



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: March 5, 2019

Agenda Item BB
Approvals:
City Manager [Signature]
Dept. Head [Signature]
Attorney [Signature]
Finance [Signature]

Department: Community Development Department, Planning Division
Prepared By: Carl Stiehl, Senior Planner

Subject: *REVISED LOCAL COASTAL PROGRAM LAND USE PLAN AMENDMENT (LUPA) RESOLUTION*

Fiscal Impact: None.

Summary: The California Coastal Commission (CCC) requests changes to the December 18, 2018 City Council Resolution No. 18-57 adopting the LUPA for the City of San Clemente Local Coastal Program (LCP). Staff has prepared a revised resolution for City Council approval. Once the resolution is adopted, the CCC can proceed with processing of the LUPA.

Background: At the public hearing on December 18, 2018, the City Council adopted Resolution No. 18-57 adopting the LUPA and authorizing staff to submit the LUPA to the CCC. The LUPA was submitted to the CCC for review and processing on December 21, 2018. On January 8, 2019 the City received a letter from the CCC (Attachment 3) requesting changes to the resolution. Staff worked with the City Attorney's office and prepared a revised resolution (Attachment 1) for Council approval that will be submitted to the CCC.

Discussion: The CCC staff requested revisions to City Council Resolution No. 18-57 as follows:

- The resolution should clearly identify the proposed LUPA language changes to the currently certified definition of "Major Remodel" within the text of the resolution itself
- The Coastal Act requires a resolution to indicate that the local coastal program is intended to be carried out in a manner fully consistent with the California Coastal Act.
- The resolution must indicate whether it will take effect immediately upon approval of the Coastal Commission or upon formal local government adoption after approval.

The City Attorney reviewed and incorporated the proposed revisions (Attachment 2) into the attached revised resolution to address the CCC staff requests. Staff recommends Council adopt the revised resolution and recommend staff resubmit the resolution to the CCC as soon as possible.

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 Environmental Impact Report (EIR) process.

Recommended

Action: STAFF RECOMMENDS THAT the City Council approve revised City Council Resolution 18-57.

Attachments:

1. City Council Resolution 18-57
2. Strikeout-Underline of City Council Resolution 18-57
3. January 8, 2019 Letter from the California Coastal Commission

RESOLUTION NO. CC 18-57

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, TO ADOPT THE LAND USE PLAN AMENDMENT (LUPA) AND AUTHORIZE THE SUBMITTAL OF THE LOCAL COASTAL PROGRAM LAND USE PLAN AMENDMENT REGARDING THE DEFINITION OF MAJOR REMODEL IN CHAPTER 7 TO THE CALIFORNIA COASTAL COMMISSION FOR PROCESSING.

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 the 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 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) with two components:

- (1) Changing the start date for calculating cumulative changes to an existing structure from January 1, 1977 (Coastal Act adoption) to August 10, 2018 (LUP certification) in the "Major Remodel" definition contained in Chapter 7 of the LUP; and
- (2) Changing the land use designation of the two southernmost parcels on Coronado Lane from MU4 (Mixed Use-4) to RH (Residential High) in Chapter 2 of the LUP;

WHEREAS, as explained further below, the City Council ultimately approved the first component (major remodel start date in Chapter 7) and rejected the second component (land use designations in Chapter 2); and

WHEREAS, the draft LUPA underwent a six-week public review and comment period from September 19, 2018 through October 31, 2018 which is a requirement of formal acceptance of the LUPA for processing by the CCC; and

WHEREAS, no comments were received by the City during the six week public review period; 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; and

WHEREAS, on December 18, 2018, the City Council of the City of San Clemente held a duly noticed public hearing on the LUPA, considered written and oral comments, and facts and evidence presented by City staff, and other interested parties; and

WHEREAS, at the same meeting, the City Council directed City Staff to modify the LUPA to remove the second component (land use designations in Chapter 2), approved the LUPA with only the first component (major remodel start date in Chapter 7), and directed staff to submit the LUPA as modified with only the first component to the Coastal Commission; and

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

Section 1. Incorporation of Recitals.

The City Council 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 in this resolution, the City Council hereby finds preparation and adoption of an 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.

Section 3. Land Use Plan Amendment.

Based upon its review of the entire record, including the Staff Report, and public comments or testimony presented to the Planning Commission, and the facts outlined in this resolution, the City Council adopts the following amendment to Chapter 7, page 7-12 of the LUP (additions shown in underline, deletions shown in ~~strikeout~~):

“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."

Section 4. Submission to the Coastal Commission.

The City Council authorizes City Staff to submit the Local Coastal Program Land Use Plan Amendment to the California Coastal Commission as soon as possible.

Section 5. Consistency with the California Coastal Act.

Per section 30510(a) of the California Coastal Act, the City Council certifies that this amendment is intended to be carried in a manner fully in conformity the California Coastal Act.

Section 6. Effective Date.

Per section 13551(b) of Title 14 of the California Code of Regulations, this amendment will take effect after formal adoption of the City Council following the approval of the Coastal Commission.

PASSED AND ADOPTED at a regular meeting of the City of San Clemente City Council on December 18, 2018.

ATTEST:

City Clerk of the City of
San Clemente, California

Mayor of the City of San
Clemente, California

STATE OF CALIFORNIA)
COUNTY OF ORANGE) §
CITY OF SAN CLEMENTE)

I, JOANNE BAADE, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. _____ was adopted at a regular meeting of the City Council of the City of San Clemente held on the _____ day of _____, _____, by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this _____ day of _____, _____.

CITY CLERK of the City of
San Clemente, California

Approved as to form:

City Attorney

RESOLUTION NO. CC 18-57

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, TO ADOPT THE LAND USE PLAN AMENDMENT (LUPA) AND AUTHORIZE THE SUBMITTAL OF THE LOCAL COASTAL PROGRAM LAND USE PLAN AMENDMENT REGARDING THE DEFINITION OF MAJOR REMODEL IN CHAPTER 7 TO THE CALIFORNIA COASTAL COMMISSION FOR PROCESSING.

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 the 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~~ with two components:

- (1) Changing the start date for calculating cumulative changes to an existing structure from January 1, 1977 (Coastal Act adoption) to August 10, 2018 (LUP certification) relative to the "Major Remodel" definition contained in Chapter 7 of the LUP; and
- (2) Changing 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;~~ 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 LCP LUPA is fully outlined in Attachment 2 and Attachment 3 to the Staff Report; and~~

WHEREAS, as explained further below, the City Council ultimately approved the first component (major remodel start date in Chapter 7) and rejected the second component (land use designations in Chapter 2); and

WHEREAS, the draft LUPA underwent a six-week public review and comment period from September 19, 2018 through October 31, 2018 which is a requirement of

formal acceptance of the LUPA for processing by the CCC; and

WHEREAS, no comments were received by the City during the six week public review period; 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; and

WHEREAS, on December 18, 2018, the City Council of the City of San Clemente held a duly noticed public hearing on the LUPA, considered written and oral comments, and facts and evidence presented by City staff, and other interested parties; and

WHEREAS, at the same meeting, the City Council directed City Staff to modify the LUPA to remove the second component (land use designations in Chapter 2), approved the LUPA with only the first component (major remodel start date in Chapter 7), and directed staff to submit the LUPA as modified with only the first component to the Coastal Commission such that it is focused solely on (1) modifying 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

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

Section 1. Incorporation of Recitals.

The City Council 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 in this resolution, the City Council hereby finds preparation and adoption of an 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.

Section 3. Land Use Plan Amendment.

Based upon its review of the entire record, including the Staff Report, and public

comments or testimony presented to the Planning Commission, and the facts outlined in this resolution, the City Council adopts the following amendment to Chapter 7, page 7-12 of the LUP (additions shown in underline, deletions shown in ~~strikeout~~):

“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.”

Section 4. Submission to the Coastal Commission.

The City Council authorizes City Staff to submit the Local Coastal Program Land Use Plan Amendment to the California Coastal Commission as soon as possible.

Section 5. ~~City Council Adoption~~ Consistency with the California Coastal Act.

Per section 30510(a) of the California Coastal Act, the City Council certifies that this amendment is intended to be carried in a manner fully in conformity the California Coastal Act. ~~Based on the entire record before the City Council, all written and oral evidence presented to the City Council, and the findings made and evidence discussed in the staff report and this Resolution, the City Council hereby adopts~~

Section 6. Effective Date.

Per section 13551(b) of Title 14 of the California Code of Regulations, this amendment will take effect after formal adoption of the City Council following the approval of the Coastal Commission.

~~the Local Coastal Program Land Use Plan Amendment and authorizes City Staff to submit the Local Coastal Program Land Use Plan Amendment to the California Coastal Commission prior to the end of December 2018.~~

PASSED AND ADOPTED at a regular meeting of the City of San Clemente City Council on December 18, 2018.

ATTEST:

City Clerk of the City of
San Clemente, California

Mayor of the City of San
Clemente, California

STATE OF CALIFORNIA)
COUNTY OF ORANGE) §
CITY OF SAN CLEMENTE)

I, JOANNE BAADE, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. _____ was adopted at a regular meeting of the City Council of the City of San Clemente held on the _____ day of _____, _____, by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this _____ day of _____, _____.

CITY CLERK of the City of
San Clemente, California

Approved as to form:

City Attorney

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



January 8, 2019

Cecilia Gallardo-Daly, Community Development Director
City of San Clemente, Planning Division
910 Calle Negocio, Suite 100
San Clemente, CA 92673

Re: City of San Clemente LCP-5-SCL-18-0099-1, LUPA 1-18 (Major Remodel Definition)

Dear Ms. Gallardo-Daly,

On December 21, 2018, Coastal Commission staff received the above-cited Land Use Plan (LUP) Amendment request. The request appears to include a single change to the definition of "Major Remodel" in the certified LUP, recently updated in 2018. Staff has reviewed your submittal and identified deficiencies in the City's resolution that require further action on your part before your submittal can be deemed complete and filed in accordance with the submittal process outlined in Sections 30500-30501, 30503, 30510-30526 of the Coastal Act, and Sections 13500-13555 of the California Code of Regulations.

The proposed LUPA language is not clear from Resolution No. 18-57. For example, one of the recitals included in Resolution No. 18-57 references the LCP LUPA as fully outlined in Attachment 2 and Attachment 3 of a June 12, 2018 City Council Staff Report, then the last recital references City Council direction to City Staff at a December 18, 2018 hearing to modify the LUPA such that it is focused solely on (1) modifying the start date for calculating cumulative changes to an existing structure relative to the "Major Remodel" definition contained in Chapter 7 of the LUP. The City Council's Resolution should clearly identify the proposed LUPA language changes to the currently certified definition of "Major Remodel" within the text of the Resolution itself.

Furthermore, and most importantly, Section 30510(a) of the Coastal Act requires that LCP submittals include a resolution indicating that "the local coastal program is intended to be carried out in a manner fully consistent with the California Coastal Act." Additionally, the resolution must indicate whether it will take effect immediately upon approval of the Coastal Commission or upon formal local government adoption after approval (Cal. Code Reg. § 13551). As City Council Resolution No. 18-57 does not appear to include these provisions, please advise what local procedural options are available to correct these deficiencies in Resolution 18-57.

Once these issues are addressed, Staff will proceed with determining the completeness of your LUP amendment submittal. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Liliana Roman
Coastal Planning Analyst

cc: Karl Schwing, South Coast District Deputy Director