

CALIFORNIA COASTAL COMMISSION

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Date: July 23, 2020

To: COMMISSIONERS AND INTERESTED PERSONS

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Subject: STAFF RECOMMENDATION ON CITY OF SAN CLEMENTE MAJOR
AMENDMENT NO. LCP-5-SCL-18-0099-1 (1-18, MAJOR REMODEL
DEFINITION) for Commission Meeting of August 13, 2020

SYNOPSIS

The Coastal Commission certified the City of San Clemente Land Use Plan (LUP) in May 1988 and most recently updated the LUP in August 2018. The current LUP amendment request submitted for Commission certification via City Council Resolution No. 2018-57, is the City's only LUP amendment request for 2018. The City of San Clemente is requesting that the Commission certify an amendment to the LUP for a single change to the definition of "Major Remodel" in the LUP. The only action currently before the Commission is the change to that definition in the LUP. The City does not have a certified Local Coastal Program (LCP) as it does not have an Implementation Plan.

SUMMARY OF STAFF RECOMMENDATION

The standard of review for the proposed LUP amendment is Chapter 3 of the Coastal Act. Commission staff recommends that the Commission, after public hearing, **deny** the City's proposed LUP Amendment No. 1-18 as submitted, and **certify** the proposed amendment only if modified pursuant to the suggested modifications. The suggested modifications are necessary to ensure that the LUP meets the requirements and is in conformity with Chapter 3 policies of the Coastal Act.

The subject of this LUP amendment is the definition of "Major Remodel" in LUP Chapter 7 – Definitions. This definition was added to the LUP as part of a recent 2018 LUP comprehensive update. Soon after the LUP update was certified by the Commission, the City submitted this LUP amendment.

As currently certified, the LUP definition of “Major Remodel” clearly indicates how to calculate the 50% replacement threshold for purposes of determining when such structures must be considered “redevelopment” or “new” development. Additionally, it indicates that changes to individual major structural components are cumulative over time from January 1, 1977, when regulations requiring Coastal Development Permits (CDPs) were implemented. The City’s proposed LUP amendment is to change the baseline date for calculating cumulative alterations to structures toward determining whether overall development should be considered “new” from January 1, 1977, to August 10, 2018, the date of certification of the most recent LUP update. The Commission finds, that as proposed, the City’s Land Use Plan amendment request to replace the baseline date of January 1, 1977 with August 10, 2018 for the purposes of calculating cumulative alterations only, conforms with Chapter 3 policies of the Coastal Act if modified as suggested.

The certified definition of “Major Remodel” does not apply to the entire coastal zone in the City of San Clemente. It is limited to the hazardous areas within the coastal zone, and only applies to alterations of existing bluff top, beachfront, and coastal canyon single-family residences or other principal structures, or portions thereof. Structures on coastal bluff lots and on beachfront lots are subject to coastal and geologic hazards; structures on coastal canyon lots are subject to geologic and fire hazards. To address these hazards, the LUP requires setbacks for new development. The majority of the City’s coastal areas are already developed with residential structures, some of which were developed prior to passage of the Coastal Act and others that have been authorized by Commission-issued Coastal Development Permits (CDPs), as the City does not have a certified LCP.

The definition of “Major Remodel” is significant because it ensures that new development proposed in hazardous areas are consistent with the Coastal Act or LUP. There have been development projects in areas identified as hazardous where alterations to an existing structure are so extensive that the alterations go beyond repair and maintenance, such that the structure would be considered “redevelopment” or a “new structure” that must then conform to all applicable Coastal Act and LUP policies. This determination stems from Coastal Act Section 30610(d) (which relates to repair and maintenance) and implementing regulation Section 13252(b), which states that replacement of 50% or more of an existing structure does not constitute repair and maintenance, but rather constitutes a replacement structure that must be consistent with current LUP policies and be consistent with Chapter 3 policies of the Coastal Act. For example, residential development in a hazardous area is only permitted if it meets the standards of Coastal Act Section 30253 to minimize risks to life and property in areas of high geologic, flood, and fire hazard, assures stability and structural integrity, and neither creates nor contributes significantly to erosion, geologic instability, or destruction of the site or surrounding area.

The City requests to use August 10, 2018 as the baseline for calculating cumulative alterations to structures for a few reasons. First, the City argues that using the date of the recently updated LUP will provide notice of the redevelopment standard to homeowners in hazardous areas moving forward. Second, the City states that continuing to use the January 1, 1977 date would be difficult and time consuming due to the resources necessary to research a specific project site to identify previously permitted alteration(s)

and calculate if the structure has been redeveloped over time in a manner that would constitute new development per the newly certified LUP “Major Remodel” definition. Additionally, the City argues that no other certified LCP clearly identifies January 1, 1977 as the date when the Coastal Act and its regulations were implemented and thus it should not have to be the first jurisdiction to explicitly use that date.

Suggested modifications are necessary to provide additional clarity to the term “Major Remodel,” regardless of any reference to a beginning date for cumulative tracking purposes. Suggested modifications are also necessary to accommodate the City’s request to use August 10, 2018 as the baseline date for calculating cumulative alterations while accounting for any previous development that required a CDP was considered “new” development pursuant to Chapter 3 of the Coastal Act and Section 13252(b), of the Commission’s Regulations. While using the August 10, 2018 date to start tracking cumulative changes to development over time dismisses alterations that have previously taken place and been approved by the Commission by previous CDPs, it will give the City an opportunity to set up an effective tracking system to track cumulative changes to development over time. Tracking cumulative changes to development is important to determine if a site that contains features that are non-conforming to the current Commission-certified development standards can maintain those nonconforming features or if those features must be addressed to be consistent with current development standards.

The resolutions and motions begin on page 6. The suggested modification can be found on page 6. The findings for denial of the Land Use Plan Amendment as submitted and approval of the Amendment, if modified, begin on page 8.

ADDITIONAL INFORMATION

Further information on the City of San Clemente’s LCP Amendment 1-18 may be obtained from Liliana Roman, Coastal Program Analyst, at (562) 590-5071. If you wish to comment on the proposed amendment, please do so via regular mail (directed to the South Coast District Office) or email (by emailing southcoast@coastal.ca.gov) by 5pm on Wednesday, August 5, 2020.

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EXHIBITS

Exhibit 1 – City of San Clemente Revised Resolution No. 18-57

Exhibit 2 – City of San Clemente Certified Land Use Plan

I. OVERVIEW

A. LCP HISTORY

The City of San Clemente's Land Use Plan (LUP) was originally certified by the Commission on May 11, 1988. After a comprehensive update to the City's General Plan in 1993, the creation of new coastal land uses meant that the City must update the certified LUP to make it consistent with the Land Use Element of the General Plan. On March 14, 1996, the Commission approved and certified an updated LUP.

In 2016, again following a newly approved General Plan, the City submitted an LUP amendment for a comprehensive LUP update to make the LUP consistent with the Land Use Element of the General Plan. On August 10, 2018, the Commission certified the comprehensive LUP update. However, at the City's request, the 2018 LUP comprehensive update (with new policies to address sea level rise impacts) does not apply to the oceanfront Capistrano Shores Mobile Home Park. Thus, the 1996 LUP continues to be the applicable certified LUP for Capistrano Shores Mobile Home Park.

The City currently has two certified LUPs, but lacks an Implementation Plan (IP). As such, the Commission retains permit issuance authority. The City is currently working on a Draft Implementation Plan (IP) with the aid of multiple LCP grant funds.

B. STANDARD OF REVIEW

The standard of review for amendments to land use plans is found in Section 30512 of the Coastal Act. This section requires the Commission to certify an LUP amendment if it finds that the amendment meets the requirements of Chapter 3 of the Coastal Act. Specifically, Section 30512(c) states:

(c) The Commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200). Except as provided in paragraph (1) of subdivision (a), a decision to certify shall require a majority vote of the appointed membership of the Commission.

Pursuant to Section 30512 of the Coastal Act, the Commission shall take action by a majority vote of the Commissioners present.

C. PUBLIC PARTICIPATION

The City held Planning Commission and City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

II. MOTION AND RESOLUTIONS

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to each resolution.

1. MOTION:

I move that the Commission certify Land Use Plan Amendment No. 1-18 for the City of San Clemente certified Land Use Plan as submitted.

STAFF RECOMMENDATION OF DENIAL OF CERTIFICATION:

Staff recommends a **NO** vote on the motion. Failure of this motion will result in denial of the land use plan amendment as submitted and adoption of the following resolution and findings. The motion to certify as submitted passes only upon an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO DENY CERTIFICATION OF LAND USE PLAN AMENDMENT AS SUBMITTED:

The Commission hereby denies certification of Land Use Plan Amendment No. 1-18 for the City of San Clemente certified Land Use Plan as submitted and finds for the reasons discussed below that the submitted Land Use Plan Amendment fails to meet the requirements of and does not conform to the policies of Chapter 3 of the California Coastal Act. Certification of the plan would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures that would substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

2. MOTION:

I move that the Commission certify Land Use Plan Amendment No. 1-18 for the City of San Clemente certified Land Use Plan as submitted if modified as suggested in the staff recommendation.

STAFF RECOMMENDATION: CERTIFICATION IF MODIFIED AS SUGGESTED:

Staff recommends a **YES** vote on the motion. Passage of the motion will result in certification with suggested modifications of the submitted land use plan amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO CERTIFY WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Land Use Plan Amendment submitted by the City of San Clemente, if modified as suggested, and adopts the findings set forth below on grounds that the land use plan amendment with the suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the land use plan amendment if modified as suggested.

III. SUGGESTED MODIFICATIONS

Staff recommends the following suggested revisions to the proposed LUP Amendment. Existing certified language is shown in regular text. The City’s proposed LUP amendment language changes are shown in single underline and ~~single strikethrough~~. The Commission’s proposed new text added by suggested modification is shown **bold and double underlined**, and text suggested to be deleted is shown in ~~double strikethrough~~.

“**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 **(including demolition, renovation, or replacement)** 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).~~

- b) **For purposes pertaining to Coastal Act Section 30235 and equivalent LCP policies, complete demolition and replacement of a structure, the demolition of 50% or more of a structure, or the addition of 50% or more of a structure after January 1, 1977 shall constitute new development and shall not be considered an existing structure. Alterations that involve less than a 50% alteration and/or less than a 50% increase in floor area are cumulative over time from August 10, 2018.**

IV. FINDINGS FOR DENIAL AS SUBMITTED, AND APPROVAL OF THE AMENDMENT IF MODIFIED AS SUGGESTED

The following findings support the Commission's denial of the proposed LUP Amendment as submitted, and approval if modified as suggested above in Section III.

The Commission hereby finds and declares as follows:

A. AMENDMENT DESCRIPTION

The proposed LUP amendment would change the language of a single definition, the definition for "Major Remodel" contained in Chapter 7 – Definitions of the certified LUP. The City's proposed changes to this definition would delete reference to January 1, 1977 as the baseline date for which remodels are to be cumulatively tracked over time and replace that date with August 10, 2018, the date of the most recent comprehensive LUP update. The City's LUP was originally certified in 1988, was comprehensively updated in 1995, and comprehensively updated for a second time on August 10, 2018. The subject definition of "Major Remodel" was added to the LUP in the 2018 LUP comprehensive update. Soon after the LUP update was certified by the Commission, the City submitted this subject LUP amendment. The City's proposed deleted language is shown as ~~strikethrough~~ and proposed new language is shown in underline, as follows:

"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).

B. CONSISTENCY ANALYSIS

The Commission finds, pursuant to Section 30512.2(b) of the Coastal Act, that the LUP amendment as set forth in the preceding resolution, is not in conformance with the policies and requirements of Chapter 3 of the Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act which states:

The legislature further finds and declares that the basic goals of the state for the Coastal Zone are to:

- (a) Protect, maintain and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and manmade resources.
- (b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.
- (c) 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.
- (d) Assure priority for coastal-dependent and coastal-related development over other development on the coast.
- (e) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

The Commission therefore finds, for the specific reasons detailed below, that the land use plan does not conform with Chapter 3 policies of the Coastal Act or the goals of the state for the coastal zone with regard to Section 30001.5(a) and 30001.5(e).

Applicable Coastal Act Policies:

Section 30253 states, in pertinent part:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) 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.

Section 30235 states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

“Major Remodel” Definition as Certified

As currently certified, the LUP definition of “Major Remodel” clearly indicates how to calculate the 50% replacement threshold for purposes of determining when such structures must be considered “redevelopment” or “new.” This determination stems from Coastal Act Section 30610(d) (which relates to repair and maintenance) and implementing regulation Section 13252(b), which states that replacement of 50% or more of an existing structure does not constitute repair and maintenance, but rather constitutes a replacement structure. A replacement structure is considered a “new” structure and must be consistent with current LUP policies and be consistent with Chapter 3 policies of the Coastal Act.

In the years following the passage of the Coastal Act and its enactment on January 1, 1977, the Commission identified bluff top, oceanfront, and coastal canyon lots as hazardous. Early permit actions reflected the understanding that residential development must be adequately set back from geological and coastal hazards. The policies of the City’s original 1988 LUP codified the development standards that the Commission had applied over the years with respect to individual permits in order to ensure compliance with the Coastal Act. The January 1, 1977 date is used by the Commission when analyzing CDP applications to determine if a structure meets the replacement structure parameters per Section 30610(d) and CCR Section 13252(b) and thus is required to conform to current Coastal Act and LUP policies. Thus, when the definition of “Major Remodel” was added to the LUP in 2018, the definition simply memorialized the approaches that had been used by the Commission in San Clemente prior to certification of the LUP update.

As certified, the definition plainly identifies that alterations that involve additions to an existing structure, exterior and/or interior renovations, and/or demolition of 50% or more of major structural components, or a 50% increase in floor area would result in a “Major Remodel.” Once a structure is found to be a “Major Remodel,” policies in the LUP require

that such structures be treated as new development that must be made to comply with all current standards. Additionally, the currently certified definition indicates that changes to individual major structural components are cumulative over time from January 1, 1977. The definition is limited in its application; it only applies to alterations to a single-family residence (or other principal structures, or portions thereof) on an existing bluff top, beachfront lot, or coastal canyon. The definition does not apply to the entire coastal zone in the City of San Clemente, and it is limited to the hazardous areas within the coastal zone. The definition is intended to allow the phase out of development in areas identified as hazardous, as such development is redeveloped. This is necessary to ensure that new development and redeveloped structures are sited and designed to minimize threat(s) to life and property and that they assure stability and structural integrity without the need for bluff and/or shoreline protection devices, consistent with Sections 30253 and 30235 of the Coastal Act.

Most of San Clemente's coastal areas are already developed with residential structures, some of which were developed prior to the passage of the Coastal Act, and others that have been authorized by Commission-issued CDPs in the years since 1977. Furthermore, the majority of the City's shoreline has a rock revetment protecting the railroad that runs north to south, parallel along the base of the coastal bluffs through the City. There have been and will continue to be development projects in hazardous areas where cumulative alterations to an existing structure are so extensive over time that they go beyond mere repair and maintenance, such that the structure should be considered "redevelopment/new development" or a "new structure" that must conform to all applicable Coastal Act and LUP policies. The certified LUP contains policies which encourage moving the line of residential development landward away from the edges of coastal bluffs and canyons in order to avoid the need for armoring of natural land formations. It is evident from an overview of the pattern of development along coastal bluffs and canyons that there are limitations to the extent of improvements that should be permitted to existing structures in their current locations to ensure consistency with Coastal Act policies. Extensive renovation within existing footprints may result in the future need for shoreline, coastal bluff or canyon protective devices to stabilize those structure(s). The preferred alternative would be to gradually move the line of development inland, through removal of threatened structures or portions of structures, or complete redevelopment of the structures in safer locations to avoid impacts to the adjacent coastal resources of the bluffs and canyons associated with armoring. Thus, in addition to the definition of "Major Remodel" encompassing clear alterations to major structural components where a proposed remodel would result in alteration of 50% or more of major structural components or a 50% addition in floor area, the definition also encompasses previous alterations that constituted less than a 50% increase in floor area or demolition/replacement of less than 50% of a major structural component, but which added together would result in a cumulative addition of greater than 50%.

"Major Remodel" Definition Proposed Changes – Rejection as Submitted and Approval with Suggested Modifications.

Since certification of the LUP update, staff has become aware that a further clarification of the definition of "Major Remodel" would help in implementation of this policy. A suggested

modification is therefore made to part (a) of the definition to further clarify that “alteration” includes **demolition, renovation or replacement**. This was the original intent of the language in part (a), and this same language is used in part (b) of the definition, but the suggested modification simply adds these terms to part (a) for additional clarity.

However, the chief purpose of the City’s proposed LUP amendment is to change the baseline date for tracking cumulative alterations toward determining whether overall development should be considered “new” and thus comply with current development standards. The City proposes that the appropriate date for calculating cumulative alterations is not January 1, 1977 (when the Coastal Act became effective), but August 10, 2018, when the “Major Remodel” definition was added to the LUP Definitions Chapter.

The City has suggested using the most recent August 10, 2018 LUP update certification date for two reasons. First, the City argues that the definition did not previously exist in the LUP and thus, using the August 10, 2018 date will provide appropriate notice to homeowners moving forward of the redevelopment standard. Second, the City states that using the January 1, 1977 date would be burdensome and time-consuming for City staff because they would need to research past Commission actions for projects in hazardous areas in order to identify all associated records needed to calculate the cumulative changes to a structure over time. Plus, the City’s records may not be adequate or complete in order to properly calculate the cumulative changes to a structure over time, particularly if a structure has undergone numerous minor alterations since January 1, 1977.

As described in the section above, however, Coastal Act section 30253 requires that new development be sited and designed to minimize coastal hazards and that it assure stability and structural integrity without the need for shoreline protective devices. The City’s proposed LUP Amendment would allow structures that are effectively new structures to be protected with shoreline protective devices, inconsistent with Coastal Act section 30253. Thus, it must be rejected as submitted.

Although the proposed amendment is inconsistent with 30253, as it would allow shoreline protection for redeveloped properties, the proposed LUP Amendment can be found consistent with Chapter 3 with the addition of the suggested modification described in the preceding section as well as replacing subparagraph (b) in the definition of “Major Remodel.”

The currently certified LUP includes an internal inconsistency. As certified, part (b) of the definition contains both language to take into consideration alterations on or after the date of certification of the LUP (or 1988) and to take into consideration previous additions approved on or after January 1, 1977. The definition currently reads:

- 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; 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.

Therefore, the Commission agrees that an LUP amendment would be useful to modify the definition's language to fix this existing inconsistency. The Commission can support the City's request to use the August 10, 2018 date to begin tracking more minor cumulative alterations, when past development has not already been an effectively new development or characterized as a "Major Remodel" in a previous Commission-issued CDP. For past major alterations, however, those were, at the time, significant enough alterations to constitute new development, so those developments must be treated as such under the LUP. Development in a hazardous area is only allowed if it conforms with Coastal Act Section 30253, which requires, among other things, for new development to (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard and (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. If effectively "new" development (i.e. redevelopment that in and of itself constituted new development at the time that it took place) were entitled to shoreline protection, this would violate the requirement of section 30253 that such development be sited and designed in a manner to not need shoreline protection.

Therefore, a suggested modification is necessary to replace the language of part (b) of the "Major Remodel" definition with the following language:

- b) **For purposes pertaining to Coastal Act Section 30235 and equivalent LCP policies, complete demolition and replacement of a structure, the demolition of 50% or more of a structure, or the addition of 50% or more of a structure after January 1, 1977 shall constitute new development and shall not be considered an existing structure. Alterations that involve less than a 50% alteration and/or less than a 50% increase in floor area are cumulative over time from August 10, 2018.**

This language clarifies that past development that consisted of: (1) a full demolition; (2) full replacement; (3) 50% or more demolition; or (4) 50% or more addition at any time after January 1, 1977 is appropriately considered "new" development and will not constitute an existing structure for purposes of the application of Section 30235 or equivalent LCP policies. This modification is required to ensure Coastal Act consistency, otherwise "new" development would not be treated as such, and the "override" that allows shoreline protection that is otherwise inconsistent with the Coastal Act or LCP could apply to structures for which shoreline protection should not be allowed.

On the other hand, past alterations made between January 1, 1977 and August 10, 2018 that were minor enough at the time that they were completed not to meet the thresholds described above (complete demolition or reconstruction, or 50% or more demolition or addition) would not be factored into a determination of what constitutes a "Major Remodel" in the future. Alterations that involve less than 50% renovation and/or less than 50% increase in floor area will be cumulatively tracked over time, though, starting from August

10, 2018. This suggested modification ensures that property owners are clearly on notice that even more minor alterations to structures will be factored into a determination of when the threshold for a “Major Remodel” has been met.

With regard to the City’s argument that it may be difficult to locate records, and research the permit and development history of a parcel going back to 1977, this is a routine practice and standard planning principle that is not unique to the City of San Clemente, or the proposed redevelopment standard. The permit history of all applications for development are typically researched as a matter of course at local government planning departments in order to understand whether there are any existing land use conditions or restrictions applicable to the property, to determine whether any violations exist on the property, and to understand whether past Commission or City findings, terms, or conditions may reveal unique circumstances specific to a particular parcel.

Moreover, as noted above, the Commission has been the coastal permitting authority in the City of San Clemente since at least 1977, and the Commission retains permit files since that date. Commission staff is always available to assist the City in coastal permit history research. Commission staff recognizes that such research is a time-consuming process and some records may not be sufficiently detailed or complete to clearly track changes to a structure, especially more minor changes. Thus, the suggested modifications focus the effort on determining when more significant changes to a structure have occurred; tracking more minor changes to a structure would begin from 2018.

The City also argues that it is opposed because no other LCP, either LUP or IP identifies January 1, 1977 as the baseline for identifying an “existing structure,” and they should not have to be the first jurisdiction to explicitly use that date. In response to that argument, the Commission unanimously adopted the 2015 Sea Level Rise (SLR) Guidance Document, including the interpretation therein that the definition of “existing structure” correlates with the enactment of the Coastal Act in 1977. The 2015 SLR Guidance Document is the first policy document adopted by the Commission on this important issue, and the Commission’s February 2018 approval of the City of San Clemente’s comprehensive LUP update amendment was the Commission’s first opportunity to apply the SLR guidance. As the Commission continues to better understand sea level rise impacts, it is evident that coastal hazards will continue growing in severity. Thus, the Commission under the mandate of the Coastal Act will continue to work with local governments to update their LCPs to address these issues. In this case, San Clemente’s 2018 LUP update was certified without a definition of “existing structure” with the intention of returning to the issue at a future date as part of the Commission’s review of the City’s Implementation Plan. However, the use of the January 1, 1977 date in the definition of “Major Remodel” in the 2018 LUP does not pertain to protections that may be granted to existing development per Section 30235. It pertains to the baseline date for calculating cumulative alterations in determining whether overall development in areas of known hazards should be considered “new,” and as such, conforms with Coastal Act and LUP policies.

Nonetheless, as also described above, this cumulative change analysis is necessary to properly carry out the requirements in Sections 30253 and 30235 of the Coastal Act. The definition of “Major Remodel” in the City’s updated LUP is not new, per se. Rather, it more accurately defines a significant part of the analytical process (related to Section 30610(d)

of the Coastal Act and Section 13525(b) of the Commission Regulations) that has been undertaken by Commission staff in its processing of CDP applications. Typically, Commission staff reports contain a “Substantive Files” section listing previous CDP actions pertaining to the subject site and/or other similar Commission actions. Thus, when a development was proposed which would fall under the current “Major Remodel” definition in the City of San Clemente, a cumulative change analysis was conducted even though the City’s LUP lacked that specific definition.

Conclusion

The Commission therefore finds, that as proposed, the City’s Land Use Plan amendment request to replace the baseline date of January 1, 1977 with August 10, 2018 for the purposes of calculating cumulative alterations only, conforms with Chapter 3 policies of the Coastal Act if modified as suggested.

C. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 21080.9 of the California Public Resources Code – within the California Environmental Quality Act (CEQA) – exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program (LCP). Instead, the CEQA responsibilities are assigned to the Coastal Commission, and the Commission’s LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP.

Nevertheless, the Commission is required, in approving an LCP submittal, to find that the approval of the proposed LCP, as amended, does conform with some CEQA provisions, 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 alternative or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. §§ 13540(f) and 13555(b). The City’s LCP amendment consists of an LUP amendment. As discussed above, the LUP amendment as originally submitted does not meet the requirements and is not in conformity with the policies of Chapter 3 of the Coastal Act. The Commission has, therefore, modified the proposed LUP amendment to meet the requirements of Chapter 3 policies, as required by the Coastal Act. As discussed in the preceding sections, the Commission’s suggested modifications represent the most environmentally protective alternative to bring the proposed LUP amendment into conformity with the Chapter 3 policies. Therefore, the Commission finds that there are no other feasible alternatives or mitigation measures under the meaning of CEQA which would further reduce the potential for significant adverse environmental impacts.