



STAFF REPORT SAN CLEMENTE PLANNING COMMISSION

Date: September 19, 2018

CRS

PLANNER: Leslea Meyerhoff, AICP, LCP Manager

SUBJECT: **Local Coastal Program Land Use Plan Amendment**, a request to consider publication of a draft Local Coastal Program (LCP) Land Use Plan (LUP) Amendment for a six-week public review and comment period beginning September 19, 2018 and ending October 31, 2018.

REQUIRED FINDINGS

There are no findings that are required to be made for this requested action.

BACKGROUND

On February 8, 2018, the California Coastal Commission (CCC) approved a comprehensive update to the City of San Clemente's Local Coastal Program (LCP) Land Use Plan (LUP) with suggested modifications (Major LCP Amendment No. 1-16 (LCP-5-SCL-16-0012-1)). On June 12, 2018, the City Council adopted Resolution No. 18-19 approving and adopting the LCP comprehensive LUP update as modified and approved by the Coastal Commission. On August 10, 2018, the Coastal Commission certified the comprehensive LUP update.

At the June 12, 2018 City Council Meeting, the Council directed City Staff to prepare a focused Land Use Plan Amendment (LUPA) to modify certain key provisions in the LUP as described more fully below and in Attachment 1.

PROJECT DESCRIPTION

The City Council directed City Staff to prepare a focused Land Use Plan Amendment (LUPA) to modify certain key provisions in the LUP relating to:

1. The start date for calculating cumulative changes to an existing structure relative to the "Major Remodel" definition contained in Chapter 7 of the Certified LUP.
2. The land use designation of two southernmost parcels on Coronado Lane from MU4 (Mixed Use-4) to RH (Residential High) and the boundary of the Visitor Serving Commercial District Overlay to exclude these same two parcels as contained in Chapter 2 of the LUP.

3. Other topics as may be needed to address clean up, non-substantive edits, factual errors or other changes as directed by the City Council.

This proposed draft LUPA (Attachment 1) has been developed by the City in coordination with interested stakeholders and CCC staff and must undergo a six week public review and comment period prior to its formal submittal to the CCC for processing.

Following the conclusion of the LUPA public review period and a public hearing before the City Council, tentatively scheduled for November / December 2018, it is anticipated that the LUPA will be submitted to the CCC for processing and formal consideration by the CCC at a meeting in 2019.

Once the LUPA application has been deemed complete for processing by the CCC, the CCC must take action on the City's LUPA application within a maximum of 90-days plus a one year extension with City concurrence and formal action by the CCC to extend the processing time limits.

The document included as Attachment 1 includes text, policies and definitions and constitutes the draft LUPA. The City's draft LUPA contains both substantive and non-substantive changes, additions and deletions. This LUPA should be regarded as a draft document for consideration at this time. There may be further revisions to the LUPA, based on:

- Ongoing coordination and input from public stakeholders;
- Ongoing input from the CCC Staff; and
- Direction provided by the City Council at a future public hearing.

Noticing

Public notices were distributed and posted per City and State requirements. Staff has not received any public comments on this item to-date.

ENVIRONMENTAL REVIEW / COMPLIANCE (CEQA)

Preparation and adoption of a LCP, and amendments thereto, is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15265. The LCP process is exempt because the criteria under the Coastal Act are the functional equivalent of the EIR process.

CALIFORNIA COASTAL COMMISSION REVIEW

The project would require CCC review and approval following the conclusion of the six-week public review and comment period and direction by the City Council to submit the LUPA to the CCC for processing.

RECOMMENDATION

Staff recommends that the Planning Commission:

1. Recommend that the project is Statutorily Exempt from the requirements of the CEQA pursuant to CEQA Guidelines Section 15265 as the LCP process is exempt because the criteria under the Coastal Act are the functional equivalent of the EIR process.
2. Adopt Resolution PC 18-023 authorizing staff to publish a draft Local Coastal Program Land Use Plan Amendment for a six-week public review and comment period beginning September 19, 2018.

Attachments:

1. Draft LCP LUPA
2. Resolution No. PC 18-023

Draft Amendment to the City of San Clemente Local Coastal Program (LCP) Land Use Plan (LUP)

Introduction and Overview

On February 8, 2018, the California Coastal Commission approved a comprehensive update to the City of San Clemente's Local Coastal Land Use Plan with suggested modifications (Major LCP Amendment No. 1-16 (LCP-5-SCL-16-0012-1)). At public hearing on June 12, 2018, the City Council adopted Resolution No. 18-19 approving the comprehensive LUP update. On August 10, 2018, the Commission's Executive Director certified the comprehensive LUP update.

At the June 12, 2018 public hearing, the City Council also directed City Staff to prepare a focused Land Use Plan Amendment to modify certain key provisions in the LUP relating to:

1. The start date for calculating cumulative changes to an existing structure relative to the "Major Remodel" definition contained in Chapter 7 of the LUP.
2. The land use designation of the (two) southernmost parcels on Coronado Lane from MU4 (Mixed Use-4) to RH (Residential High) and the boundary of the Visitor Serving Commercial District Overlay to exclude these same parcels as contained in Chapter 2 of the LUP.
3. Other topics as may be needed to address clean up, non-substantive edits, factual errors or other changes as directed by the City Council.

This draft LUPA has been developed by the City in coordination with interested stakeholders and Commission staff and will be issued for a six-week public review and comment period beginning on September 19, 2018 and ending on October 31, 2018.

Following the conclusion of the LUPA public review period and a public hearing before the City Council, tentatively scheduled for November/December 2018, it is anticipated that the LUPA will be submitted to the Commission for processing and formal consideration at the Commission meeting in March 2019.

The following revised text, policies and definitions constitute the LUPA. It contains substantive and non-substantive changes, additions and deletions. This LUPA should be regarded as a draft document for consideration by the City Council and the public.

There may be further revisions to this LUPA, based on:

1. Ongoing coordination and input from the stakeholders;

2. Ongoing input from the Commission Staff; and
3. Direction provided by the City Council at a future public hearing.

Basis of LUP Amendment regarding the Calculation of Cumulative Changes for Major Remodels

The LUP contains a new definition for “major remodel” and treats a “major remodel” as “new development” instead of an “existing structure”. This means that, like new development, a major remodel requires a coastal development permit and is subject to certain restrictions on future development, including potential future limits on shoreline protection. (LUP, HAZ-19 (p. 5-12).)

The recently certified LUP defines a “major remodel” as:

1. An alteration of 50% or more of a major structural component (i.e., exterior walls, floor structure, roof structure, and foundation); or
2. An increase of 50% or more of floor area. (LUP, ch. 7, definition of “Major Remodel” (p. 7-12).)

An alteration or increase of less than 50% of a single structural component is not considered a “major remodel”, unless that alteration or increase plus previous alterations or increases dating back to January 1, 1977, the effective date of the Coastal Act, total to a cumulative alteration or increase of 50% or more.

The start date for purposes of calculating/tracking cumulative alterations or increases is therefore an essential threshold and the subject of this LUPA:

- **Newly Certified LUP: 1977 Date.** The LUP calculates cumulative alteration or increase by dating back to January 1, 1977, the effective date of the Coastal Act.
- **LUPA: 2018 Date.** This LUPA would calculate cumulative alteration or increase by dating back to August 10, 2018, the certification date of the comprehensive LUP update.

Consider the following example: A homeowner built a 1,000-square foot single-family house on January 1, 1977. The homeowner made the five additions, each of which increased the floor area of the house, starting with new bedroom on January 1, 1987 and ending with an additional bedroom on August 11, 2018:

Date	Project	Addition (sq. ft.)	Total (sq. ft.)	Cumulative Increase	
				1977 Date	2018 Date
Jan. 1, 1977	Initial House		1,000		
Jan. 1, 1987	Bedroom	100	1,100	10%	
Jan. 1, 1997	Bathroom	100	1,200	20%	
Jan. 1, 2007	Office	100	1,300	30%	
Jan. 1, 2018	Garage	100	1,400	40%	
Aug. 11, 2018	Bedroom	300	1,700	50%	21%

Using the current LUP's 1977 date, the new bedroom on August 11, 2018 would amount to a major remodel. The new bedroom plus the previous bedroom, bathroom, office, and garage equal 700 square feet, which is 70% increase in floor area from the house at 1,000 square feet dating back to January 1, 1977.

Under the LUPA's 2018 date, the new bedroom added on August 11, 2018 would not result in the structure exceeding the major remodel threshold. The new bedroom is 300 square feet, which is only 21% of the house at 1,400 square feet dating back to August 10, 2018.

Throughout the LUP Update process, the City's residents' clearly and consistently objected to the inclusion of policy triggers tied to the date of January 1, 1977 (the Coastal Act's effective date). For example, as demonstrated by the testimony and record from the February 8, 2018 Commission meeting, the City's residents and leadership opposed a policy that would define "existing structures" as "existing before January 1, 1977" for purposes of Coastal Act, section 30235 shoreline protection rights.

As demonstrated by the testimony and record from the June 12, 2018 City Council meeting, the community and the City Council supported the LUP, with the expectation that the major remodel definition's use of the 1977 date would be addressed and resolved by way of a subsequent LUP amendment.

The City submits this LUPA to calculate the cumulative alterations and increases dating back to August 10, 2018, which is the effective certification date of the comprehensive LUP update, for major remodels for the following reasons:

- No other city or county in California currently uses the 1977 date in their LCP as the starting date for purposes of determining when a remodel is treated as "new development" and is unwarranted that San Clemente be singled out and subjected to an inequitable burden.
- Because the use of the 1977 date for major remodels is a new policy in the LUP and is not consistent practice for Commission-issued coastal development

permits, it is not reasonable and potentially punitive to property owners to apply this new standard retroactively back 40 years.

- Use of the 2018 date will ensure that current property owners have adequate notice that an alteration or increase that is not a major remodel today, could be an incremental step towards a cumulative remodel in the future and therefore the land use restrictions required for new development would be triggered.
- The major remodel threshold is the point at which an existing structure would be treated as new development subjecting it to a stricter standard, including potential restrictions if the structure were to become threatened with coastal erosion in the future.
- The 1977 date could act to limit access to shoreline protection, a right protected by the Coastal Act (Pub. Res. Code, § 30235), for structures built after January 1, 1977, but that have incurred incremental change over the 40 years.
- The 1977 date is likely unenforceable for various reasons including the fact that the “major remodel” definition is new for 2018 and due to incomplete record-keeping as many past remodels would not have required discretionary permits from the City or Commission and therefore cannot be readily tracked for purposes of determining if/when a structure has exceeded the major remodel threshold.
- The 2018 date is consistent with the dates used in other LCPs certified by the Commission recently which use a date of the LUP or IP certification to calculate cumulative changes towards a remodel.

Basis of LUP Amendment regarding Land Use Designation for two parcels at 119 Coronado Lane and 512 Monterey Lane in the Pier Bowl Area

The LUP established land use designations for properties within the Coastal Zone. These land use designations (e.g., residential, commercial, mixed use, open space, etc.) set the allowable types of use, densities, and intensities for each parcel.

Two parcels within the Pier Bowl area, APNs 692-022-09 (119 Coronado Lane) and 936-960-01, 936-960-02 and 936-960-03 (one parcel with three APNs, 512 Monterey Lane) were re-designated from Residential High (RH) to Mixed Use 4 (MU4). (LUP, figure 2-1-C (p. 2-7).)

The Pier Bowl area is intended to be “a high activity, pedestrian-oriented, coastal activity center serving residents and visitors.” (LUP, § 2.5.4 (p. 2-28).) The land use designation of these parcels is the subject of this LUPA:

- **Current LUP: MU4.** The LUP designates the parcels as MU4.
- **LUPA: RH.** This LUPA would designate the parcels as RH, as they were before the comprehensive LUP update and as they are currently in the General Plan.

The standards and characteristics of the RH and MU4 land use designations (LUP, table 2-1 (pp. 2-14 and 2-18)) are shown below:

Land Use Designation	Maximum Density	Building Height (TOR = Top of Roof) (PL = Plate Line)	Allowable Uses
Residential High (RH)	24.0 units per gross acre 36.0 units per net acre	TOR: 45 feet Coronado Lane properties in Pier Bowl area: 30 ft. TOR	Single-family attached homes, townhomes, condominiums, multifamily apartments, Bed and Breakfast facilities, Senior housing, and boarding houses public open space, and recreation.
Mixed Use 4 (MU4)	24.0 units per gross acre 36.0 units per net acre Commercial or mixed use projects: 1.00-2.00 FAR	TOR: 30 feet	Visitor-serving commercial uses with residential units (including Senior housing) on upper floors.

While the City supports the promotion of visitor serving land uses in the Pier Bowl area, the City does not support changing the land use designation of these parcels from RH to MU4, because of concerns related to the history of development on the parcels and compatibility with nearby properties.

The City submits this LUPA to designate the two parcels with APNs 692-022-09 (119 Coronado Lane) and 936-960-01, 936-960-02 and 936-960-03 (512 Monterey Lane) in the Pier Bowl Area RH for the following reasons:

- The City Council recently changed the General Plan land use designations in this area, including these parcels, from mixed use to residential high. After more than

two decades with a commercial land use designation, commercial land uses in this location have not proven to be either viable or sustainable. To date, there has been a lack of successful businesses emerging in this location.

- While the City Council supports promoting visitor serving land uses in the Pier Bowl area, there is inadequate pedestrian and vehicular traffic at these parcels to support commercial land uses. This lack of traffic is due, in part, to several facts regarding circulation design in the area: First, the current street configuration of Monterey Lane limits one-way traffic to the west. Second, the circulation patterns direct both pedestrian and vehicular traffic generally north along Avenida Victoria then northeast to Avenida del Mar to San Clemente State Beach, Parque Del Mar, Park Semper Fi, and the main public beach parking lot.
- Changing the designation of these parcels in no way forecloses the City's continued efforts to promote visitor serving commercial uses in the area. The City may pursue the promotion of other visitor serving commercial land uses in future updates to the Pier Bowl Specific Plan, by focusing on locations where a market analysis indicates additional commercial land uses could have a higher likelihood of success.

Text of the Draft LUPA

The specific text of the LUPA is provided in the table below and is organized by LUP Chapter. Deletions are shown in ~~strikeout~~ and additions are shown in underline.

San Clemente Draft LCP LUP Amendment

LUP Chapter 2 – Proposed Revisions

Chapter 2, Page 2-7 and Figure 2-1-C :

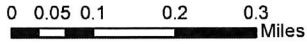
The City desires to restore/retain the underlying land use designation to RH (Residential High Density) from the CCC-initiated change to MU4 (Mixed Use 4) and remove VSCD (Visitor Serving Commercial District) overlay on the (two) southwestern parcels on Coronado Lane as shown in the attached revised figure.



Figure 2-1-C

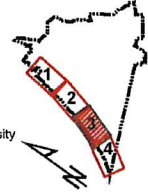
Land Use Designations

September 2018

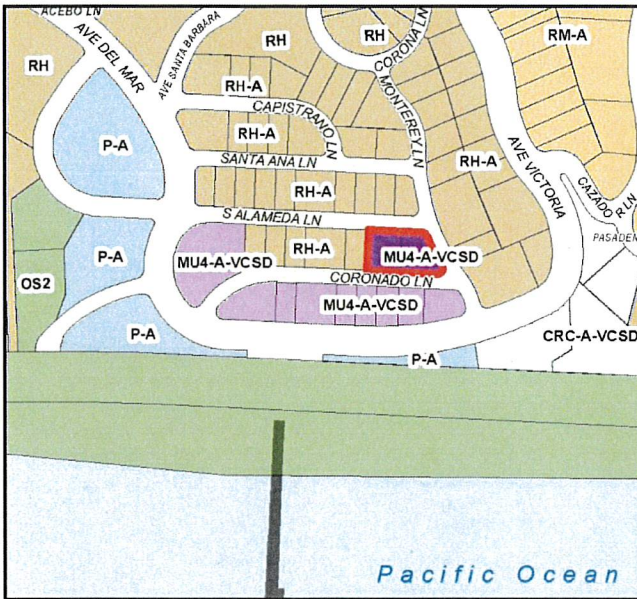


LEGEND

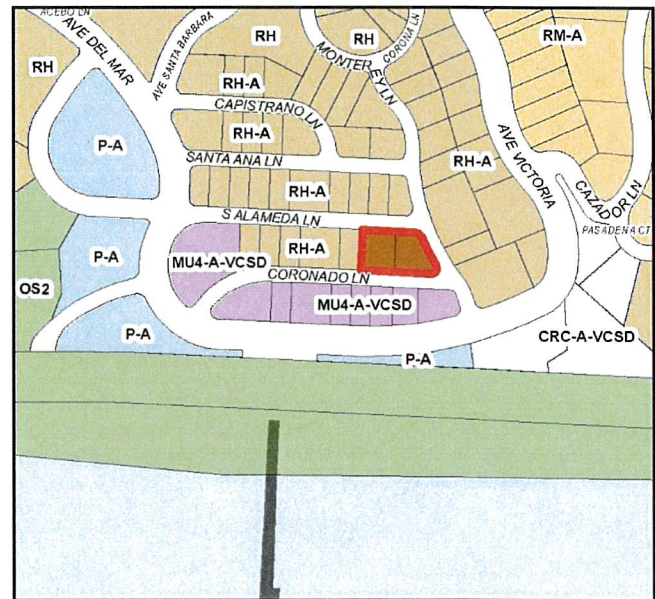
- Coastal Zone Boundary
- Commercial
 - CC2 - Community Commercial 2
 - CC3 - Community Commercial 3
 - CRC - Coastal and Recreation Serving Commercial
 - NC1.3 - Neighborhood Commercial 1.3
 - Mixed Use
 - MU3.0 - Mixed Use 3.0
 - MU3.1 - Mixed Use 3.1
 - MU3.2 - Mixed Use 3.2
 - MU3.3 - Mixed Use 3.3
 - MU4 - Mixed Use 4
 - MU5 - Mixed Use 5
- Open Space
 - OS1 - Open Space Public
 - OS2 - Open Space Private
- Public Facilities
 - P - Public
- Residential
 - RL - Residential Low Density
 - RM - Residential Medium Density
 - RH - Residential High Density



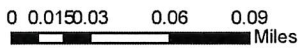
Existing LUP Land Use



Proposed Change: MU4 to RH



Proposed Land Use Plan Amendment



September 2018

LEGEND

- Existing MU4 area
- Proposed RH area*

Commercial

CRC - Coastal and Recreation Serving Commercial

Mixed Use

MU4 - Mixed Use 4

Open Space

OS1 - Open Space Public

Public Facilities

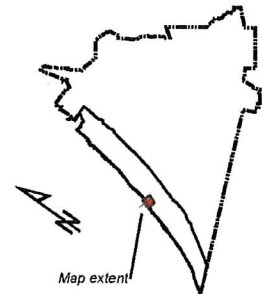
P - Public

Residential

RM - Residential Medium Density

RH - Residential High Density

*Note: The proposed LUPA restores the two parcels to their previous land use classification and removes the VCSD overlay.



LUP Chapter 7 – Proposed Revisions

Chapter 7, Page 7-12:

“MAJOR REMODEL” Alterations that involve (1) additions to an existing structure, (2) exterior and/or interior renovations, and/or (3) demolition of an existing bluff top or beachfront or coastal canyon single-family residence or other principal structure, or portions thereof, which results in:

- a. Alteration of 50% or more of major structural components including exterior walls, floor and roof structure, and foundation, or a 50% increase in floor area. Alterations are not additive between individual major structural components; however, changes to individual major structural components are cumulative over time from January 1, 1977 the LUP effective Certification date (August 10, 2018).

or

- b. Demolition, renovation or replacement of less than 50% of a major structural component where the proposed alteration would result in cumulative alterations exceeding 50% or more of a major structural component, taking into consideration previous alterations approved on or after the ~~date of certification of the LUP~~ LUP effective certification date (August 10, 2018); or an alteration that constitutes less than 50% increase in floor area where the proposed alteration would result in a cumulative addition of greater than 50% of the floor area taking into consideration previous additions approved on or after ~~January 1, 1977~~ the LUP effective Certification date (August 10, 2018).

If development constitutes a Major Remodel as defined herein, a Coastal Development Permit shall be required. As used in this LUP, the term “redevelopment” shall be interchangeable with the term “major remodel.”

ANTICIPATED SAN CLEMENTE LUPA PROCESSING TIMELINE

City preparation of focused Draft LUPA	June to August 2018
City and Commission coordination	June 2018 to January 2019
6-week public review period for LUPA	September-October 2018
Coastal Advisory Committee information session on LUPA	September 13, 2018
Planning Commission consideration of LUPA	September 19, 2018
City Council consideration of LUPA	November 2018
City submits LUP to Commission	November-December 2019
Commission action on the LUPA within 90 days of the City's submittal (Pub. Res. Code, § 30512(a))	March 2019

REFERENCE MATERIALS

The following information is not part of the LUPA; however, it is provided for informational purposes/reference and to provide context for the specific text changes contemplated in this LUPA.

The Solana Beach and Newport Beach LCP's are referenced below as they are among the most recently certified, comprehensively updated LCP's/ LUP's in the State.

Solana Beach Certified LUP

- The Solana Beach Certified LUP contains a similar definition/term in its LUP (e.g., Bluff Top Redevelopment) and uses the LUP Certification date as the threshold year for cumulative structural changes.
- *“Bluff Top Redevelopment” shall apply to proposed development located between the sea and the first public road paralleling the sea (or lagoon) that consists of alterations including (1) additions to an existing structure, (2) exterior and/or interior renovations, (3) and/or demolition of an existing bluff home or other principal structure, or portions thereof, which results in:*

(a) Alteration of 50% or more of major structural components including exterior walls, floor and roof structure, and foundation, or a 50% increase in floor area. Alterations are not additive between individual major structural components; however, changes to individual major structural components are cumulative over time from the date of certification of the LUP.

Demolition, renovation or replacement of less than 50% of a major structural component where the proposed alteration would result in cumulative alterations exceeding 50% or more of a major structural component, taking into consideration previous alterations approved on or after the date of certification of the LUP; or an alteration that constitutes less than 50% increase in floor area where the proposed alteration would result in a cumulative addition of greater than 50% of the floor area taking into consideration previous additions approved on or after the date of certification of the LUP.

In the Solana Beach IP the City is sticking with the LUP certification date as the point from which cumulative improvements to existing structures would be tracked/measured.

Newport Beach Certified LCP:

- *Non-conforming Structure: A structure that was lawfully erected, but which does not conform with the property development regulations prescribed in the regulations for the district in which the structure is located by reason of adoption or amendment of this code or by reason of annexation of territory to the City.*
- *Non-conforming Use: A use of a structure or land that was lawfully established and maintained, but which does not conform with the use regulations or required conditions for the district in which it is located by reason of adoption or amendment of this code or by reason of annexation of territory to the City.*
- The Newport Beach Certified LCP (which was most recently amended in 2017 and is currently being amended again) does not define either “Bluff Top Remodel” or “Major Remodel” but does define non-conforming uses and structures as follows with no reference to 1977 but more closely tracks the LUP certification date implicitly and thus is not retroactive to a previous year.
- Also, Newport Beach is currently processing an LCP Amendment (both LUP and IP amendments). Of note, they are adding a definition of "minor remodel" and adding more flexibility to development standards in the form of relief and variances.
- Also, the amendment contains a waiver of shoreline protection but it is limited to waiving rights to the seaward expansion of existing shoreline protection not limiting rights to future shoreline protection.

RESOLUTION NO. PC 18-023

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AUTHORIZING STAFF TO PUBLISH A DRAFT LOCAL COASTAL PROGRAM LAND USE PLAN AMENDMENT FOR A SIX-WEEK PUBLIC REVIEW AND COMMENT PERIOD BEGINNING ON SEPTEMBER 19, 2018

WHEREAS, on February 8, 2018, the California Coastal Commission (CCC) approved a comprehensive update to the City of San Clemente's Local Coastal Program (LCP) Land Use Plan (LUP) with suggested modifications (Major LCP Amendment No. 1-16 (LCP-5-SCL-16-0012-1)); and

WHEREAS, at public hearing on June 12, 2018, the City Council adopted Resolution No. 18-19 approving the comprehensive LUP update; and

WHEREAS, on August 10, 2018, the California Coastal Commission certified the comprehensive LUP update; and

WHEREAS, at the June 12, 2018 San Clemente public hearing, the City Council also directed City Staff to prepare a focused Land Use Plan Amendment (LUPA) to modify certain key provisions in the LUP relating to (1) the start date for calculating cumulative changes to an existing structure relative to the "Major Remodel" definition contained in Chapter 7 of the LUP and (2) the land use designation of (two) southernmost parcels on Coronado Lane from MU4 (Mixed Use-4) to RH (Residential High) and the boundary of the Visitor Serving Commercial District Overlay to exclude these same parcels as contained in Chapter 2 of the LUP; and

WHEREAS, the draft LUPA may be further modified to include other topics as may be needed to address clean up, non-substantive edits, factual errors or other changes as directed by the City Council; and

WHEREAS, the Draft LCP LUPA is described more fully in Attachment 1 to the Staff Report; and

WHEREAS, the draft LUPA must undergo a six-week public review and comment period prior to formal acceptance of the LUPA for processing by the CCC; and

WHEREAS, preparation and adoption of a LCP, and amendments thereto, is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15265. The LCP process is exempt because the criteria under the Coastal Act are the functional equivalent of the EIR process; and

WHEREAS, on September 19, 2018, the Planning Commission of the City of San Clemente held a duly noticed public hearing on the draft LUPA, considered written and oral comments, and facts and evidence presented by the applicant, City staff, and other interested parties.

NOW, THEREFORE, The Planning Commission of the City of San Clemente does hereby resolve as follows:

Section 1. Incorporation of Recitals.

The Planning Commission hereby finds that all of the facts in the Recitals are true and correct and are incorporated and adopted as findings of the Planning Commission as fully set forth in this resolution.

Section 2. CEQA Findings.

Based upon its review of the entire record, including the Staff Report, any public comments or testimony presented to the Planning Commission, and the facts outlined below, the Planning Commission hereby finds and recommends that the proposed project is statutorily exempt from CEQA pursuant to State CEQA Guidelines Section 15265.

Section 3. Planning Commission Recommendation.

Based on the entire record before the Planning Commission, all written and oral evidence presented to the Planning Commission, and the findings made and evidence discussed in the staff report and this Resolution, the Planning Commission hereby authorizes City Staff to publish the draft Local Coastal Program Land Use Plan Amendment for a six-week public review and comment period beginning on September 19, 2018 through October 31, 2018 as more fully described in Attachment 1 to the Staff Report.

PASSED AND ADOPTED at a regular meeting of the City of San Clemente Planning Commission on September 19, 2018.

Chair

CERTIFICATION:

I HEREBY CERTIFY this Resolution was adopted at a regular meeting of the City of San Clemente Planning Commission on September 19, 2018, carried by the following roll call vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS:

Secretary of the Planning Commission