLR impacts (3.3+ feet of SLR).
- Increase elevation of berms and other flood protection infrastructure surrounding low-lying wetland areas to prevent floodwaters from proceeding further inland (3.3+ feet of SLR).
- Implement managed retreat measures for areas subject to repeated flooding in the event that flood hazard mitigation from neighboring wetlands, flood control channels, or groundwater hazards is no longer feasible (3.3+ feet SLR).

The CRP also cites the following General Plan Natural and Environmental Hazard policies:

- Promote appropriate land uses and development patterns within potential SLR areas. (HAZ-2a)
- Prioritize investment in green stormwater infrastructure that restores natural landscapes before employing other management solutions.
- Use green stormwater infrastructure to the maximum extent feasible. (E.2b)
- Promote land use changes and development patterns that conserve coastal resources. (Haz-2c)
- Create, improve, and/or acquire areas that enhance habitat resources. (ERC-6.A)

The CRP recognizes the benefits of implementing the strategies and policies cited above, which include, most relevant to this proposed LCPA, *application of appropriate land uses in SLR areas*. These draft CRP recommendations are the types of adaptation strategies that should be evaluated for implementation at the MTF site, and it is critical for them to be evaluated *before* any land use decisions for the site are made that could foreclose such options. Decision makers must begin to seek out these options now, at this stage, when different land use options are under consideration.

The MTF site affords an opportunity to consider implementing important adaptation strategies as possible solutions toward minimizing and mitigating the coming impacts of climate change. In the course of evaluating strategies to address climate change impacts in the southeast Huntington Beach area, consideration of whether and how the MTF site might play a role in those strategies, consistent with the current land use designation and as needed to minimize risk, must be evaluated. Consideration on a broader, community scale also allows evaluation of low-impact development, stormwater pumps, tide gates, and alternative stormwater and flood management strategies at the site.

With the hazard assessment and resiliency information developed to date, the City has significant information about its susceptibility to climate change hazards and ideas for some options that may be available to address them. However, specific measures or specific locations suitable for climate adaptation measures have not yet been developed. Also, the hazard assessments conducted to date have not evaluated the operational vulnerabilities of the City's existing drainage infrastructure or how it interacts with the County flood control infrastructure. The two primary kinds of hazard models evaluated for the City's low-lying areas thus far have been bathtub coastal flooding models and fluvial hydraulic models. The City should explore hydraulic and hydrology (H&H) modeling that evaluates how both flood control channels and drainage infrastructure such as storm drains and pumps operate as a larger system. This type of modeling can be used to better understand the flood risks in low-lying areas, identify the points in the system that control flood risk (e.g, pumping capacity), low points in flood channel walls, or undersized storm drains, and evaluate the benefits or impacts of different adaptation strategies. The **current** land use designation at the MTF site allows infrastructure as a primary use, which, as discussed previously, would allow for the implementation of a variety of adaptation strategies. This fact, and because the site is relatively large and vacant in an otherwise developed area, promotes the idea of considering this specific site as a location to provide adaptation related infrastructure that could reduce the level of hazard in the wider area as needed to address the impacts of climate change.

The ultimate flood management & SLR adaptation solution for the City will likely rely on some combination of increased flood storage (wetland complexes, floodable parks, stormwater basins, etc.), flood conveyance (raising flood channel walls, additional pump capacity, larger stormdrain pipes, etc.), and elevating or protecting individual assets (elevating roads and buildings, floodproofing, replacing roads and pipelines to deal with buoyancy effects of higher groundwater levels, etc.). Each of these solutions comes with tradeoffs, costs, and potential impacts on coastal resources. Increasing one may also mean less demand for another, e.g., increasing flood storage capacity through wetland restoration may decrease the need for increasing flood walls. Comprehensively evaluating such strategies and identifying which aspects of those strategies the City intends to focus on in ways that increase the resilience of the area while also maximizing benefits to the public and public resources is a critical exercise. These various options and combination of options should be evaluated prior to approval of a land use change for the MTF site.

Hazards Consistency Analysis & Conclusions

Coastal Act section 30253 requires that new development minimize risk to life and property in areas of high flood hazard, assure stability and structural integrity, and neither create nor

contribute significantly to destruction of the site or surrounding area. Coastal Act Section 30250 requires that new residential and commercial development be located within or in close proximity to existing developed areas able to accommodate it, or in other areas with adequate public services. Similarly, the LCP – which provides guidance – includes policies that mirror these Coastal Act requirements. In addition, Coastal Act Section 30270 requires the Commission to take into account the effects of sea level rise in coastal resources planning and management policies and activities in order to identify, assess, and, to the extent feasible, avoid and mitigate the adverse effects of SLR.

It is at the land use planning stage, like this proposed LCP Amendment, that the Commission and local governments must fully evaluate the long-term impacts of changes to allowed uses, particularly in vulnerable areas. The land use changes proposed here, which would allow for significant and extensive new development in a currently undeveloped area, share similar characteristics with critical infrastructure that require a precautionary approach and consideration of high to extreme SLR and hazards scenarios. These include a long-anticipated lifetime (for a land use change the anticipated lifetime is essentially in perpetuity), significant financial investment, large-scale/complex development, little to no adaptive capacity, and increasing the number of people who are put at risk, among other concerns. It is also important to note that flood hazards have different safety and coastal resource protection implications than other hazards that should be considered when making land use decisions. For example, it may be acceptable for a parking lot to experience occasional flooding, but temporary closures of evacuation routes or roadways that provide emergency vehicle access (and which don't have alternative access) or that provide access to critical infrastructure facilities (such as power plants and wastewater treatment plants) could result in unacceptable public safety impacts. As with all hazards, the level of risk and significance of potential consequences should be a consideration with development and land use decisions. Those kinds of decisions must include an understanding of the implications of worst-case hazard scenarios and require a more precautionary approach to decision making. This is especially true when the LCPA requests a land use change that would replace a land use that allows infrastructure to address the hazards with land uses that are more limiting, and that in fact introduces additional development to the problematic area.

The approach to addressing flood risk in the southeast Huntington Beach area thus far has focused on conveyance. As rain falls in the watershed, runoff flows to storm drains or along streets to a series of pump stations which then pump water into the Huntington Beach and Talbert flood control channels, where floodwalls keep flowing water inside the channels flowing quickly to the Huntington Beach wetlands and ultimately through the Talbert ocean outlet and into the Pacific Ocean. Recent development in the area, such as the Pacific Shores subdivision located approximately 3,000 feet up the Huntington Beach Channel from the MTF site, has used fill to elevate building pads higher than the surrounding area to help mitigate on-site flood risk. Flood conveyance and elevating development through fill are both important tools in flood management, but both can have the effect of worsening flood risk elsewhere. Another tool is flood storage, which can be achieved in a variety of ways and at various scales. For example, small depressions and infiltration swales can increase flood storage, as can large multi-use flood basins or freshwater wetlands. Storage can help reduce flood risk and mitigate the detrimental effects of additional conveyance and elevating development through fill. Because approaches taken in one location of a watershed or

floodplain can have far-reaching impacts, flood and stormwater management is best implemented at large scales, where the impacts and benefits of different development and management strategies can be evaluated.

Planning decisions regarding ways to implement future adaptation measures are often significantly constrained by existing, occupied development that was put in place prior to our current understanding of the risks associated with climate change and sea level rise. Moving forward, when presented with the potential for significant new development, it is critical to consider not only the site-specific risks, but also the community-scale implications associated with these decisions to ensure that they do not further constrain adaptation options. Land use decisions, such as the LCPA currently before the Commission, afford the best opportunity to apply this broader scale approach. In particular, the land use decision currently before the Commission affords the opportunity to consider whether: 1) allowing new land uses that increase intensity in an area vulnerable to coastal hazards from SLR and flooding, or, 2) retaining the current land use designation and zoning that would better allow accommodation of future adaptation measures at this vacant 29 acre site, best serves current and future options to address these coastal hazards on a site and community scale. Importantly, maintaining a precautionary approach that considers high or even extreme SLR rates and storm intensities over the long-term and includes planning for future adaptation, will help ensure that decisions that are made now and in the near-term future will contribute to a more resilient coastal California. Because few areas will escape some impact from climate change, it is important to consider these impacts and issues on a broad scale, especially at the stage when a land use designation change is being considered, rather than on a case-by-case basis for individual projects.

The Coastal Act requires new development to be sited in locations where it will be safe for its expected lifetime and will not increase or contribute to risk and instability in surrounding areas, and further requires the Coastal Commission to account for sea level rise in its planning and decision-making. A variety of state and Coastal Commission guidance and recommendations have reaffirmed the importance of informed decision-making that accounts for potential site and community SLR vulnerabilities. Here, there are known risks to the area from tidal and fluvial flooding and groundwater rise that will grow more severe over the coming decades. While the onsite flooding risks to the MTF site are expected to be relatively minor with the proposed elevation of the site with fill, there could still be some risk from extreme (greater than 100-year return period) fluvial flooding. Risks to the surrounding area are much more significant, and, more broadly, raise questions about how this area of the City will be able to address these growing flood hazards.

As discussed earlier, the City is making progress on sea level rise adaptation planning efforts, but currently there is significant uncertainty regarding the approaches the City intends to take to proactively address sea level rise risks. Thus, a critical question related to the proposed LCPA land use designation change is not only whether the proposed land uses would expose allowed development to hazards or contribute to hazard risks to the surrounding area, but also how the MTF site, which is currently land use designated to allow

for infrastructure that could help to adapt to hazards, may fit in to the overall adaptation needs for this southeast area of the City²⁶.

Currently the site land use and zone designations allow infrastructure as a permitted use. In particular, this designation allows for SLR and other coastal hazards mitigation options that could potentially address anticipated flood risks, such as a location for installation of a series of pumps and stormwater conveyance features, creation of a living shoreline, use of the site as an open area to absorb flood waters, or as an area that could allow for restoration or other options that would better allow for the adjacent Magnolia Marsh to migrate inland as sea levels rise. In other words, the existing land use designation and zone already allow for the implementation of various sea level rise adaptation strategies which could in turn benefit or protect already existing, threatened development in the area.

The opportunities that these currently allowed uses could provide for increasing flood resiliency (minimizing risk) in this area should be more broadly evaluated, yet the proposed land use designation changes (and the related uses that such a change would allow), would limit the ability to fully consider this option, which runs counter to the intent of Section 30253. Instead, the proposed land use designation changes would allow far more intense development of the site (up to 250 new private residences and a new hotel), which limit the available space on-site for SLR adaptation measures, contribute to increased hazards risks to the surrounding area, and result in development that is itself far less adaptable to SLR and other coastal hazards. It is possible that the site could be used to support some combination of coastal hazard minimization/SLR adaptation strategies alongside residential/commercial development and other uses, and a future LCPA land use designation change could be developed to allow for an appropriate mix of uses. However, in order to fully understand what the best options at this site may be, including the feasibility of the site for potential adaptation measures instead of or in addition to other uses, along with related impacts and trade-offs associated with these options, must first be fully evaluated. This site should be included in a broader look at the wider area with the intent of identifying how, where, and what adaptation measures can be accommodated to reduce the risk that will affect virtually the entire area of southeast Huntington Beach.

The Commission considers whether a project itself is safe from coastal hazards, and whether the project itself will minimize hazards. Section 30253(b) also requires it to analyze whether development will create or contribute to destruction of the site or surrounding area. With the advent of climate driven hazards, and to ensure consistency with Section 30253, the Commission must increasingly consider whether a project or land use decision will be safe not only for the subject site, but also for the surrounding area. This especially applies to decisions regarding changes to land use, particularly on large, vacant properties, such as the MTF site. In this case, the proposed land use change that would allow up to 250 new, separately owned, residential units, is premature. Known risks exist in this area, as discussed

²⁶ Note that the previous section (Status of HNB's Coastal Resiliency Adaptation Work) describes some studies and evaluations that would need to be undertaken to identify vulnerabilities and determine possible future adaptation pathways. Commission staff is available to work with City staff toward further detailing the types of information needed.

above, and those risks are expected to increase significantly over the near term and into the future. The Coastal Act requires that risks be minimized and that development not contribute to destruction of the surrounding area. Here, the site must be evaluated to understand whether, under its current land use designation, it could provide a role in minimizing hazards on a broader scale. Many homes, schools, roads, and significant infrastructure, including the power plant and wastewater treatment plant, in this area are at risk with SLR. Failure of the wastewater treatment plant alone would be catastrophic. These issues must be addressed to the extent they can be now and not put off further. The decisions that are made today will affect this entire area, and indeed such decisions are not limited to this site or this City. They must begin to be addressed now or the consequences could be dire.

When analyzing an LCPA that would change a land use designation – particularly for an LCPA that would allow entirely new development on a large, currently vacant parcel – the Commission must determine whether the proposed land use designation change will minimize risk to life and property, assure stability and structural integrity, and not contribute significantly to the destruction of the site or surrounding area, as required by the Coastal Act. In this case, those findings cannot be made with the information available to the Commission at this time. The site may be best suited to support development under its current land use designation, which could include providing a reservoir for flooding and/or installation of pumping facilities, or other adaptation measures that could provide protection from coastal hazards stemming from climate change. While the existing land use designation would allow such uses, the proposed land use could prevent development of adaptation infrastructure needed to protect the surrounding area.

The state in general, and Coastal Commission specifically, have prioritized SLR adaptation planning, and have issued numerous guidance documents calling for new development to be built with long-term safety and adaptation in mind, including understanding how proposed development will be addressed at the end of its functional lifetime or when hazards reach a point such that development is no longer safe or coastal resources are negatively impacted by the development. The Coastal Act was also recently amended to include a new provision – Section 30270 – that requires the Commission to identify, assess, and, to the extent feasible, avoid and mitigate the adverse effects of SLR in its actions.

The proposed land use designation change of the LUPA is not in line with good, long-term land use planning principles, as outlined in the Commission's Sea Level Rise Guidance. Although that Guidance is not the standard of review, it does articulate how the Coastal Act's Chapter 3 policies require the Commission to minimize risks over an appropriate time horizon and to consider how a project will interact with (e.g., be supported by, or cause impacts to) surrounding development over that time period, taking sea level rise into account. With a land use change like this, which could lead to a large-scale project in a vulnerable location, it is particularly important to incorporate adequate, long-term climate mitigation and adaptation measures to protect life, property, and the environment for current and future generations.

Here, the existing land use designation would allow development of public infrastructure that may be needed to address the City's vulnerability to sea level rise, flooding, and other coastal hazards. Without an analysis of whether the subject site is needed for such large public infrastructure, the Commission cannot find that the proposed LCPA is consistent with key

Coastal Act policies related to hazards and sea level rise. First, the LCPA would not minimize risks to life and property, as required by Section 30253. This is because the proposed land use change would limit the availability to the use this site for large scale adaptation measures that may be needed to minimize hazards risks throughout the City. In addition, the evidence shows that the project could contribute to the destruction of the surrounding area because the change in use would allow for up to 250 residential units, 215 hotel rooms and other development, thereby reducing the available area to construct adaptation-related development—which is already allowed under the current land use—on this site. As described previously in these findings, the City and immediate area will need to implement various sea level rise adaptation measures in the coming decades, some of which may require significant land area. However, the current lack of community-scale adaptation planning and uncertainty regarding future adaptation options makes it difficult to know where, when, or how the City will implement such measures. Redesignating this site from Public to designations that allow residential and commercial development would prevent consideration of the MTF site as a location for possible solutions to the known hazards in the area. By doing so, the redesignation could contribute to the destruction of, and increased risk for, surrounding development over time with sea level rise.

Second, the LUPA is not consistent with the Section 30250 requirement that new development be located in areas with adequate public services. Redesignating this site for residential, hotel, and other uses would intensify the use and require the use of surrounding roads and infrastructure that may not be able to adequately serve the site for the foreseeable future with sea level rise. It is also unclear whether the critical infrastructure needed to provide public services to this site are resilient to coastal hazards. Given the current lack of adaptation planning, there is simply insufficient evidence at this time to make a finding that the change in use, with the development it would allow, would occur in an existing developed area able to accommodate it or in other areas with adequate public services and where it would not have significant adverse effects on coastal resources. Likewise, this change would eliminate the potential for the MTF site to be considered for possible contributions to future adaptation pathways to address the increasing risk in the surrounding area. This means that the project would likely make it more difficult for the city to implement the adaptation measures it needs to continue accommodating existing, surrounding development. As such, the project is not only located in an area that is unable to accommodate it, but would make it more difficult for the city to plan for and execute adaptation measures to protect surrounding areas.

Lastly, Section 30270 of the Coastal Act requires the Commission to consider SLR when making planning decisions and requires the Commission to avoid and mitigate the adverse effects of sea level rise, to the extent feasible. The proposed LCPA does not take into account the impacts to the surrounding area of removing the MTF site from consideration for use in future adaptation measures to address increasing hazards that will be caused by SLR. In order to avoid and mitigate the adverse effects of sea level rise as they relate to this site and project, there needs to be more local analysis of alternative site designations or designs that could better allow the community to adapt to sea level rise. There is not sufficient evidence at this time that this proposal adequately avoids and mitigates the adverse effects of sea level rise to the full extent feasible. Accordingly, the proposed LCPA is inconsistent with Section 30270.

The LUPA is not consistent with Sections 30250, 30253, and 30270 of the Coastal Act. Inconsistency with each of these policies provides a sufficient, independent basis on which to deny the proposal. It is important to note that denial of this LCPA simply maintains the status quo; it does not eliminate an existing land use, nor does it preclude a different land use that would allow some development while also providing the community with greater adaptation options. It also does not preclude approval of a similar LCPA in the future, once the City has (1) undertaken an analysis of the infrastructure necessary to ensure that the City is protected from and resilient to current and future coastal hazards, and (2) determined that residential or commercial development of the MTF site would not prevent construction of such infrastructure.

2. Housing Needs City of Huntington Beach

The City has emphasized that approval of the proposed LCPA- which would change the land use designation of approximately 19 acres of the MTF site from public to Residential-Medium Density- is necessary to develop up to 250 units of much-needed housing within Huntington Beach. Furthermore, the LCPA proponents have indicated that a proportion of the residential units that would be developed in the future would be reserved for affordable units. However, it is important to be clear that the proposed LCPA would not include any on-site affordable housing. Although the City and project proponent have indicated that affordable housing on-site may be acceptable, the specifics of how that would be provided or required have not been provided. The Commission recognizes the critical housing shortage in California and supports increased housing throughout the State, including in the coastal zone. However, the additional housing must be sited in areas that will not be vulnerable to the hazards caused by climate change. Building dense new housing in areas that will be flooded, cut off from public services, or otherwise damaged or uninhabitable due to impacts from expected coastal hazards, does help solve California's housing crisis; it would exacerbate it. Section 14 of the City's March 2023 draft 6th Cycle Housing Element (2021 – 2029)²⁷ recognizes areas of flood risk and states: "Flooding is the most common hazard in the planning area. ... As land uses and climate conditions shift and as improvements are made to flood control channels, the size of these flood zones is likely to change."

The Regional Housing Needs Assessment (RHNA) for the City of Huntington Beach, as determined by the Southern California Association of Governments (SCAG), and approved by the State Department of Housing and Community Development (HCD), is 13,368 units. The required affordability levels of these units are:

- 3,661 units affordable to very low-income households
- 2,184 units affordable to low-income households
- 2,308 units affordable to moderate-income households

²⁷ The City's draft March 2023 6th Cycle Housing Element (2021 – 2029) is available for public review on the City of Huntington Beach website: <https://www.huntingtonbeachca.gov/files/users/housing-element-update/Revised-Draft-6th-Cycle-Housing-Element-3-10-2023.pdf>

- 5,215 units affordable to above-moderate income households

In the Housing Element, Appendix B states that the methods the City intends to employ to meet its RHNA include: residential overlay zoning, opportunities to convert existing motel/hotels to residential, and future development of accessory dwelling units (ADUs). The City is also required to distribute new units fairly at various affordability levels throughout the City. Many of the sites identified in the Housing Element as potential sites for new housing units “are in multi-tenant commercial centers with single ownership, on small adjacent parcels with single ownership, in under-utilized industrial uses, or show little to no evidence of recent investment or redevelopment.”

The City’s Housing Element states: “The analysis within this appendix shows that the City of Huntington Beach has the excess capacity to meet their 2021-2029 RHNA allocation throughout the planning period through a variety of methods, ...”²⁸ In addition, Section 4 of Appendix B, referring to the affordable housing overlay sites, states: “The City has identified sites in Table B-14 that represent adequate sites to meet the City’s 2021-2029 RHNA plus a 50% buffer if needed to maintain adequate sites to meet the RHNA throughout the planning period.”

Figure B-1 of Appendix B of the Housing Element depicts “Sites to Accommodate the 2021-2029 RHNA.” This map does not identify the MTF site as a site to accommodate 2021 – 2029 RHNA. However, Table B-3 of the Housing Element does identify MTF as a project “in the pipeline,” with no units identified as affordable. Although the property owner and City have recently indicated that they are willing to accept suggested modifications to the LCPA requiring the provision of affordable units on site, no affordable units are included in the LCPA as proposed and the details of such an arrangement are not known.

Although the most recent draft version of the City’s 6th Cycle Housing Element indicates the City is not relying on the MTF project to meet its RHNA requirement, the City has identified 454 sites as suitable to satisfy its RHNA requirements. A majority of the sites are located outside the coastal zone, but are located in urbanized areas that easily accommodate new development, within easy access to major beach access routes (e.g. Beach Blvd.), and away from areas that are anticipated to be impacted by sea level rise induced hazards. From a planning perspective, these sites would be considered less environmentally damaging development alternatives and should be prioritized to concentrate new residential development. However, the City is choosing to utilize a more hazardous area to site new residential development. As described in the hazard section of this report, the current land use designation and zoning remain the most appropriate for the subject site until a thorough, community-wide analysis on SLR adaptation has been done and that analysis determines the MTF site is not suitable or needed for adaptation uses. While the Commission supports increasing the number of housing units to address the State’s critical housing shortage, those units must be constructed with consideration of impacts from SLR and with minimizing risks. The current land use designation at the MTF site allows SLR adaptation strategies as a

²⁸ City’s 6th Cycle Housing Element, Appendix B, Section 3.

permitted use; the proposed land use designation could limit the ability to construct needed large-scale public infrastructure. Moreover, the City has already identified a number of alternative sites that can feasibly be used to increase housing supply. Given the information available to the Commission today, there are no suggested modifications that would make the proposed LCPA consistent with the hazard policies of the Coastal Act. Consequently, and for the reasons discussed in greater detail in the previous section of this report, the LCPA is not consistent with the hazard policies of the LCPA, and therefore must be denied.

3. Comparison to City of Del Mar LCPA LCP-6-DMR-20-0079-3

The City and project proponent have argued that the proposed MTF LCPA is similar to a City of Del Mar (in San Diego County) LCPA recently approved by the Commission (LCP-6-DMR-20-0079-3, approved with suggested modifications on 2/10/2022). That LCPA allowed the addition of multi-family residential use, with densities of up to 20 dwelling units/acre, as an additional allowable use, to the pre-existing list of uses within two existing commercial zones. The approved Del Mar LCPA required that the newly added residential use within the existing zones could only be allowed when a proposed project includes an affordable housing component. The Del Mar LCPA also added a new policy to the LUP that identifies increasing the City's overall housing capacity as a land development goal. That LCPA recognized that "increasing opportunities for housing is of statewide importance, as is expanding the availability of affordable units." No similar policy additions and no affordable units are proposed in the MTF LCPA.

Whereas both Del Mar and Huntington Beach are virtually built-out, the City of Del Mar is much smaller in area than the City of Huntington Beach. Del Mar is approximately 1.8 square miles, whereas the City of Huntington Beach is approximately 32 square miles. This smaller size significantly limits options available for increasing the number of housing units. To address this shortage, the Del Mar LCPA established a mechanism to promote additional residential development with an affordable housing component in areas largely already developed with non-priority commercial uses.

The two zones affected by the Del Mar LCPA are non-visitor serving commercial zones which will continue to allow both commercial uses and additional housing units. In contrast, the zone that would be lost by the proposed MTF LCPA is a zone that currently allows infrastructure uses that could provide adaptation measures to address climate change impacts. The Del Mar LCPA added residential use to the existing commercial use. The MTF LCPA will change the land use designation and zoning in a manner that would limit available options to use the site for adaptation infrastructure. Conversely, the Del Mar LCPA did not eliminate a land use designation and zone that allowed climate adaptation uses, but the MTF LCPA may have that effect.

Only one of the two affected Del Mar zones, the North Commercial (NC) zone, is vulnerable to SLR impacts. In its approval of the LCPA, the Commission recognized that the increased intensity in one of the two affected zones would occur in an area vulnerable to the effects of SLR, including increased flooding. However, the approved Del Mar LCPA prohibits

development in the most vulnerable parcels in the NC zone. Importantly, the Del Mar LCPA required adaptation measures for development within the zone that align with the various adaptation options preferred in the Commission's SLR Guidance Document (floodproofing, elevation, and design measures).

The City of Del Mar has conducted a Vulnerability Assessment and an Adaptation Plan (AP) [also sometimes called a Coastal Resiliency Plan (CRP)], although the AP is not yet part of the certified LCP. The AP is a framework for helping to understand how the City of Del Mar intends to address risks from SLR in the short term. The AP specifically identifies various adaptation options to address flooding from San Dieguito River onto portions of the NC zone, including the use of nature-based adaptation strategies (NBAS) (e.g., living levee and wetland restoration). This allows Del Mar to determine with a much higher degree of certainty whether a parcel is appropriate for development. The Huntington Beach CRP broadly identifies preferred adaptations but has not identified any site-specific projects and no climate impact adaptation measures identified in the Coastal Resiliency Plan have actually been implemented yet.

In approving the Del Mar LCPA, the Commission recognized that the City of Del Mar has been proactively working with HCD to identify areas and strategies to accommodate and incentivize the construction of new residential units throughout the City. The two zones affected by the LCPA were identified as the areas in Del Mar with the fewest physical and structural barriers to construction of new housing. Other than the proposed change to add residential as an allowable use, all the development standards of the Del Mar Municipal Code, including height, floor area ratio, and setbacks remain in effect. However, the MTF LCPA would result in the loss of a land use designation and zone that could accommodate climate impact adaptations, even though the site is a vacant 29-acre single parcel.

The Del Mar LCPA was proposed specifically to comply with HCD requirements for additional and affordable housing units. Whereas, the proposed Huntington Beach LCPA does not include any affordable housing units. The City and project proponent have recently indicated they would be willing to accept suggested modifications to require affordable housing at the site. But that will not address the loss of current land use designation that could provide climate adaptations in an area that needs them, and replacing it with one that may not.

Also, unlike the City of Del Mar, the City's draft March 2023 6th Cycle Regional Housing Element (2021 – 2029) indicates the City has excess capacity to meet the RHNA requirement, without including the MTF site. The Housing Element indicates the MTF housing units are not required for the City to meet the RHNA, and new housing should be concentrated in areas that are not vulnerable to significant coastal hazards.

4. Priority of Use

Section 30222 of the Coastal Act states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over

private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30255 of the Coastal Act states:

Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

The Coastal Act Prioritizes different uses depending on location, type of use, and level of coastal hazards. For example, Section 30222 states that visitor serving recreational uses shall have priority over other, lower priority uses such as private residential, but not over coastal dependent industry. Section 30255 also prioritizes coastal dependent development over other developments on or near the shoreline. Section 30250 of the Coastal Act, cited in the Hazards section above, requires that new development be located in areas able to accommodate it and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. Coastal Act Section 30253, also cited above, requires that new development minimize risks in flood hazard areas, assure stability and structural integrity, and neither create or contribute significantly to destruction of the site or surrounding area. Taken together, these policies favor uses that minimize risk and that do not adversely affect the safety of the surrounding area. From this it can be understood that land uses necessary to reduce risk and prevent destruction of developed surrounding area, would be considered higher priority uses, when necessary to carry out Section 30253's requirement to minimize risks.

Thus, public infrastructure needed to prevent flooding or to otherwise provide for public safety is given priority over new residential development. Although the Commission strongly supports increasing housing in the coastal zone, particularly affordable housing, if such housing comes at the expense of implementing coastal resiliency and adaptation measures, it cannot be found consistent with Coastal Act Section 30253.

The current land use designation at the MTF site allows, among others, infrastructure uses. SLR adaptations such as stormwater retention basins, wetland/upland restoration, pumping stations, and stormwater forebays and similar types of flood control infrastructure are consistent with the existing land use designation. It may be that a combination of adaptation infrastructure to address climate impacts together with other types of development may be appropriate at the site. But, until the City has evaluated options for a SLR adaptation strategy for the southeast Huntington Beach area, it would, at a minimum, be premature to change the land use designation at the site now, without first having the information necessary to allow the most informed decision possible. This review must include evaluation of whether the MTF site may contribute to the overall adaptation strategies to address climate change impacts in an area known to be at risk with SLR.

As detailed in the previous section of this report, the area of southeast Huntington Beach is a flood prone area, and this existing hazard will only increase in the future with climate change. The MTF site's current land use designation already allows infrastructure uses that could minimize risk in the area. In this area infrastructure uses are a higher priority use because they could allow accommodation of necessary SLR adaptations. The area has been the subject of many studies already (cited earlier) that indicate the need for adaptive management of the flood risk in the southeast Huntington Beach area to address climate-related risks. It is important to know whether the MTF site may be appropriate for a future plan for adaptive management. The City has asserted that almost all the developable areas of the City, especially in the coastal zone, have been utilized, but the 29-acre MTF site has remained vacant. The vacant condition of the site, its location in a flood prone area subject to future SLR, and the infrastructure use allowed by its current land use designation, combine to support retention of the current land use designation. It is already known that infrastructure uses in this area will be needed now and in the future. An informed decision on whether any land use designation change is appropriate can be made after the City has evaluated the climate change risks in the broader southeast area of the City, considered the feasibility and tradeoffs of various adaptation approaches, developed strategies for pathways forward to address those risks, and assessed whether the MTF site could play a role in those pathways.

The question at this time is a question of appropriate land use: is the proposed land use change consistent with the Chapter 3 policies of the Coastal Act. The proposed land use designation changes will only exacerbate existing limits on locations and methods for future SLR adaptations in the area. Eliminating a use that allows adaptation measures and replacing it with more limiting uses, would not minimize risk and so is not consistent with Section 30253 of the Coastal Act. Section 30250 of the Coastal Act requires that development be located in areas able to accommodate it. The current land use designation allows infrastructure uses, which could reduce risk to the surrounding area. As described above, the proposed land use designation change may limit the ability to develop climate change adaptation infrastructure onsite, and therefore is inconsistent with the requirement that new development be appropriately sited in areas able to accommodate it. If this site is better suited for SLR adaptation measures, it may not also be able to accommodate residential and hotel uses. The policies cited above establish that the Coastal Act places higher priority on some uses over others. In this flood prone area that is vulnerable to SLR, addressing and mitigating those risks constitutes a higher priority use under the Coastal Act. Therefore, because the proposed land use designation is a lower priority use that may limit the ability to construct of necessary infrastructure that could reduce risks to the surrounding area over the long-term, a use, the LUPA must be denied.

C. FINDINGS FOR DENIAL OF THE IPA

The standard of review for LCP IP amendments is whether the IP as amended, will conform with and be adequate to carry out the provisions of the certified LCP LUP. The LCP LUP mirrors policies in the Coastal Act that encourage minimization of hazards and risk, and promotes maximum public access and recreation. The certified LUP includes a number of policies relevant to the proposed amendment. The most applicable LUP policies are cited below.

The IP, if amended as proposed, would not conform with and would not be adequate to carry out the LUP policies that require minimization of hazards and risk and promotion of maximum public access and recreation. The following findings describe how the proposed IP, if amended as proposed, would not conform with and would not be adequate to carry out the policies of the LUP cited above.

1. LUPA Denial Findings

The preceding findings for denial of the LUP amendment are incorporated as though set forth herein.

2. Hazards

The certified LUP includes the following hazard and risk reduction and drainage infrastructure, policies:

Goal C10

Minimize risks to life and property in areas of high hazards (e.g., geologic, flood and fire) within the Coastal Zone and ensure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

C 10.1

Identify potential hazard areas in the City and manage/mitigate potential risks and impacts through land use regulation, public awareness and retrofitting where feasible.

C10.1.2

Promote land use patterns, zoning ordinances and locational criteria that mitigate potential risks posed by development in hazard areas, or which significantly reduce risk from seismic hazards.

C 10.1.14

During major redevelopment or initial construction, require specific measures to be taken by developers, builders or property owners in flood prone areas (Figure C-33) to prevent or reduce damage from flooding and the risks upon human safety.

Development shall, to the maximum extent feasible and consistent with the Water and Marine Resource policies of this LCP, be designed and sited to:

- a) Avoid the use of protective devices,
- b) Avoid encroachments into the floodplain, and

- c) Remove any encroachments into the floodplain to restore the natural width of the floodplain.

C 1.1.9

Minimize risks to life and property in areas of high geologic, flood (Figure C-33) and fire hazard through siting and design to avoid the hazard.

New development shall be designed to assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in anyway require the construction of a protective device.

C 1.2

Provide a land use plan that balances location, type and amount of land use with infrastructure needs.

C 1.2.4

Pursue funding for projects to correct existing deficiencies in community facility systems in the coastal zone.

C 6.1.7

Improve and maintain existing infrastructure to prevent sewage system failures that may result in the discharge of untreated sewage into coastal and ocean waters. Regular inspection of sewer lines, pump stations and preventative maintenance activities shall be undertaken to minimize the potential for ruptured lines or faulty infrastructure to cause or contribute to a sewage spill. The City shall implement management measures for its systems to prevent sewage spills, and other causes of bacterial pollution in coastal waters in response to scientific findings and recommendations resulting from monitoring and other investigations.

C 6.1.18

New flood control projects and substantial reconstruction of existing flood control facilities shall, to the extent feasible:

- a) Expand the floodplain.
- b) Maximize soft bottom habitat.
- c) Slow water to encourage percolation through the use of off-line detention basins or other similar structures.
- d) Consider the diversion of dry weather nuisance flows to the sewer system.
- e) Prevent and remove encroachments into the floodplain to the extent feasible.

- f) Restore pool and riffle sequence to slow and aerate the water.

C 9

Provide water, sewer and drainage systems that are able to support permitted land uses; upgrade existing deficient systems; and pursue funding sources to reduce costs of wastewater service provision in the City.

C 9.1

Provide and maintain water, sewer and drainage systems that adequately serve planned land uses at maximized cost efficiency.

These LUP policies reflect certain Coastal Act polices that require that risks be minimized. These LUP policies require that flood risk be minimized, and that development not contribute to the destruction of the site or surrounding area. LUP Policy C 10.1 requires that risk and impacts in identified hazard areas be managed and mitigated through land use regulation and retrofitting where feasible. Policy C 10.1.2 promotes the use of land use patterns that mitigate risks in hazard areas. Policy C 10.1.14 requires specific measures be taken in flood prone areas to prevent or reduce damage from flooding. Policy C 1.2 requires the land use plan to balance location, type and amount of land use with infrastructure needs. This policy specifically refers to Figure C-33 which identifies flood prone areas of the flood hazard zone in Huntington Beach. Figure C-33 (**Exhibit 14**) identifies the subject site and surrounding area as being in a flood hazard area. Policy C 9.1 requires that the City provide drainage systems, including upgrading deficient systems, that adequately support permitted land uses (e.g., existing development).

As described in detail in the findings for denial of the LUPA, the subject site is located within a flood prone area, and the current risk will increase with coming climate change impacts including SLR, groundwater rise, and increased flooding. More detail on the extent of these impacts is discussed in the findings for denial of the LUPA. The precise rate of increase of these risks is not known, but it is certain that the risk will increase over time. circumstances, the subject area will experience significant impacts from climate change.

The LUP policies cited above require that risk be minimized and that development neither create nor contribute significantly to instability or destruction of the site or surrounding area. The LUP policies also require that potential hazard areas be identified and managed/mitigated through land use regulation and retrofitting where feasible. Policy C 10.1.2 requires the mitigation of potential risks posed by development in hazard areas, through land use and zoning criteria. The MTF IPA proposes to change the zoning at the MTF site from one that could reduce risk in this area of identified flood hazard by providing infrastructure adaptation strategies to one which may limit such uses, as described below. As currently zoned, the site could mitigate hazards by providing an area to accept flood waters and construction of stormwater pumps and conveyances. The current zoning at the MTF site allows infrastructure as a permitted use, including SLR adaptation strategies. If rezoned to allow dense residential development and a large hotel, the proposal would not promote land uses and zoning that mitigate hazards – it would potentially do the opposite by

limiting the ability to construct onsite infrastructure that mitigates hazards. Thus, the IPA does not conform to Policy C 10.1.2.

LUP Policy C 10.1.14 requires that development in flood prone areas (citing Figure C-33, which includes the MTF site and surrounding area) include measures to prevent or reduce damage from flooding. Policy C 10.1.14 further requires the natural width of the floodplain to be restored, when feasible. The existing zoning allow uses that would prevent or reduce flooding. Policy C 1.2 requires the land use plan to balance the location, type and amount of land use with infrastructure needs. The MTF site and surrounding area are expected to be needed for infrastructure that will minimize climate change and flood hazards. But the proposed zoning change to RM, CV, and OS designations would replace the existing zoning with one that would allow a significant amount of less adaptable uses (e.g. residences and a hotel) and could potentially limit the ability to construct adaptation measures and infrastructure.

According to the City's zoning code (which is part of the certified IP), the proposed RM and CV zones do not list flood control and drainage infrastructure as explicitly allowed uses. However, a subsequent table notes that such infrastructure could be approved under a Planning Commission approval. Although there is a path to allow climate change adaptation infrastructure within the residential and visitor-serving zones, it is unclear if additional variances would be needed in order to permit uses that are not explicitly allowed in the zoning code. Moreover, additional obstacles could arise if the site is already developed with residences and visitor-serving facilities by the time that climate adaptation infrastructure is needed. For one, there would be less available space to construct infrastructure facilities once the site is built out. Second, the public may be opposed to constructing infrastructure facilities near residences and visitor-serving facilities.

Thus, the IPA would not balance land uses with infrastructure needs and would instead limit the ability to construct needed infrastructure. Moreover, LUP Policy C 1.2.4 requires the City to pursue funding for projects to correct existing deficiencies in community facilities (such as drainage infrastructure) in the coastal zone. That could apply directly to the MTF site. Flooding will occur in the surrounding area unless necessary measures are implemented to lessen or avoid flood impacts which become an increasing risk with climate change. The current zoning provides the best options toward accomplishing these necessary flood mitigation goals, consistent with these LUP policies.

LUP Policy C 6.1.7 requires the City to improve and maintain existing infrastructure and to implement management measures for its systems to prevent sewage system failures and sewage spills. The Orange County Sanitation District's wastewater treatment plant (Plant No. 2) is located approximately 2,000 feet southeast of the MTF site. The wastewater treatment plant is already located within the flood hazard zone identified by the City, under current conditions ([Exhibit 8](#)). Future flooding and groundwater rise is expected to further adversely impact this important public infrastructure feature unless significant steps to avoid or minimize the future flooding are addressed soon. A critical question related to the proposed LCPA zone change is how the MTF site, which is currently land use designated to allow infrastructure including hazard adaptations as a permitted use, may fit in to the overall adaptation needs for this southeast area of the City. Areas of vulnerability and ways to

establish various feasible adaptation pathways to address the vulnerabilities must be studied and identified. Included in the necessary evaluation, and as required by LUP policies C 9 and C 9.1, the City must provide drainage systems that are able to support permitted land uses and to upgrade deficient systems. The existing infrastructure systems are deficient to address future coastal hazards. These systems must be upgraded to address these future coastal hazards. The existing zoning already allows infrastructure uses. The existing zoning is the most appropriate for the site.

The MTF site is located in a flood prone area within the City's flood hazard zone that will increase in SLR. The area of southeast Huntington Beach is shown as flood prone on Figure C-33 of the certified LUP. This is also reflected in current studies of the area referenced in the findings for denial of the LUPA. SLR, groundwater rise, and fluvial flooding (also described in the findings for denial of the LUPA) will only increase in the future. The LUP includes policies that require that flood hazards be reduced, and that the City take steps to improve its infrastructure to achieve the goals of flood risk reduction and protection of existing development. The current zoning at the MTF site is Public Semi-Public. The existing zoning allows development, such as flood control and drainage infrastructure, that supports these requirements of the LUP to reduce flood hazard. Therefore, the IP as proposed to be amended, would not conform with and would not be adequate to carry out the policies of the certified LUP. Therefore, the IPA must be denied.

3. Public Access and Recreation

Although, for the reasons described above, the proposed land use designation and zone changes are not consistent with the Coastal Act and certified LUP due to inconsistencies with the hazards policies, even if those issues were not a factor, the proposed specific plan would still be inconsistent with the requirements of the LUP's public access and recreation policies, as described below.

The certified LUP includes the following public access and recreation policies:

Public Access Policies

C 1.1.5 (in pertinent part)

New residential development should be sited and designed in a manner that it maintains and enhances public access to the coast.

...

c) provide adequate parking facilities or a substitute means of serving the development with public transportation;

d) provide for the recreational needs of new residents through local park acquisition or on-site recreational facilities to assure that recreational needs of new residents will not overload nearby coastal recreation areas;

...

C 2

Provide coastal resource access opportunities for the public where feasible and in accordance with the California Coastal Act requirements.

C 2.4

Balance the supply of parking with the demand for parking.

C 2.4.1

Maintain an adequate supply of parking that supports the present level of demand and allows for the expected increase in private transportation use.

C 2.4.2 (in pertinent part)

Ensure that adequate parking is maintained and provided in all new development in the Coastal Zone utilizing one or a combination of the following:

- a. Apply the City's parking standards at a minimum.
- b. ...

Policy 2.4.7 (in pertinent part):

The streets of new residential subdivisions between the sea and the first public road shall be constructed and maintained as open to the general public for vehicular, bicycle, and pedestrian access. General public parking shall be provided on all streets throughout the entire subdivision. ...

C 2.5

Maintain and enhance, where feasible, existing shoreline and coastal resource access sites.

C 2.6

Promote and provide, where feasible, additional access, including handicap access, to the shoreline and other coastal resources.

C 2.6.6

Promote public access to coastal wetlands for limited nature study, passive recreation and other low intensity uses that are compatible with the sensitive nature of these areas.

C 3

Provide a variety of recreational and visitor commercial serving uses for a range of cost and market preferences.

C 3.1.3

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

C 3.2

Ensure that new development and uses provide a variety of recreational facilities for a range of income groups, including low cost facilities and activities.

C 3.2.1

Encourage, where feasible, facilities, programs and services that increase and enhance public recreational opportunities in the Coastal Zone.

The LUP policies cited above promote maximum public access to the sea and coastal resources. In this area, the ocean beaches are one block south of the MTF site and Magnolia Marsh, one of the restored wetlands in the Huntington Beach wetlands complex, is immediately adjacent to the south. In addition, LUP policies require the protection, enhancement and provision of recreational opportunities. To ensure that public access to coastal resources is maintained and enhanced and that public recreational opportunities are increased and enhanced, and that the above cited LUP policies are implemented, the proposed MTF Specific Plan would need to provide adequate parking and assure that adequate public recreational opportunities are provided.

The proposed specific plan covers the 29-acre MTF site. Of those 29 acres, 5.6 acres will be zoned for open space: 2.8 for Open Space - Conservation and 2.8 for Open Space – Parks. The Open Space - Conservation area runs along the south-southwestern side of the property adjacent to Magnolia Marsh.

Parks

Section 254.08 of the City's Zoning Code (which is also the certified IP), establishes the park area required with new subdivisions. Section 254.08.A.6 states that the goal of this Chapter is to provide five usable acres (or portion thereof) for each 1,000 persons residing in the City.²⁹

²⁹ Section 254.08.A.6 states: "To provide regulations requiring five usable acres, or the proportionate share thereof, having a grade not exceeding two percent, for each 1,000 persons residing within the City to be supplied by persons proposing residential subdivisions."

Section 254.08.B establishes the requirements for the provision of the required parkland. Section 254.08.D provides the following formula for determining the area of parkland required:

$$A = \frac{5.0 (DF \times \text{No. DU})}{1000}$$

Where:

- a. A = the area in acres required to be dedicated as a park site.
- b. DF = intensity factor as determined pursuant to Section 254.08(E).
- c. 5.0 = number of acres per 1,000 persons.
- d. No. DU = number of dwelling units proposed in the subdivision.

The Planning Commission staff report (10/22/2019) prepared for the proposed specific plan project states:

“Assuming a total of 250 detached dwelling units are constructed, the park requirements would equal 3.64 acres (5(2.913 persons per dwelling x 250 units) / 1000 = 3.64 acres). Staff is recommending accepting park in lieu fees of up to approximately \$4.46 million for 250 detached dwelling units. The visitor serving commercial component also requires payment of park impact fees.”

The proposed specific plan will provide only 2.8 acres of parkland, and includes payment of a fee in lieu of providing the remaining 1.84 acres of required parkland on-site. In addition, the formula generally identifies the parkland needs created by a proposed development’s future residents, but it does not necessarily address the certified LUP’s requirement to increase and enhance public recreation and public access for the general public. The MTF site is located adjacent to Magnolia Marsh, and the specific plan indicates this proximity will be used to market the proposed hotel as a draw for hotel guests. The MTF site provides an excellent location for the provision of parkland with views of the adjacent restored marsh, and for public trails and picnic areas at a minimum. Such uses could become increasingly important as public beaches narrow and are lost due to SLR.

“Marsh Park,” as it is named in the proposed specific plan, is to be located in the area adjacent to Magnolia Marsh, near the existing OCPW’s bridge that crosses the flood control channel, between the hotel area and residential area. Marsh Park amenities are not specifically required in the specific plan but are expected to include an observation deck with seating and an amphitheater. No picnic facilities or play area are proposed at Marsh Park, where there are views of the marsh. However, although an area figure for the proposed “Marsh Park” is not given, of the proposed 2.8 acres of Open Space - Parks area included in

the proposed specific plan, less than one third of the 2.8 acres will be occupied by Marsh Park ([Exhibit 4](#)).

The remaining park area to be provided with the proposed specific plan runs along Magnolia Street on the eastern side of the site, called “Magnolia Park” in the proposed specific plan. There is an existing landscaped berm in this area, that screened the former oil operations from public view. Magnolia Park would be reduced in width compared to the existing landscaped berm, and would replace the existing mature trees and grass with “dry riparian woodland” landscaping, within this reduced area. Amenities included in the proposed Magnolia Park are not well defined, but the proposed specific plan indicates it will include an 8-foot-wide meandering path, some benches, trash receptacles, lighting and signage. However, there is already a sidewalk along Magnolia Street, so the addition of a path in this area would provide only limited public benefit. Magnolia Park amenities would be located along a busy primary arterial street (Magnolia Street). The only views from this area would be of public streets and existing development. Magnolia Park would better be described as a buffer between the proposed specific plan’s future residential development and the adjacent arterial road, Magnolia Street.

The proposed specific plan includes the following requirement: “All applicable signage will notify the public that the park is not maintained by the City nor part of the City’s park system.” This language raises concerns that signage could create the impression that, because the proposed park areas are not part of the City’s park system and not maintained by the City that the parks are not actually available to the general public. These signs would further reduce the limited benefits of the proposed Open Space Parks areas.

In sum, the 2.8 acres of park area to be provided on-site is insufficient to meet the needs of the new residents as well as existing residents and visitors to the City. The Magnolia Park is not sited or designed to provide significant access or recreational amenities.

Marsh Interpretive Programs

The proposed specific plan states that Marsh Park will be used as a staging area for docent led tours of the marsh. Section 3.4.2 of the specific plan describes this proposal as follows:

“The owner of the Magnolia Tank Farm property will enter into an agreement with a non-profit wetlands education organization to conduct interpretive programs for the public and guests at the Lodge. The agreement will allow The Lodge owner/operator to partner with the non-profit to provide Magnolia Marsh wetlands interpretive programs for Lodge guests and the public through interpretive signage and access to docent-led tours of Magnolia Marsh.

The Lodge would provide a gathering place for hotel guests and transportation to the Huntington Beach Wetlands Conservancy Interpretive Center where current tours depart. Docent-led tours may use the existing bridge over the Huntington Beach Channel to access the marsh if feasible, as determined by the City of Huntington Beach and County of Orange in conjunction with the Huntington Beach Wetlands Conservancy, at the time a development proposal is submitted. Marsh Park, located on the north side of the CV area (PA4) and adjacent to the bridge, would serve as a

staging area for interpretive programs conducted by the non-profit organization. Interpretive signage designed to educate the public about sensitive wetland and upland habitats will be placed in Marsh Park to augment the organized tours conducted by the non-profit organization.”

However, although this would provide a benefit for guests of the proposed hotel and a useful marketing tool for the hotel, there is no requirement in the specific plan that the “non-profit wetland education organization” would be compensated for their costs, let alone receive something that would assist with continued maintenance and protection of the wetlands or restoration of the areas planned for that purpose. In addition, the above language only includes these tours as a benefit for the market-price Lodge portion of the proposed hotel. It doesn’t mention this as an amenity for the lower cost Guest House portion of the hotel. It is also not stated how these tours would be promoted to the general public. Moreover, members of the public can already take docent led tours of the marsh, originating from the HBWC’s Interpretive Center located nearby at the corner of Pacific Coast Highway and Newland Street. So, although wetland tours are certainly a benefit to the public, it does not seem that this aspect of the specific plan, as currently described in the plan, would actually provide a significant new public benefit.

The best location for public park area at this site is where there will be views of the marsh. However, only a very small part of the site would provide public park area with marsh views. Moreover, the area to be used for Open Space Parks along Magnolia Street would not be a visitor draw, because there are no views and no significant amenities, and it will be placed immediately adjacent to a primary arterial street. Given the size and intensity of the development that would be allowed by the proposed specific plan, and the potential for the site to provide meaningful public access and recreation opportunities, the 2.8 acres of parks, would not actually provide a significant public visitor serving benefit. The property owner and specific plan proponent has since suggested expanded park areas, but these are not part of the specific plan as proposed. Thus, the plan is inconsistent with LUP policies requiring that new development provide recreational uses and promote recreational access to wetlands.

Conservation

The proposed specific plan also includes 2.8 acres of area zoned Open Space – Conservation. This area is proposed along the flood control channel/marsh frontage, along the property’s south/southwestern property line. This Open Space – Conservation area is intended to provide a habitat buffer between the proposed development and the marsh. Together with the 30-foot-wide flood control channel maintenance road, and the 70-foot-wide conservation area, there would be a 100-foot buffer from the wetlands. Certified LUP policy C 7.1.4 requires a *minimum* buffer distance of 100 feet for new development contiguous to wetlands or environmentally sensitive habitat areas. Policy C 7.1.4 allows a reduced buffer if existing development or site configuration preclude a 100-foot buffer, which does not apply to the MTF site since the 29-acre site is currently vacant. Policy C 7.1.4 also states that a greater buffer may be required if circumstances warrant it. The proposed specific plan would include a minimum 24-foot-wide public trail through the eastern half of the conservation area

(between Magnolia Street and Marsh Park). However, the preferred option would be to locate the public trail outside the required habitat buffer, to allow the buffer to be more protective of the habitat. The property owner and specific plan proponent has suggested that the trail could be moved into the visitor commercial (hotel) area, but this alignment is not included in the proposed specific plan.

In addressing questions regarding SLR and coastal hazards, the applicant has indicated that this conservation area will be used to accept overflows from the adjacent flood control channel. While a conservation area could protect the site from some coastal hazards, it raises the question of whether the buffer should be wider, so that if it becomes a flood buffer area, there will still be some transition to upland buffer habitat area. This issue needs to be more fully explored. However, because the IP as modified by the proposed amendment cannot be found to be in conformance with or adequate to carry out the certified LUP anyway due to hazard issues, further discussion on this point is moot. But it does appear to support use of the MTF site to serve as a flood reservoir, wetland migration area, or other natural adaptation measure.

Public Parking

Given current transportation patterns and the lack of public transit opportunities in Huntington Beach, the LUP protects and promotes public access, in part, by ensuring that new development, especially in areas within walking distance to the beach (which the subject site is), provides adequate parking to serve the development. The proposed specific plan would allow reduced parking for the proposed 250 residential units compared to what is required by Chapter 231 of the City's zoning code, which is also the certified IP. Section 231.04 of the zoning code/IP requires two open and two enclosed parking spaces for single family residential development with up to four bedrooms, and three open and two enclosed parking spaces for single family residential development with five or more bedrooms. For multi-family residential development, for studios and one-bedroom units, one enclosed space is required. For units with two bedrooms, two parking spaces, with at least one enclosed, are required. And for units with three or more bedrooms, 2.5 spaces (one enclosed) are required. In addition, multi-family residential development also requires ½ guest space per unit.

For single family residences, the proposed specific plan includes code-required parking for multi-family residential development, rather than the parking required for single family residential development. The Planning Commission staff report prepared for the specific plan and related entitlements (10/22/2019) states: "In order to create attainable housing, the applicant is proposing development standards that would allow product types that have been built in other parts of Orange County that are more compact and taller with reduced yards and parking compared to what the HBZSO permits." [emphasis added] Section 3.1 of the specific plan states: "The residential component of the land use plan will consist of single-family detached and attached homes." If the specific plan requires fewer parking spaces for proposed single family residential development, and absent any data to suggest the proposed development would generate a reduced parking demand than the current zoning/IP requires, it is likely that residents would end up parking on the public streets of the subdivision, displacing spaces that would otherwise be available for public access parking. Moreover, this reduction in required parking is intended to achieve "attainable housing."

However, it is important to note that that, while “attainable housing” has not been defined by the City, it does not mean affordable housing.

Finally, development allowed under the proposed specific plan would include work on Magnolia Street, including improvements to curbs, etc. Currently, public parking on Magnolia Street adjacent to the MTF site is limited to two hours, even though it is within a block of the beach. Parking along this stretch of Magnolia Street could provide a significant reservoir of public parking to serve beach access as well as access to any public amenities available on site. Improving public parking along Magnolia Streets should be further addressed. However, the proposed specific plan does not address parking on Magnolia Street.

4. Priority of Use

Although, for the reasons described above, the proposed land use designation and zone changes are not consistent with the Coastal Act and certified LUP due to conflicts with the hazards policies, even if those issues were not a factor, the proposed specific plan would still not be consistent with the requirements of the LUP due to the proposed specific plan’s inconsistencies with the LUP priority of use policies, as described below.

C 1.2

Provide a land use plan that balances location, type and amount of land use with infrastructure needs.

C1.1.2

Coastal dependent developments shall have priority over other developments on or near the shoreline. Coastal-related developments should be accommodated within reasonable proximity of the coastal-dependent uses they support.

C 1.1.3

The use of private lands suitable for visitor serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

C 3.1.3

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

C 9.1

Provide and maintain water, sewer and drainage systems that adequately serve planned land uses at maximized cost efficiency.

C 10.1

Identify potential hazard areas in the City and manage/mitigate potential risks and impacts through land use regulation, public awareness and retrofitting where feasible.

C10.1.2

Promote land use patterns, zoning ordinances and locational criteria that mitigate potential risks posed by development in hazard areas, or which significantly reduce risk from seismic hazards.

Like the Coastal Act, the LUP prioritizes different uses depending on location, type of use, and level of coastal hazards. For example, Policy C 1.1.3 and C 3.1.3 state that visitor serving recreational uses shall have priority over other, lower priority uses such as private residential, but not over coastal dependent industry. And C.1.1.2 provides that coastal dependent uses shall have priority over all other uses. Many of the LUP policies cited above require that new development minimize flood risks, and neither create or contribute significantly to destruction of the site or surrounding area, which essentially places a higher priority on uses that minimize risk and that contribute to the safety of the surrounding area.

From these policies, it is understood that new residential development is not the highest priority under the LUP when compared to certain other types of development. Although the Commission recognizes the need to increase the number of housing units, this need must be balanced with the also compelling need to minimize risk by implementing adaptation measures to address SLR, and other consequences of climate change.

The current zoning at the MTF site allows, among others, infrastructure uses. SLR adaptations such as stormwater retention basins, wetland/upland restoration, pumping stations, and stormwater forebays and similar types of flood control infrastructure are consistent with the existing zoning. It may be that a combination of adaptation infrastructure to address climate impacts together with other types of development may be appropriate at the site. But, until the City has evaluated options for a SLR adaptation strategy for the southeast Huntington Beach area, it would, at a minimum, be premature to change the zoning at the site now, without first having the information necessary to allow the most informed decision possible. This review must include evaluation of whether the MTF site may contribute to the overall adaptation strategies to address climate change impacts in an area known to be at risk with SLR.

As detailed in the previous section of this report and the findings for denial of the LUPA, the area of southeast Huntington Beach is a flood prone area, and this existing hazard will only increase in the future with climate change. The MTF site's zoning already allows infrastructure uses that could minimize risk in the area. In this area, infrastructure uses are a higher priority use because they could allow accommodation of necessary SLR adaptations. The area has been the subject of many studies already (cited earlier) that indicate the need for adaptive management of the flood risk in the southeast Huntington Beach area to address climate related risks. It is important to know whether the MTF site may fit in to a future plan for adaptive management. As the City has noted, most of the City, especially in the coastal zone, is developed. But the 29-acre MTF site is not. The vacant condition of the

site, its location in a flood prone area subject to future SLR, and the infrastructure use allowed by its current zoning, combine to support retention of the current zoning. It is already known that infrastructure uses in this area will be needed now and in the future. An informed decision on potential zone changes at the MTF site can be made once the City has fully evaluated climate change risks, the feasibility and tradeoffs of various adaptation approaches, developed strategies for pathways to address those risks, and assessed whether the MTF site is needed to play a role in those pathways.

The question at this time is a question of appropriate zoning: is the proposed change conform with and is it adequate to carry out the LUP? The proposed zone change will only exacerbate existing limits on locations and methods for future SLR adaptations in the area. It may foreclose the use of the MTF site for needed climate change adaptation infrastructure, and it would not minimize risk. Thus, it is not consistent with LUP hazard policies cited above. LUP policy C 10 requires that development be located in areas able to accommodate it. The current zoning allows infrastructure uses, which could reduce risk to the surrounding area. The proposed zone change may not allow such uses and may limit available onsite adaptation strategies to protect existing residences and infrastructure in the City from climate-related hazards. This means the proposed zoning would not place development in an area able to accommodate it, inconsistent with LUP policy C 10. The policies cited above establish that LUP places higher priority on some uses over others. In this flood prone area that is vulnerable to SLR, addressing and mitigating those risks constitutes a higher priority use under the LUP. In sum, the IPA does not conform with and is inadequate to carry out the LUP because it changes the zoning from a higher priority use to a lower priority use without adequate analysis of whether the site is needed for the higher priority use.

5. Recent Claims by Project Proponent of Specific Plan Benefits

Over the last few months or so, the specific plan proponent has been promoting certain alleged benefits of the specific plan, such as affordable housing units, increased park areas, wetland restoration funding, increased parking access, transit passes for hotel employees, and funding for community services, as described below. However, it is important to be clear that none of those benefits are required by or even addressed in the specific plan as approved by the City and currently before the Coastal Commission. In a letter dated October 10, 2022, the City acknowledged they would be willing to accept a number of suggested modifications to the LCPA as proposed, including modifications based on typical special conditions often imposed by the Coastal Commission on projects vulnerable to SLR; creation of an assessment district to fund the project's fair share contribution to the costs of maintaining the Huntington Beach channel should additional funds be needed, or similar measure; agreement to move the proposed public trail out of the coastal conservation district; and a suggested modification to include at least ten percent (10%) of the site's total units as affordable housing per the City's affordable housing requirements. However, the City hasn't formally adopted these modifications to their proposal. While such modifications would address some of the Coastal Act and LUP inconsistencies cited above, they do not address the fundamental issue that the proposed land use and zoning changes may limit the ability of the MTF property to accommodate necessary infrastructure that can protect the City from the adverse impacts of SLR, flooding, and other coastal hazards. Until there is a better understanding of how the City will adapt to these coastal hazards and if the MTF site is

needed for those adaptation measures, the proposed LCPA cannot be found consistent with the Coastal Act or LUP.

More recently raised modifications apparently acceptable to the project proponent during presentations to Commission staff during a series of project meetings include:

- expanded park and conservation area;
- wetland maintenance and restoration funding directed to the HBWC;
- additional parking;
- funding for offsite parks and libraries;
- partnerships with School Districts & NGOs in disadvantaged communities to provide free Interpretive Programs through HBWC;
- outreach to disadvantaged communities regarding availability of low-cost overnight accommodations.

Also mentioned by the property owner/project proponent is the removal of oil production facilities from areas adjacent to the wetland and elimination of industrial pollutants from sensitive coastal habitat areas. However, removal of oil production facilities at the site (which is adjacent to wetlands) has already occurred pursuant to a CDP approved by the City in 2011 (HNB CDP 10-011). It is not clear what the promise to remove industrial pollutants involves. No further information on this has been provided to Coastal Commission staff.

Below is a brief response to the claims of specific plan benefits.

a) Affordable Housing

In a PowerPoint presented to Commission staff on March 2, 2023, the landowner expressed a willingness to accept some amount and level of affordable residential units on site, including the provision of 25 or 26 (the number has varied) affordable housing units on site, 20% of which would be reserved for (or offered to, this information has also varied) workers at the onsite hotel. In addition, the property owner says the new residential units will be available for sale and for rent, to meet a range of income levels. The affordable housing and hotel worker housing have raised the interest of advocacy groups such as CLUE Justice and Unite Here!, respectively. However, the specific plan approved by the City and currently before the Coastal Commission, in Table 3.1 of the specific plan (and elsewhere) states that the residential development will be “for sale” residential units. The only reference to affordable housing in the Specific Plan is Section 3.8, which requires:

Section 230.26 of the HBZSO [Huntington Beach Zoning and Subdivision Ordinance which is also the LCP Implementation Plan] applies and requires that at least ten percent (10%) of all new residential construction shall be affordable units. As an alternative to complying with Section 230.26, the City and the Property Owner may

enter into an agreement that allows provides [sic] for payment of in lieu fees for 100% affordable housing obligation.

As proposed, the specific plan does not require on-site affordable housing, would provide only single-family, for sale residential development, and would not reserve a percentage of affordable housing for onsite hotel workers.

b) Expanded Park and Conservation Areas

The specific plan identifies 2.8 acres as Open Space – Recreation and 2.8 acres Open Space – Conservation areas. As described earlier, this not a significant amount given the size and location of the site, and the Coastal Act and certified LUP policies regarding protection and enhancement of public access and recreation, and habitat buffer requirements. Recently the project proponent has suggested the specific plan will provide 4.4 acres of public parks and 2.8 acres of conservation, an increase of 1.6 acres of park area. However, the proposed specific plan only requires 2.8 acres of each. The additional open space areas are not part of the specific plan as proposed.

c) Wetland Maintenance and Restoration Fund

Recent information circulated by the project proponent suggests that the specific plan would establish long term funding for the maintenance and restoration of the Huntington Beach Wetlands complex. This is to be accomplished by requiring a fee on the sale of each of the MTF residences, not just the initial sale, but with every future sale as well. However, there is nothing in the specific plan that requires this. No wetland manager funding is discussed or required by the specific plan as proposed.

d) Additional Parking

The project proponent has made recent claims that the specific plan will create more than 200 additional, new, free, on-street public parking spaces both on and off-site. It is not entirely clear how the 200 figure was determined, but it appears the proponent is counting new on-street parking on the internal loop road within the specific plan area, and parking spaces along Magnolia Street adjacent to the site, and along Hamilton Avenue, near, but inland of the site. An exhibit submitted on 8/18/2022 indicates the internal loop road could accommodate 111 public parking spaces (although the exhibit does not label them as public) and indicates that 45 parking spaces will be available on Magnolia Street adjacent to the MTF site. Magnolia Street already provides public parking spaces, so it is unclear how they will be new spaces. Although the parking on Magnolia Street is inexplicably limited to two hours, which should be changed. But there has not been a discussion regarding the removal of these time limits. There has been no discussion on the timing of availability of any of the parking spaces identified. However, the proposed specific plan does not address parking on Magnolia Street. In any case, the City could correct the parking time limit now. The specific plan is not required for the City to do that. Parking is also currently allowed on the north side of Hamilton Avenue, but it is also inexplicably limited, in this area to one hour. But, as with Magnolia Street, the City could correct this time limitation now, regardless of this specific plan. No parking is currently available on the south side of Hamilton, which appears to be related to on-going remediation efforts at the ASCON Superfund site. So, the proposed

specific plan will provide parking on its interior loop street. Public parking spaces along Magnolia Street and Hamilton Avenue are already provided, and the City could correct the restrictive time limits now, regardless of this specific plan. It remains unclear how the 200 new parking spaces figure was determined.

e) Additional Claims of Specific Plan Benefits

The project proponent has been circulating claims that the specific plan would provide funding for off-site parks and libraries, transit passes for hotel workers, partnerships with School Districts & NGOs in disadvantaged communities to provide free interpretive programs through HBWC & outreach to disadvantaged communities regarding the availability of low-cost overnight accommodations. However, no details about these measures have been shared with Commission staff other than a brochure that mentions them, without providing details. However, none of these are required by or described in the proposed specific plan. As approved by the City and submitted for Commission action, none of these amenities are required by the proposed specific plan.

If it were not most appropriate to retain the existing land use designation and zoning at the site as necessary to reduce coastal hazards as required by the Coastal Act and certified LUP, Commission staff would typically work with the proponent of a project driven LCPA to provide amenities that could make a project consistent with the standards of review. However, in this case, for the reasons described earlier, the proposed land use designation and zone changes are not consistent with the hazard and risk minimization policies of the Coastal Act and certified LUP nor with applicable public access policies. They also redesignate the MTF site to a lower priority use without sufficient evidence to demonstrate that the MTF site is not needed to provide protection from coastal hazards and resiliency from the effects of climate change. There are no modifications that could be suggested to change that, given the lack of information regarding the City's long-term responses to SLR, flooding, and other coastal hazards. The measures being touted by the project proponent cannot make the LCPA consistent with the Act or LUP.

IV. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.9 of the California Public Resources Code – within 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 an LCP. 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 Section 21080.5 of CEQA, the Commission is relieved of the responsibility to prepare an EIR for each LCP. However, the City did adopt an EIR for the proposed Specific Plan. The EIR was submitted to the State Clearinghouse and made available for public review on the City's website and at the City of Huntington Beach Department of Community Development.

Nevertheless, the Commission is required in approving an LCPA submittal to find that the LCP as amended 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 [California Code of Regulations Sections 13542(a), 13540(f), and 13555(b)]. However, pursuant to CEQA Guidelines (14 CCR) Section 15042 “a public agency may disapprove a project, if necessary, in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed.” In addition, Section 21080(b)(5) of CEQA, as implemented by Section 15270 of the CEQA Guidelines, provides that CEQA does not apply to projects which a public agency rejects or disapproves.

As outlined in this staff report, the LUP, as proposed to be amended, would not be consistent with the hazard, public access, or priority of use policies of the Coastal Act. And the IP, as proposed to be amended, would not be in conformance with or adequate to carry out, the hazards, priority of use, and public access and recreation policies of the certified Land Use Plan. Therefore, the Commission finds that approval of the LCP Amendment will result in significant adverse environmental impacts within the meaning of CEQA and that denial, for the reasons stated in these findings, is necessary to avoid the significant effects on coastal resources that would occur if the project was approved as proposed. The Commission denies LCP Amendment request No. LCP-5-HNB-21-0057-1, and denial of the project represents an action to which CEQA, and all requirements contained therein that might otherwise apply to regulatory actions by the Commission, do not apply.