



PLANNING COMMISSION STUDY SESSION MEMORANDUM

Date: February 16, 2022
To: Planning Commissioners
From: Christopher Wright, Associate Planner II
Leslea Meyerhoff, AICP, LCP Manager
Subject: Local Coastal Program Implementation Plan and Land Use Plan
Amendment Informational Update and Overview

This study session is to familiarize the Planning Commission with the draft Local Coastal Program (LCP) Implementation Plan (IP) and Land Use Plan Amendment (LUPA) for the major remodel definition.

Background

An LCP consists of (1) a Land Use Plan (LUP) and (2) a Local Implementation Plan (IP) which together contain land use policies, zoning requirements and development standards to implement the California Coastal Act of 1976 (Public Resources Code, Division 20) within the City's Coastal Zone. All Cities and Counties in the California "Coastal Zone" are required to have a Local Coastal Program (LCP). The "Coastal Zone" varies by jurisdiction but generally consists of the land area inland up to 1,000 yards of the Pacific Ocean. The City's Coastal Zone generally extends inland to Interstate 5 and comprises approximately 15% of the total land area within San Clemente. Refer to Attachment 1 for a map of the Coastal Zone.

On November 3, 2021, a study session was held to provide an overview of the LCP and schedule for this project. For this information, please refer to Attachment 2 for the November 3, 2021 [study session memorandum](#).

The City released a public review draft of the IP and LUPA for a six-week period beginning on February 14, 2022, and ending on March 28, 2022. Staff will revise the draft in response to comments and prepare a public hearing draft that the Planning Commission is expected to consider in Spring 2022. The Planning Commission's role is to forward a recommendation to the City Council on the adoption of the IP and LUPA.

Local Coastal Program Implementation Plan

The City desires to ensure that the City's vision, preference and long-term land use goals are fully embedded in the coastal planning process. To that end, staff has drafted an IP to reflect the unique character and conditions of the San Clemente community. The driving force behind the City's goal of obtaining a Certified LCP is to ensure the City retains control over local projects in the Coastal Zone and to provide greater certainty to property owners and businesses. The outcome of this LCP update effort will be a streamlined Coastal Development Permit (CDP) process enabling property owners to obtain a single City approval.

The IP will be the primary tool used by the City to carry out the goals, objectives, and policies for the Coastal Zone. The zones and regulations in the draft IP are consistent with the General Plan and LUP, as required by State law. Should a conflict exist between the policies set forth in any element of the City's General Plan, Zoning, or any other ordinance and those of the LUP, the policies of the LUP shall take precedence.

The purpose of the LCP Implementation Plan is to:

- Implement the policies of the LUP and the Coastal Act;
- Protect, maintain, enhance and restore the overall quality of the Coastal Zone and its natural and man-made resources and developed areas;
- Assure orderly, balanced use and conservation of resources within the Coastal Zone taking into account social and economic needs;
- Maximize public access to and along the coast and maximize public recreational opportunities in the Coastal Zone consistent with sound resource conservation principles and constitutionally protected rights of private property owners;
- Assure priority for coastal-dependent and coastal-related development over other types of development on the coast;
- Facilitate Federal, State and local cooperation in planning and development of mutually beneficial uses in the Coastal Zone; and
- Ensure that any development in the Coastal Zone preserves and enhances coastal resources; protects and enhances coastal views and access; and ensures that growth, development, and environmental management activities are conducted in a manner consistent with the provisions of the LUP.

The IP will become Title 18 of the Municipal Code. The IP will apply to the Coastal Zone, except for Capistrano Shores, an Area of Deferred Certification (ADC) and original permit jurisdiction areas depicted on the Post-LCP Certification Permit and Appeal Jurisdiction Map adopted pursuant to Coastal Act Section 30519. The IP was drafted based on regulations in Title 17 and in part on one of the other most recently approved and Certified IPs from the City of Newport Beach.

Specific plans for the Pier Bowl, West Pico Corridor, Forster Ranch, and Marblehead Coastal are documents regulating development on land within the boundaries of each respective specific plan within the Coastal Zone. The regulations included in the specific plans supplement and may supersede regulations in the IP. When regulations related to specific development are not included in the specific plans, the provisions of the IP apply.

Differences Between the Zoning Code and Draft Implementation Plan

While the IP is largely based on the Zoning Code, the following is a list of new or modified regulations in the draft IP that will apply to the Coastal Zone. At the study session, staff will provide examples for these listed items.

- The IP is organized into six parts unlike Title 17 which flows as a single document and has no internal divisions.
- The IP establishes one new zoning district overlay based on the LUP – Visitor Serving Commercial District Overlay (VCSD) (Chapter 18.08 & 18.60).
- The IP establishes a new permit type for development in the Coastal Zone namely, the Coastal Development Permit or CDP (Chapter 18.12).
- The IP establishes procedures for keeping Coastal Commission staff informed regarding CDP's processed by the City.
- The IP establishes a process for obtaining Emergency CDP's (Chapter 18.16).
- The IP establishes new setback requirements for coastal bluff and canyon lots (Chapter 18.20).
- The IP establishes new parking regulations for bike parking, tandem and stacked parking and greater allowable distance for downtown off-site employee parking (Chapter 18.24).
- The IP establishes a new date and thresholds for major remodel and existing legal non-conforming structures (Chapter 18.32).
- The IP establishes environmentally sensitive habitat area related development standards including buffers (Chapter 18.64).
- The IP establishes requirements for coastal hazards analyses for coastal bluff and canyon lots (Chapter 18.68).
- The IP establishes coastal public access standards for coastal bluff lots (Chapter 18.80).
- The IP codifies the LUP Definitions (Chapter 18.84).
- The IP contains some updated and new figures (Chapter 18.88).
- The IP clarifies that if a certain City zoning regulation (i.e., signs) is not in Title 18, the requirements of Title 17 apply.

A more detailed list will be provided to the Planning Commission at an upcoming study session or when a public hearing draft IP is completed in Spring/Summer 2022. At this study session, staff will provide examples for the listed topics above

Land Use Plan Amendment

The City has a Certified LUP that was comprehensively updated in 2018. As approved, the LUP added a new definition for major remodel that included the Commission staff's recommended start date of the Coastal Act's effective date, January 1, 1977. The proposed LUPA returns to the City's initially submitted start date of the LUP's certification date, August 10, 2018. Refer to Attachment 3 for the draft LUPA. The City initiated the LUPA for three reasons:

- The 1977 date in the major remodel definition was left behind after the Commission removed all other references when it approved the comprehensive update to the LUP.
- On May 22, 2018, after the Commission's hearing and before the City Council's hearing, the City staff held a public workshop on the Commission's suggested modifications to the LUP.
- Of hundreds of suggested modifications, the community homed in on one as the most problematic—the 1977 start date in the major remodel definition.

Coastal Commission staff from the South Coast District Office attended and participated in the public workshop, after which they acknowledged the community's concerns and agreed to work with City staff on an amendment to address those concerns. This compromise enabled the City, with the community's support, to accept the Commission's hundreds of suggested modifications to the LUP. Accordingly, the LUPA was prepared by the City in close coordination with community stakeholders and the Commission staff. On December 18, 2018, the City Council approved submission of the LUPA to the Coastal Commission. (Reso. No. 2018-57)

The major remodel definition concerns the point at which existing development will again be treated as new development. A major remodel means alteration of 50 percent or more of major structural components or a 50 percent or more increase in floor area. An alteration of major structural components or increase in floor area of less than 50 percent constitutes a major remodel if the cumulative changes in the past total 50 percent. (LCP LUP, definition of "Major Remodel" (the terms "Redevelopment" and "Major Remodel" are expressly interchangeable in the LUP). This means that incremental structural changes over time can add up to a "major remodel".

The City and its community support the 2018 (LUP Certification start date) and objected to using 1977 during the LUP certification process and fought hard to have any and all references removed from the LUP that were added by CCC staff

in the form of “Suggested Modifications”: Accordingly, the City and its community support the 2018 start date and object to the 1977 start date for the following reasons:

- A 1977 start date is unfair to and unenforceable against property owners who made alterations to their property or purchased property that underwent prior incremental changes before the comprehensive update to the LUP
- A 1977 start date, in effect, represents a retroactive change, absent notice, to the development rules and deems several properties nonconforming,
- No other jurisdiction is required to track or voluntarily tracks cumulative changes dating back to 1977. The LUPA addresses these concerns by amending the LUP to change the start date from 1977 to 2018.
- The 1977 start date is not required for the LUP to be found consistent with Chapter 3 of the Coastal Act Chapter and with the California Environmental Quality Act.
- Lastly, a 1977 start date is an overt effort to introduce CCC staff’s preferred interpretation of “existing structure” as used in Coastal Act section 30235 regarding rights to shoreline protection.
- The City prefers to utilize the plain an ordinary meaning of “existing” as that in existence at the time of permit application; however, in an effort to reach a compromise with CCC staff the City would allow 2018 to become the new baseline for counting cumulative structural changes under the major remodel thresholds in the LUP.

Next Steps

According to terms of the LCP planning grant, the City is to prepare a public hearing draft IP prior to April 30, 2022. After the IP is formally submitted to the Coastal Commission, they are expected to provide suggested modifications that require changes to the draft IP and possibly to the specific plans for Coastal Zone areas. In this event, staff will seek guidance from Planning Commission and City Council on revisions, in addition to public input. Staff intends to release a revised draft to the public for a six-week review period and address comments in a public hearing draft for the City Council to consider and accept, prior to resubmitting the LCP to the Coastal Commission later this year.

Concurrent Work Efforts

Concurrent with the IP and LUPA, the City is also working on:

- Update to the Categorical Exclusion Order that excludes certain categories of development from CDP requirements of the Coastal within a defined geographic area, provided that projects meet conditions.
- Updates to specific plans for consistency with the LUP, including specific plans that are part of the IP for Coastal Zone areas: Marblehead Coastal,

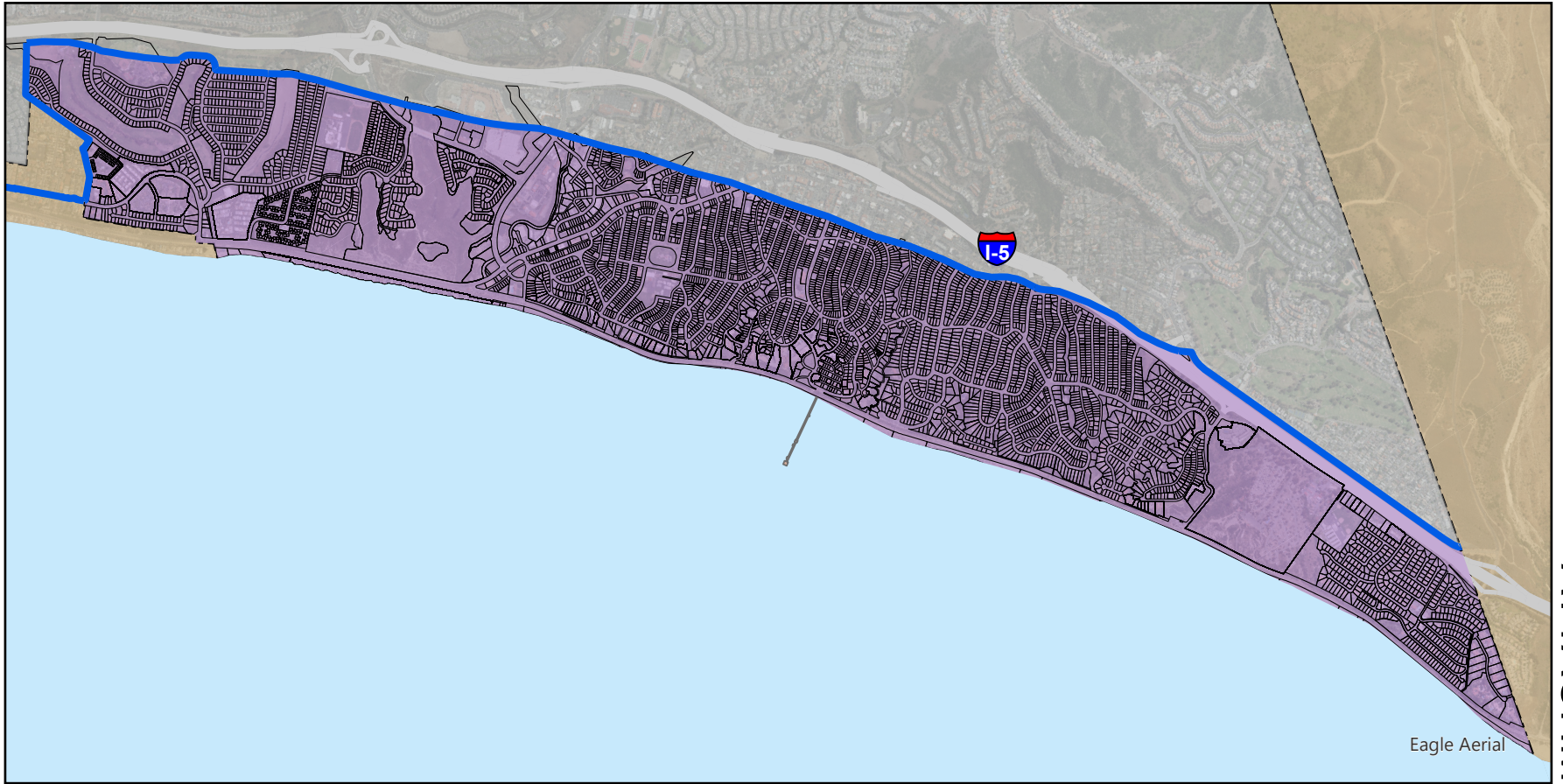
Forster Ranch, and West Pico Corridor (the Pier Bowl Specific Plan was updated). As part of the West Pico Corridor Specific Plan update, the City Council directed staff to process a land use change and Architectural Overlay district expansion that will require a LUPA.

The intent is to incorporate these items into the LCP prior to Coastal Commission action on the IP. Table 1 below provides a more detailed timeline on milestones to adopt the IP and LUPA for submission to the Coastal Commission.

Action Item	Date
Public review of draft IP	February 14 to March 28, 2022
Study Session Information Item (this meeting)	February 16, 2022
Prepare public hearing draft IP and LUPA and publish for additional public review and comment opportunity	April 30, 2022 (grant term ends)
Planning Commission hearing to forward recommendation to City Council	Spring/Summer 2022
City Council hearing for IP/LUPA adoption	Summer/Fall2022



Attachments

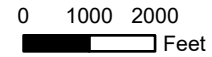
1. Map of San Clemente Coastal Zone
2. November 3, 2021 Study Session Memorandum "LCP Overview"
3. Draft LUPA for the Major Remodel definition.



Coastal Zone Area

Legend

-  Coastal boundary
-  Coastal Zone Area



Eagle Aerial



PLANNING COMMISSION STUDY SESSION MEMORANDUM

Date: November 3, 2021

To: Planning Commissioners
From: Leslea Meyerhoff, AICP, LCP Manager
Christopher Wright, Associate Planner II
Subject: Local Coastal Program Introduction and Overview

This study session is intended to familiarize the Planning Commission with the City's Local Coastal Program (LCP). Below are links to the relevant documents. To inform the study session discussion, staff requests the Planning Commission acquaint themselves with the relevant documents linked to this memo. Prior to the meeting, please forward any questions or comments the Commission wishes staff to address during the study session.

Overview of the San Clemente Local Coastal Program (LCP)

All Cities and Counties in the California "Coastal Zone" are required to have a Local Coastal Program (LCP). The "Coastal Zone" varies by jurisdiction but generally consists of the land area inland up to 1,000 yards of the Pacific Ocean. The City's Coastal Zone generally extends inland to Interstate 5. Refer to Attachment 1 for a map. The LCP only applies to lands within the Coastal Zone which represent approximately 15% of the total land area of the City.

An LCP consists of (1) a Land Use Plan (LUP) and (2) a Local Implementation Plan (IP) which together contain land use policies, zoning requirements and development standards to implement the [California Coastal Act](#) of 1976 (Public Resources Code, Division 20) within the City's coastal zone.

The City's main LCP objectives are to retain local control throughout the LCP Update process in order to implement the vision and long terms goals for San Clemente which reflect local preferences and unique conditions in the City. The primary goal of obtaining a certified LCP is to give the City more control over projects within the City's Coastal Zone and to provide greater certainty to local property owners and businesses. The result of this LCP update effort will be a streamlined Coastal Development Permit (CDP) process for property owners by enabling them to obtain a single City permit.

The following documents are relevant components of the City's LCP.

- **California Coastal Act ([web link](#))**. This is the primary regulatory document that controls land development within the Coastal Zone. The Coastal Act became effective January 1, 1977. All cities in the Coastal Zone required to have an LCP; however, to date only 75% of the California coast line is covered by a certified LCP. San Clemente is one of the Cities in California that does not yet have a certified LCP.
- **Categorical Exclusion Order E-82-01 ([web link](#))**. The San Clemente Categorical Exclusion Order was approved by the California Coastal Commission (CCC) in 1982 categorically excluding, from the permit requirements of the California Coastal Act, categories of development within the specifically defined geographic area shown here.
- **Certified LCP Land Use Plan (LUP) ([web link](#))**. The City's original Land Use Plan (LUP) was first certified in 1988 and comprehensively updated in 1996. In August 2018, the CCC certified the City's comprehensive LCP LUP update. The LUP is the first piece of the LCP and contains the land use related policies for the City's Coastal Zone.
- **Sea Level Rise Vulnerability Assessment (SLRVA) ([web link](#))**. The City completed a SLRVA in 2019 to identify facilities and critical public infrastructure along the coast that may be at risk in the future with rising sea levels. The SLRVA was submitted to the California Coastal Commission (CCC) in 2019 as a final LCP Planning Grant deliverable.
- **Draft San Clemente Coastal Resiliency Plan ([web link](#))**. The City has prepared a Draft Coastal Resiliency Plan that builds upon the findings and recommendations in the SLRVA. The Coastal Resiliency Plan outlines a range of options and adaptation strategies for improving resiliency in the City. The Draft Coastal Resiliency Plan is currently out for a six week public review and comment period beginning through November 18, 2021.
- **Implementation Plan (IP)**. A Local Implementation Plan (IP or LIP) contains the zoning ordinance and development standards for the Coastal Zone to implement the policies of the City's Certified LUP. The City prepared its first Implementation Plan (IP) in 1996 and it was approved by the City Council for submittal to the CCC. The CCC rejected the City's submittal unless "suggested modifications" to the IP were adopted by the City; however, the City found the changes unacceptable and efforts on the IP ceased until recently.

The City's Draft IP is currently in development and is anticipated to be available for a six-week public review and comment period in late 2021 to early 2022 with public hearings afterward.

Role of the Planning Commission

The Planning Commission's role is to review the long term coastal planning documents prepared by the City and provide a recommendation to staff to forward the draft documents comprising the City's Local Coastal Program to the City Council for consideration, adoption and forwarding to the California Coastal Commission (CCC) to receive and file or review and approve. In the review of specific development projects subject to the City's LCP, the Planning Commission is encouraged to contact City staff as a resource if there are any specific questions.

Attachments

- ~~1. Map of San Clemente Coastal Zone~~

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

Background

On February 8, 2018, the California Coastal Commission (CCC or Commission) approved a comprehensive update to the City of San Clemente's Local Coastal Land Use Plan with certain CCC staff imposed "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 San Clemente comprehensive LUP update.

At the June 12, 2018 City Council 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.
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.

Ultimately, at the direction of the City Council, the LUPA was refined to include only the change to the date referenced LUP "Major Remodel" definition from 1977 to 2018.

The City submitted the LUPA to the Commission for processing. The Commission agenda'd the City's LUPA for August 13, 2020. CCC staff proposed "Suggested Modifications" to the City's LUPA. The City deemed the "Suggested Modifications" unacceptable and formally withdrew the pending LUPA prior to the Commission taking any formal action on the item.

Introduction to the 2022 LUPA

At the direction of the City Council, this draft LUPA has been developed by the City in coordination with interested stakeholders and will be issued for a six-week public review period beginning February 14, 2022 through March 28, 2022

There may be further revisions to this LUPA, based on coordination and input from stakeholders or direction provided by the City Council at a future public hearing.

The City's LUP added a new definition for "major remodel" as part of the comprehensive update process in 2018. Starting in 2018, the LUP defines a "major remodel" as if it were a brand-new structure (i.e., "new development"). This means that, like a brand-new structure a "major remodel" requires a Coastal Development Permit and is subject to more restrictive development standards including larger setbacks, new geologic setbacks and certain restrictions on future development, including potential future limits on shoreline protection. (LUP, HAZ-19 (p. 5-12).)

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 public 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 intended to reconcile the oversight/inadvertent remaining singular reference to 1977 in the LUP.

The City submits this LUPA to begin tracking cumulative structural alterations and changes as of August 10, 2018, consistent with the date the new definition appeared in the City's LUP and the effective certification date of the comprehensive LUP update, for major remodels for the following reasons:

- Because the use of the 1977 date for major remodels is a new policy in the LUP, it is unreasonable and punitive to property owners to retroactively apply a new standard back 45+ years.
- Use of the 2018 date (i.e., most recent comprehensive LUP Certification 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.

San Clemente Draft LUP Amendment: LUP Chapter 7

LUP Chapter 7, Page 7-12:

“MAJOR REMODEL” Alterations that involve (1) additions to an existing structure, (2) exterior and/or interior structural 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 structure, roof structure, and/or foundation, or a 50% increase in floor area. Alterations are not additive between individual major structural components; however, changes to individual major structural components that involve less than a 50% alteration and/or less than a 50% increase in habitable floor area are cumulative over time from ~~January 1, 1977~~ the LUP effective certification date of August 10, 2018.

- 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 past 45 years.
- The 1977 date is likely unenforceable for various reasons including the fact that the “major remodel” definition is new to the LUP beginning in 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.

Use of the LUP Certification date is consistent with the dates used in other LCPs certified by the Commission as the starting point for tracking cumulative structural changes towards the major remodel thresholds.

Text of the Draft LUPA

The proposed changes to the LUP definition of Major Remodel are provided below. Deletions are shown in ~~strikeout~~ and additions are shown in underline.

Example Application of the “Major Remodel” Definition to a Project

The City’s 2018 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.

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 sole focus of this LUPA:

- **2018 LUP: 1977 Date.** As modified by the CCC, 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 beginning August 10, 2018, the effective 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.

PROPOSED SAN CLEMENTE LUPA PROCESSING TIMELINE	
City preparation of focused Draft LUPA	January 2022
6-week public review period for Draft LUPA	February 14 – March 28, 2022
Planning Commission informational item on LUPA	February 16, 2022
Prepare public hearing draft LUPA	April 30, 2022
Publish public hearing draft LUPA (6 weeks anticipated)	May 2022
Planning Commission consideration of LUPA	Spring/Summer 2022
City Council consideration of LUPA	Summer / Fall 2022
City submits LUPA to Commission	Summer/Fall 2022
Commission action on the LUPA within 90 days of the City's submittal (Pub. Res. Code, § 30512(a)). One-year extension possible if agreed to by City.	Fall / Winter 2022