



## STAFF REPORT SAN CLEMENTE PLANNING COMMISSION

Date: May 12, 2015

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**PLANNER:** John Ciampa, Associate Planner

**SUBJECT:** Coastal Land Use Plan for the City's Local Coastal Program

Public Hearing to consider a request for the Planning Commission to review and make a recommendation of approval to the City Council for the adoption of the City's updated Land Use Plan for the City's Local Coastal Program.

### **BACKGROUND**

The City is working on certification of our Local Coastal Program (LCP) to obtain local permit control in the City's Coastal Zone. A Certified LCP will allow the City to issue Coastal Development Permits (CDP) for projects in the Coastal Zone. A LCP will streamline the CDP review process for business and property owners who would no longer have to process permits through the Coastal Commission. The City's Land Use Plan (LUP) is a planning document similar to the General Plan, but specific to the City's Coastal Zone. The LCP is divided into two parts: (1) the Coastal LUP, which establishes the City's coastal policies and land uses and; (2) the Coastal Implementation Plan (IP) which includes development standards and requirements that implement the LUP. The first phase in obtaining certification of the LCP is to gain approval of the LUP. Staff is anticipating City Council approval of phase one by August 2015. The second phase is to obtain approval of the IP. Staff is anticipating City Council approval of phase two by March 2016. Once both phases are approved by the City Council and adopted by the Coastal Commission, the LCP can be certified and permit authority can be transferred to the City. Additional information on the background and process to obtain certification of a LCP is provided under Attachment 5.

Staff is requesting the Planning Commission review the draft LUP and provide comments. Once the comments are incorporated, staff will bring the draft back to the Planning Commission for their review and recommendation to the City Council.

### **ANALYSIS**

The proposed draft LUP is organized and formatted similarly to the City's LUP that was approved in 1995. The draft LUP includes policies from the existing LUP and Centennial General Plan. New policies to ensure consistency with the Coastal Act were developed with the use of the Coastal Commission's LCP guide, the City's consultant team, and Coastal Commission staff.

References to the origin of each policy are included at the end of each policy to help the Planning Commission and the public understand what an existing policy is and what is new. Policies that originate from the existing LUP (previous Coastal Element) have roman

numerals and policies e.g., VII.13 is a policy from section 7 of the existing LUP (previous Coastal Element). Policies taken from the General Plan have the initials of the element they are from, followed by the policy number, e.g., UD-5.18 is a policy from the Centennial General Plan Urban Design Element. New policies that have been added under the direction of the City's consultant team or the Coastal Commission staff do not have a reference.

Since the adoption of the City's LUP in 1995, there have been a number of new topics the Coastal Commission requires to be included in all LUP updates. These new topics include: affordable overnight accommodations, visitor serving uses, beach curfew/beach access, water quality, sensitive habitat, sea level rise/coastal erosion, and bluff/shore/canyon protective devices. These topics and noteworthy Coastal Commission staff input on these topics are discussed in more detail below.

### **Affordable Overnight Accommodations**

The Coastal Act requires Cities to provide and retain affordable overnight accommodations for visitors in the City's Coastal Zone. Policies and standards that ensure an appropriate mix of overnight accommodations over time are required to ensure compliance with the Coastal Act. Mitigations for allowing luxury or higher priced accommodations may also be required and could include construction or retention of lower cost facilities, such as campgrounds, hostels, budget hotels/motels, in-lieu fees, or organized youth programs with low cost overnight accommodations. If these cannot be incorporated into the project site, then off-site mitigation could be required.

The City has a stock of 457 hotel/motel rooms, 88 camping sites, and 72 recreational vehicle sites. The existing mix of available overnight accommodations in the City allows for a wide range of affordability, which results in a breakdown of 35 percent lower, 43 percent moderate and 22 percent higher cost accommodations being provided in the Coastal Zone. The City wants to allow for some flexibility in the range of affordable overnight accommodations. For example, if a new, higher end hotel is developed or if an existing hotel/motel is remodeled and increases its rates, then these projects will be required to address the affordable overnight accommodations issue and meet the policies identified in Chapter 2: Land Use (see policies LU – 43 through LU – 53).

### **Visitor-Serving Commercial Uses**

The Coastal Commission staff expressed concern with the lack of designated visitor-serving commercial land uses in the City. Currently the only location which is formally zoned as "visitor-serving" is the Pier Bowl. The City staff pointed out that visitor-serving uses are provided in the Downtown core (Del Mar) North Beach, and Pier Bowl (all areas in the Coastal Zone). These areas are in the City's Central Business District Overlay (CB), which require visitor-serving uses (retail, restaurant, lodging, and service uses) to be located in pedestrian orientated areas. In response to Coastal Commission staff's comments, the CB overlay area has been amended to be designated "Visitor-Serving Commercial District (VSCD)." Thus, policies have been added to prioritize visitor-serving commercial uses in these areas in Chapter 2: Land Use (see policies LU – 22, 23, 28, 29).

### **Beach Curfew/Beach Public Access**

The Coastal Act prioritizes maximizing public access to the coast and shoreline at all times. Closure of the beach or any portion of the pier inland of the mean high tide line to the public is discouraged and the public's right to gain access to State tidelands should be maintained.

In 1979, the City established Ordinance 749, which restricts the use of the beaches and the pier from midnight to 4:00 am. This was adopted to ensure public safety on the City beaches and Municipal Pier. The Coastal Commission staff recommended that the City modify its policy to allow public access to the public beaches and pier, and areas 20-feet inland of the mean height tide line at all hours; however, they have stated that access to the pier could be limited for reasons of public safety. City staff believes that the closure of the beaches and pier from midnight to 4:00am is justified because it is a public safety concern, and is consistent with the long standing beach curfew Ordinance, and is less restrictive than the State Beaches, which are closed between 10:00pm to 6:00am. The Coastal Commission staff expressed a strong position that beach access seaward of the mean high tide line must be allowed 24 hours a day to comply with the Coastal Act. To address this point, staff added PUB-64 Beach Curfew (Chapter 3 Public Access), to allow public beach access seaward of the mean high tide line. This policy would require an amendment to Ordinance 749 but City staff's position is that it would still fulfill the intent of the existing Ordinance, which restricts the use of the beach area during the early morning hours i.e., between 12:00am and 4:00am. The public use of the beach area seaward of the mean high tide line would be limited to activities like fishing and walking along the beach shoreline wet sand area.

### **Water Quality**

The Coastal Act requires the protection and enhancement of marine and coastal water resources, including water quality. Nonpoint source (NPS) pollution, also called polluted runoff, is the nation's leading cause of water pollution both at the coast and inland. Protection of coastal water resources requires not only minimizing pollutants in runoff, but also minimizing alterations in a site's natural hydrologic balance.

The Coastal Commission and the State Water Resources Control Board (SWRCB) have developed a state NPS pollution control program that provides a coordinated statewide approach to managing NPS pollution, and conforms to Federal Clean Water Act and Coastal Zone Management Act requirements for states to address NPS pollution.

The City of San Clemente has actively taken steps to ensure it is in compliance with the requirements of the SWRCB and the City's goals for clean ocean water. Policies to address water quality and consistency with these state standards are included in Chapter 4 Marine and Land Resources (See policies RES – 44 through RES – 66).

### **Sensitive Habitat**

The Coastal Act sets high standards for the protection of Environmentally Sensitive Habitat Areas (ESHA). These habitats include various types of wetlands, riparian areas, coastal prairies, woodlands and forests, and other natural resources located in the Coastal Zone.

The scope of work for the proposed LUP included a biological inventory that analyzed the City's coastal canyons, bluffs, and beaches to determine locations where sensitive habitat exist. Some of the surveys for the canyons could not be conducted on-site because of the limited access available to the private coastal canyons and it is possible ESHA may exist in these areas. For these potential ESHA areas, sensitive habitat policies RES-2 Site Specific Surveys, and RES-72 Biological Assessment, have been added to require a biologist to complete a field study for areas not identified as potential ESHA, but that might still have sensitive resources. If these more detailed site surveys determine ESHA is present on site then these projects/properties may require buffers to ensure the preservation of ESHA (Chapter 4.0: Marine and Land Resources see policy RES-3, 36). Additional policies allow for existing structures that are within the ESHA buffer setback to have improvements and additions as long as the development does not encroach closer towards the ESHA/wetland or wetland (Chapter 4.0: Marine and Land Resources see policies RES-7 Existing Development in ESHA Buffer, and RES-37 Development Near Wetlands).

### **Sea Level Rise/Coastal Erosion**

Shoreline resources are subject to coastal erosion and with projected sea level rise, shoreline erosion may be more pronounced in the future. The majority of structures and improvements in San Clemente are protected behind the existing train track revetment. Structures that are located in front of the revetment and subject to storm surges and sea level rise include: Marine Safety, pier, beach bathrooms, concession stands, and Capistrano Shores Mobilehome Park. New development in close proximity to the shoreline is required to be sited and designed in ways that minimize risk to life, property, public access, supply of sediment, and account for sea level rise and without the need to rely on future shoreline protection (Chapter 5: Hazards, Policies HAZ-2 – HAZ-4). Additional policies to address new development on the shoreline and bluffs are identified as HAZ-45 through HAZ-54.

### **Bluff/Shore/Canyon Protective Devices**

The Coastal Act Sections 30235 and 30253 provide standards under which shoreline protective structures may be considered to respond to coastal erosion. The Coastal Act strongly discourages the use of shoreline protection and only allows it for coastal dependent uses and to protect existing development i.e., existing pre-Coastal Act. Managing new and existing coastal zone development to respond to coastal hazards is a key component of a local coastal program. The Coastal Act policies direct new development to reduce risks to life and property and avoid substantial changes to natural landforms. Policies that address these issues are found in Chapter 5: Hazards and include HAZ-26 through HAZ-38.

### **RECOMMENDATION**

**STAFF RECOMMENDS THAT** the Planning Commission provide comments to staff and continue the item to a public hearing in June to provide a revised draft LUP for a recommendation of approval to the City Council.

**Attachments:**

1. [Draft LUP Chapters 1-7](#)
2. [Appendix - Biological Inventory](#)
3. [Appendix – Beach Amenities](#)
4. [Appendix – Overnight Accommodations Maps](#)
5. [Appendix – Affordable Overnight Accommodations Analysis](#)
6. [Planning Commission Study Session Memo 4/22/15](#)
7. [Planning Commission Study Session Minutes](#)
8. [BPRC Minutes January 13, 2015](#)
9. [CAC Minutes January 8, 2015](#)
10. [Public Comment](#)