

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.

- 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.

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.

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; 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.~~

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.”

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