

**CALIFORNIA COASTAL COMMISSION**

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

September 15, 2011



# Th6a

**TO:** Commissioners and Interested Persons

**FROM:** Charles Lester, Executive Director  
Sherilyn Sarb, Deputy Director  
Teresa Henry, South Coast District Manager  
Karl Schwing, Orange County Area Supervisor  
Fernie Sy, Staff Analyst

[Click here to see  
additional correspondence  
received.](#)

**SUBJECT:** Concurrence with the Executive Director's determination that the action of the City of Dana Point accepting certification with suggested modifications of Major LCP Amendment No. 1-10 is legally adequate. For Commission review at its October 5-7, 2011 meeting in Huntington Beach.

## **STAFF RECOMMENDATION**

Staff recommends that the Commission concur with the Executive Director's determination that the City's action is legally adequate.

## **BACKGROUND**

In 2006, the City of Dana Point initially submitted Local Coastal Program (LCP) Amendment No. 3-06 for Commission certification pursuant to City Council Resolution No. 06-09-13-06 and also changes contained in City Council Ordinance No. 06-08. However, this amendment was withdrawn and resubmitted and the request was refiled as LCP Amendment No. 1-08. Local Coastal Program Amendment No. 1-08 proposed to amend the Local Coastal Program Land Use Plan (LUP) to incorporate the proposed Dana Point Harbor Revitalization Plan (replacing those sections of the Dana Point Specific Plan relevant to the Dana Point Harbor (1986 LCP). The City's submittal of the Dana Point Harbor Revitalization Plan also included an Implementation Plan (IP) component. However, that component was not reviewed by the Commission at the October 8, 2009 meeting. It was determined that the IP component would be heard at a later date. Therefore, only the Land Use Plan (LUP) of the Dana Point Harbor Revitalization Plan went before the Commission at the October 8, 2009 hearing and on that date the Commission approved the amendment with suggested modifications.

Subsequently, the IP component was withdrawn and resubmitted and the request was refiled as LCP Amendment No. 1-10, which proposed to amend the Local Coastal Program IP to implement the recently approved (October 8, 2009) LUP Amendment, replacing, in its entirety, the implementation sections in the Dana Point Specific Plan Local Coastal Program relevant to the Dana Point Harbor. Therefore, only the Implementation Plan (IP) of the Dana Point Harbor Revitalization Plan went before the Commission at the January 12, 2011 hearing and on that date the Commission approved the amendment with suggested modifications. The major suggested modifications dealt with the following:

Defined the geographic location to be considered when determining whether proposed Dana Point Harbor development is consistent with community character; allowing Conceptual Building #4 (the new building proposed in the Dana Wharf area) to be excepted from the requirement that additional height above 40 ft. be limited to architectural features only that do not increase the gross floor area for the purposes of determining parking requirements and other height restrictions, if the footprint of the structure is less than 5,000 sq. ft. and provided the majority of the upper level is used to accommodate harbor-related public safety operations that need a harbor-wide view; required that any trees containing nests of the identified protected bird species that had been recently removed on or before January 12, 2011 (the day of the Commission meeting) be mitigated at a ratio of 2:1 and that any future trees that are removed during construction, pursuant to the Tree Trimming Procedures for Harbor Bird Habitat, shall be mitigated at a 2:1 ratio if they contain nest or have evidence of nesting within the past five years; required that a do-it-yourself or boat-owner self-repair area be provided within the Marine Commercial Services Area (PA 1) either within or adjacent to the shipyard lease area or the dry boat storage facility; allowing for changes in Harbor anchorage space in order to accommodate new berthing or mooring space through the coastal development permit process; and modified the Parking Management Plan provisions to require that accurate baseline numbers for harbor boat slips, dry boat storage spaces and parking spaces, based on legal and permitted development, be determined and used in the development of the parking management plan.

At the April 13, 2011 Commission hearing, the Revised Findings for LCP Amendment 1-10 (to be consistent with the action taken by the Commission at the January 12, 2011 Commission hearing) were approved by the Commission.

On June 13, 2011 (1<sup>st</sup> reading) and then finally on July 25, 2011 (2<sup>nd</sup> reading), the Dana Point City Council adopted Resolution No. 11-06-13-01 acknowledging receipt of the Coastal Commission action and accepting and agreeing to the suggested modifications to the City's Local Coastal Program Implementation Plan and also requesting final certification by the California Coastal Commission. Additionally, on June 13, 2011 (1<sup>st</sup> reading) and then finally on July 25, 2011 (2<sup>nd</sup> reading) the City Council adopted Ordinance No. 11-03 amending the Dana Point Specific Plan and Zoning Code by incorporating the modifications suggested by the Commission. The City has submitted the modifications to the Executive Director for a determination that they are consistent with the Commission's action on January 12, 2011. City Council Resolution 11-06-13-01 and City Council Ordinance No. 11-03 adopting the suggested modifications are attached (Exhibit #2 and #3).

As provided in Section 13544 of the California Code of Regulations, the Executive Director must determine whether the City's action is legally adequate and report that determination to the Commission. In this case, the Executive Director has determined that the City's action is legally adequate. Unless the Commission objects to the Executive Director's determination, the certification of Dana Point LCP Amendment No. 1-10 shall become

effective upon the filing of the required Notice of Certification with the Secretary of Resources as provided in Public Resources Code Section 21080.5(d)(2)(E).

**RECOMMENDATION**

Staff recommends that the Commission CONCUR with the Executive Director's determination as set forth in the attached letter (a letter that substantially conforms with Exhibit #1 to be sent after Commission endorsement).

**CALIFORNIA COASTAL COMMISSION**

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



September 15, 2011

Kyle Butterwick, Community Development Department Director  
City of Dana Point  
33282 Golden Lantern  
Dana Point, CA 92629-1805

Subject: EFFECTIVE CERTIFICATION OF DANA POINT LOCAL COASTAL PROGRAM  
AMENDMENT 1-10

Dear Mr. Butterwick:

We are pleased to notify you that on October 6, 2011, the Commission concurred with the Executive Director's determination that the action of the City of Dana Point accepting certification of Local Coastal Program Land Use Plan (LCP) Amendment No. 1-10 with suggested modifications was legally adequate. Therefore, the LCP amendment will be fully effective upon filing of the notice of the Commission's certification with the Secretary of the Resources Agency as provided by Public Resources Code Section 21080.5(d)(2)(v).

City of Dana Point LCP Amendment No. 1-10 was submitted for Commission certification pursuant to City Council Resolution No. 06-09-13-06. The approved Implementation Plan (IP) amendment would amend the IP to implement the recently approved (October 8, 2009) Land Use Plan (LUP) Amendment, replacing, in its entirety, the implementation sections in the Dana Point Specific Plan Local Coastal Program relevant to the Dana Point Harbor.

The Implementation Plan (IP) of the Dana Point Harbor Revitalization Plan went before the Commission at the January 12, 2011 hearing and on that date the Commission approved the amendment with suggested modifications.

At the April 13, 2011 Commission hearing, the Revised Findings for LCP Amendment 1-10 were approved by the Commission.

On June 13, 2011 (1<sup>st</sup> reading) and then finally on July 25, 2011 (2<sup>nd</sup> reading), the Dana Point City Council adopted Resolution No. 11-06-13-01, and Ordinance 11-03 acknowledging receipt of the Coastal Commission Action and accepting and agreeing to Local Coastal Program Amendment No. 1-10 as modified.

On behalf of the Coastal Commission, I would like to congratulate the City on the completion of LCP Amendment 1-10. If you have any questions, please contact Fernie Sy at our Long Beach office (562) 590-5071.

Sincerely,

Teresa Henry  
District Manager

**Exhibit #1**  
**Page 1 of 1**

RESOLUTION NO. 11-06-13-01

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA ADOPTING THE COASTAL COMMISSION'S MODIFICATIONS TO THE IMPLEMENTATION PLAN FOR LOCAL COASTAL PROGRAM AMENDMENT LCPA06-03 AND REQUESTING CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION.**

The City Council of the City of Dana Point does hereby resolve as follows:

WHEREAS, the City Council on September 13, 2006, approved Local Coastal Program Amendment LCPA 06-03 for adoption of the Dana Point Harbor Revitalization Plan and District Regulations; and

WHEREAS, LCPA 06-03 was submitted to the California Coastal Commission, which reviewed such amendment pursuant to the California Coastal Act and on January 12, 2011, approved the Implementation Plan component of Local Coastal Program Amendment 06-03 with suggested modifications; and

WHEREAS, the California Coastal Commission found that the LCP Amendment and Implementation Plan Amendment with suggested modifications was consistent with the policies of Chapter 3 of the Coastal Act, minimized or mitigated any potential significant effects, would not result in significant adverse impacts within the meaning of CEQA and that there are no feasible alternatives within the meaning of CEQA that would reduce the potential for significant environmental impacts; and

WHEREAS, said suggested modifications have been incorporated into the Implementation Plan component of LCPA 06-03 and the Dana Point Harbor Revitalization Plan and District Regulations, and

WHEREAS, the City Council, after giving notice as prescribed by law, held a public hearing on June 13, 2011, regarding the Coastal Commission's Suggested Modifications to the Implementation Plan component of the Dana Point Local Coastal Program Amendment LCPA06-03, and the City Council finds that the proposed amendment is consistent with the Dana Point Specific Plan/General Plan, the Local Coastal Program and the California Coastal Act; and

WHEREAS, the City Council of the City of Dana Point certifies that it intends to implement the Local Coastal Program in a manner fully consistent and in conformance with the California Coastal Act; and

WHEREAS, the preparation and adoption of the Local Coastal Program Amendment is statutorily exempt from the California Environmental Quality Act, pursuant to Section 21080.9 of the Public Resources Code and CEQA Guidelines Sections 15251(f) and 15265(a)(1); and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Dana Point as follows:

Section 1. That the above recitations are true and correct;

**COASTAL COMMISSION**

EXHIBIT # 2  
PAGE 1 OF 4

Section 2. The City Council finds as follows:

- A. The City acknowledges receipt of the Coastal Commission's certification of the LCP Amendment with suggested modifications.
- B. The City accepts and agrees to the suggested modifications and agrees to take formal action to satisfy the suggested modifications by making conforming amendments as necessary to its ordinances, General Plan, LCP, Zoning Code, and Dana Point Harbor Revitalization Plan and District Regulations.
- C. The City agrees to issue coastal development permits for the total area included in the certified Local Coastal Program.
- D. That the proposed action complies with all other applicable requirements of State law and local Ordinances;
- E. That the adoption of the Dana Point Harbor Revitalization Plan as an amendment to the Local Coastal Program is in the public interest;
- F. That the Local Coastal Program Amendment (LCPA 06-03) is consistent with, and will be implemented in full conformity with the Coastal Act;
- G. That the Environmental Impact Report for the Dana Point Harbor Revitalization Plan is complete and adequate;
- H. That the City Council adopts the following findings:
  1. That the public and affected agencies have had ample opportunity to participate in the LCPA process. Proper notice in accordance with the LCP Amendment procedures has been followed.
  2. That all policies, objectives, and standards of the LCPA conform to the requirements of the Coastal Act. The amendments to the General Plan are consistent with the Coastal Act policies that encourage coastal access and preservation of coastal and marine resources. That the Land Use Plan is in conformance with and adequate to carry out the Chapter Three policies of the Coastal Act and that the Implementation Program Amendment is in conformance with and adequate to implement the Land Use Plan.
  3. That Coastal Act policies concerning specific coastal resources, hazard areas, coastal access concerns, and land use priorities have been applied to determine the locations, and intensity of land and water uses. As a General Plan Amendment and Local Coastal Program Amendment, no specific development is proposed. Any proposed development will be reviewed for compliance with the City's Local Coastal Program.

4. That the level and pattern of development proposed is reflected in the Land Use Plan, Zoning Code, and Zoning Map. The applicable sections are being amended accordingly to be consistent with state law.
5. That a procedure has been established to ensure adequate notice of interested persons and agencies of impending development proposed after certification of the LCPA. Proper notice in accordance with the LCP Amendment procedures has been followed.
6. That zoning measures are in place which are in conformance with and adequate to carry out the coastal policies of the Land Use Plan. The City's Zoning Code is being amended concurrently with the LCP amendment.
7. The City certifies that with the adoption of these amendments, the City will carry out the Local Coastal Program in a manner fully in conformity with Division 20 of the Public Resources Code as amended, the California Coastal Act of 1976.
8. The City certifies that the Land Use Plan, as amended, is in conformity with and adequate to carry out the Chapter Three policies of the Coastal Act.
9. The City certifies the implementing actions as amended, are in conformity with and adequate to carry out the provisions of the certified Land Use Plan.
10. The Resolution of the City Council specifies that the Implementation Plan component of Local Coastal Program Amendment LCPA 06-03 be submitted to the Coastal Commission for final certification.

Section 3. That the Dana Point City Council approved Dana Point Local Coastal Program Amendment LCPA06-03 pursuant to Resolution 11-06-13-01 and Ordinance No. 11-03. LCPA06-03 pertains to adoption of the Dana Point Harbor Revitalization Plan which includes the required land use and implementation measures. A copy of Ordinance 11-03 approving the amended Implementation Plan component of LCPA06-03 with the specific content of the proposed amendment attached as Exhibit A is incorporated herein by this reference as though fully set forth herein.

Section 4. That the California Coastal Commission is hereby requested to consider, approve and finally certify the Implementation Plan component of Dana Point Local Coastal Program Amendment LCPA06-03 which replaces the Implementation Plan component for the 1986 Dana Point Specific Plan Local Coastal Program for the Dana Point Harbor.

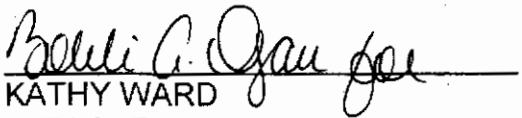
Section 5. That pursuant to Section 13551(b) of the Coastal Commission Regulations, the Implementation Plan component of Dana Point Local Coastal Program Amendment LCPA06-03 will automatically take effect immediately upon California Coastal Commission approval, as provided in Public Resources Code Section 30512, 30513 and 30519.

Section 6. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 13th day of June, 2011.

  
J. SCOTT SCHOEFFEL, MAYOR


ATTEST:

  
KATHY WARD  
CITY CLERK

STATE OF CALIFORNIA    )  
COUNTY OF ORANGE    ) ss.  
CITY OF DANA POINT    )

I, Kathy Ward, City Clerk of the City of Dana Point, do hereby certify that the foregoing Resolution No. 11-06-13- 01 was duly adopted and passed at a regular meeting of the City Council on the 13th day of June, 2011, by the following roll-call vote, to wit:

- AYES:           Council Members Bartlett, Brough, Weinberg, Mayor Pro Tem Anderson, and Mayor Schoeffel
- NOES:           None
- ABSENT:       None

  
KATHY WARD  
CITY CLERK



## ORDINANCE NO. 11-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA ADOPTING THE LOCAL COASTAL PROGRAM AMENDMENT LCPA06-03 WITH THE COASTAL COMMISSION'S SUGGESTED MODIFICATIONS TO THE IMPLEMENTATION PLAN COMPONENT OF THE DANA POINT HARBOR REVITALIZATION PLAN AND DISTRICT REGULATIONS, THAT ALSO AMENDS THE DANA POINT SPECIFIC PLAN AND ZONING CODE, FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION.

EXHIBIT # 3  
PAGE 1 OF 7

Applicant: City of Dana Point / County of Orange  
File No.: FF# 0630-10/LCPA 06-03

WHEREAS, on July 9, 1991, the City of Dana Point adopted its General Plan;  
and

WHEREAS, The County of Orange has submitted the proposed Dana Point Harbor Revitalization Plan and District Regulations for the Dana Point Harbor which would amend the City's Local Coastal Program; and

WHEREAS, The Dana Point Harbor Revitalization Plan and District Regulations will amend the Dana Point Specific Plan, replacing the Dana Point Harbor Planned Community Program document; and

WHEREAS, the City of Dana Point adopted a *Local Coastal Program*, which was certified by the California Coastal Commission and may be amended in whole or in part;  
and

WHEREAS, the Dana Point Harbor Revitalization Plan and District Regulations will be consistent with and will continue to provide for the orderly, systematic and specific implementation of the City's General Plan; and

WHEREAS, The Dana Point Harbor Revitalization Plan and District Regulations will constitute the *Local Coastal Program* for the Dana Point Harbor, satisfying the requirements of the California Coastal Act; and

WHEREAS, the Dana Point Harbor Revitalization Plan and District Regulations is part of a comprehensive planning approach that has included extensive analysis of the Harbor area, including Environmental Impact Report No. 591 that has been certified by the Orange County Board of Supervisors and covers all Dana Point Harbor Revitalization improvements; and

WHEREAS, the preparation and adoption of the Local Coastal Program Amendment is statutorily exempt from the California Environmental Quality Act, pursuant to Section 21080.9 of the Public Resources Code; and

WHEREAS, on June 7, 2006, the Planning Commission of the City of Dana Point conducted a duly noticed public hearing to consider the Dana Point Harbor Revitalization Plan and District Regulations as an amendment to the City's Local Coastal Program; and

WHEREAS, at said public hearing, upon hearing and considering all documents, testimony and arguments of all persons desiring to be heard, the Planning Commission considered all factors relating to the Dana Point Harbor Revitalization Plan and District Regulations as an amendment to the City's Local Coastal Program, LCPA 06-03, the Dana Point Specific Plan and Zoning Code; and

WHEREAS, on June 21, 2006 the Planning Commission adopted a Resolution to forward its recommendations to the City Council for approval of the Dana Point Harbor Revitalization Plan and District Regulations and Local Coastal Plan Amendment LCPA 06-03 through Resolution No. 06-06-21-22; and

WHEREAS, the City Council did on September 13, 2006 conducted a duly noticed public hearing as prescribed by law to consider the Dana Point Harbor Revitalization Plan and District Regulations and Local Coastal Plan Amendment LCPA 06-03; and

WHEREAS, the California Coastal Commission did on January 12, 2011, conducted a duly noticed public hearing as prescribed by law and approved the Implementation Plan with suggested modifications for the Dana Point Harbor Revitalization Plan and District Regulations and Local Coastal Plan Amendment LCPA 06-03; and

WHEREAS, the City Council did on June 13, 2011, conducted a duly noticed public hearing as prescribed by law to consider the Coastal Commission's suggested modifications to the Implementation Plan for the Dana Point Harbor Revitalization Plan and District Regulations and Local Coastal Plan Amendment LCPA 06-03 attached hereto as Exhibit A and incorporated herein by this reference; and

WHEREAS, at said public hearing, upon hearing and considering all documents, testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors relating to LCPA 06-03; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Dana Point as follows:

Section 1. That the above recitations are true and correct.

Section 2. That the City Council hereby approves the Implementation Plan component of the Dana Point Harbor Revitalization Plan and District Regulations as modified by the California Coastal Commission on January 12, 2011, attached hereto as Exhibit A.

Section 3. The City Council finds as follows:

- A. That the proposed action complies with all other applicable requirements of State law and local Ordinances;
- B. That the adoption of the proposed modifications to the Dana Point Harbor Revitalization Plan and District Regulations as an amendment to the Dana Point Specific Plan and Local Coastal Program and Zoning Code is in the public interest;
- C. That the Local Coastal Program Amendment LCPA 06-03 is consistent with, and will be implemented in full conformity with the Coastal Act;
- D. That the City Council adopts the following specific findings:
  1. That the public and affected agencies have had ample opportunity to participate in the LCPA process. Proper notice in accordance with the LCP Amendment procedures has been followed.
  2. That all policies, objectives, and standards of the LCPA conform to the requirements of the Coastal Act, including that the Land Use Plan as amended is in conformance with and adequate to carry out the Chapter 3 policies of the Coastal Act in that the amendment is a Harbor Land Use Plan that meets the requirements of and implements the provisions and policies of the Coastal Act at the local level by protecting, maintaining and, where feasible, enhancing the natural and scenic qualities of coastal resources; assures access consistent with conservation principles and constitutionally protected private property rights; assures priority for coastal-dependent and coastal-related development; and, encourages state and local government cooperation concerning the planning and development process.
  3. That Coastal Act policies concerning specific coastal resources, hazard areas, coastal access concerns, and land use priorities have been applied to determine the locations and intensity of land and water uses in that subsequent development within the harbor will be reviewed for compliance with the Coastal Act provisions and other applicable state law.

4. That the level and pattern of development proposed is reflected in the amended Land Use Plan, Zoning Code, and Zoning Map. The applicable sections are being amended accordingly to be consistent with state law.
5. That a procedure has been established to ensure adequate notice of interested persons and agencies of impending development proposed after certification of the LCPA. Proper notice in accordance with the LCP Amendment procedures has been followed.
6. That zoning measures are in place which are in conformance with and adequate to carry out the coastal policies of the Land Use Plan. The City's Zoning Code is being amended concurrently with the LCP amendment.
7. The City certifies that with the adoption of these amendments, the City will carry out the Local Coastal Program in a manner fully in conformity with Division 20 of the Public Resources Code as amended, the California Coastal Act of 1976.
8. The City certifies that the Implementation Plan, as amended, is in conformity with and adequate to carry out the Chapter Three policies of the Coastal Act.
9. The City certifies the implementing actions, as amended, are in conformity with and adequate to carry out the provisions of the certified Land Use Plan.
10. The Resolution No. 11-06-13-01 of the City Council specifies that Local Coastal Program Amendment LCPA 06-03 as modified be submitted to the Coastal Commission for certification.

Section 4. Chapter 9.25 of the City's Zoning Code is deleted in its entirety and amended to read as follows:

**Chapter 9.25  
DANA POINT HARBOR DISTRICT**

**Sections:**

**9.25.010 Dana Point Harbor Revitalization Plan & District Regulations**

**9.25.010 Dana Point Harbor Revitalization Plan & District Regulations.**

The land use and development regulations for this area are contained in the Dana Point Harbor Revitalization Plan & District Regulations included as Appendix C of the Dana Point Zoning Code.

Section 5. The Dana Point Harbor Revitalization Plan & District Regulations shall replace in its entirety the Dana Point Harbor Planned Community District Development Plan and thereby amend the relevant portion of the Dana Point Specific Plan as applicable.

Section 6. The Dana Point Harbor Revitalization Plan & District Regulations shall be included as Appendix C of the Dana Point Zoning Code. Furthermore, the Dana Point Harbor Revitalization Plan and District Regulations shall replace the existing Dana Point Harbor Planned Community regulations in the City's Zoning and Municipal Code including, but not limited to, Appendix A of the Zoning Code.

Section 7. The City Clerk shall certify to the adoption of this Ordinance.

PASSED, APPROVED, AND ADOPTED this 25th day of July, 2011.

  
J. SCOTT SCHOEFFEL, MAYOR

ATTEST:

  
KATHY M. WARD, CITY CLERK

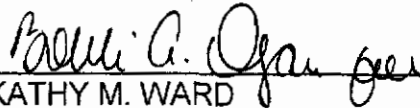
STATE OF CALIFORNIA    )  
COUNTY OF ORANGE    ) ss.  
CITY OF DANA POINT    )

I, Kathy M. Ward, City Clerk of the City of Dana Point, do hereby certify that the foregoing Ordinance No. 11-03 was duly adopted and passed at a regular meeting of the City Council on the 25<sup>th</sup> day of July, 2011, by the following roll-call vote, to wit:

AYES:           Council Members Bartlett, Brough, Weinberg, Mayor Pro Tem  
                  Anderson, and Mayor Schoeffel

NOES:           None

ABSENT:        None

  
\_\_\_\_\_  
KATHY M. WARD  
CITY CLERK

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss  
CITY OF DANA POINT )

AFFIDAVIT OF POSTING  
AND PUBLISHING

KATHY WARD, being first duly sworn, deposes, and says:


That she is the duly appointed and qualified City Clerk of the City of Dana Point;

That in compliance with State Laws of the State of California, ORDINANCE NO. 11-03, being:

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA ADOPTING THE LOCAL COASTAL PROGRAM AMENDMENT LCPA06-03 WITH THE COASTAL COMMISSION'S SUGGESTED MODIFICATIONS TO THE IMPLEMENTATION PLAN COMPONENT OF THE DANA POINT HARBOR REVITALIZATION PLAN AND DISTRICT REGULATIONS, THAT ALSO AMENDS THE DANA POINT SPECIFIC PLAN AND ZONING CODE, FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION.**

was published in summary in the Dana Point News newspaper on the 23<sup>rd</sup> day of June, 2011, and the 4<sup>th</sup> day of August, 2011, and, in further compliance with City Resolution No. 91-10-08-1, on the 14<sup>th</sup> day of June, 2011, and the 29<sup>th</sup> day of July, 2011, was caused to be posted in four (4) public places in the city of Dana Point, to wit:

- Dana Point City Hall
- Capistrano Beach Post Office
- Dana Point Post Office
- Dana Point Library

  
KATHY WARD, CITY CLERK  
Dana Point, California

**RECEIVED**  
South Coast Region

Th 6a

SEP 27 2011

**FORM FOR DISCLOSURE  
OF EX PARTE  
COMMUNICATIONS**

CALIFORNIA  
COASTAL COMMISSION

Name or description of project, LCP, etc.: Th. 6a Dana Point Harbor LCP  
Amendment No. DPT-MAJ-1-10  
(Implementation Plan for Dana Point  
Harbor Revitalization Plan)  
Certification Review

Date and time of receipt of communication: see attached

Location of communication: Board of Supervisor's Office, Santa  
Cruz, CA

Type of communication: Correspondence Received

Person(s) initiating communication: See attached

Person(s) receiving communication: Mark Stone

Detailed substantive description of content of communication:  
(Attach a copy of the complete text of any written material received.)

See attached

Date: 9/27/11 Signature of Commissioner: *Mark Stone*

If the communication was provided at the same time to staff as it was provided to a  
Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred within seven or more days in advance of the Commission hearing on  
the item that was the subject of the communication, complete this form and transmit it to the  
Executive Director within seven days of the communication. If it is reasonable to believe that the  
completed form will not arrive by U.S. mail at the Commission's main office prior to the  
commencement of the meeting, other means of delivery should be used; such as facsimile,  
overnight mail, or personal delivery by the Commissioner to the Executive Director at the  
meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the  
information orally on the record of the proceeding and provide the Executive Director with a  
copy of any written material that was part of the communication.



**Mark Stone**

**From:** Jim Miller [mokaman1@cox.net]  
**Sent:** Tuesday, September 27, 2011 9:31 AM  
**To:** Mark Stone  
**Subject:** Re: October 6, 2011 Agenda Item 6a - Dana Point Harbor Major LCPA no. 1-10  
**Attachments:** LCPA (DPT-MAJ-1-08) LCP Amnendmentno 1-10 Letter.docx



**Dana Point Harbor Now!**  
**34531 Golden Lantern**  
**Dana Point, CA 92629**

Commissioner Mark Stone  
County Government Center  
701 Ocean Street, Room 500  
Santa Cruz, CA 95060

September 27, 2011

**Re: October 6, 2011 Agenda Item 6a - Dana Point Harbor Major LCPA no. 1-10**

Dear Vice Chair Stone,

My Name is Jim Miller and I am one of the founding members of Dana Point Harbor Now.

Item 6a on the agenda for the upcoming October 6<sup>th</sup>, 2011 Coastal Commission Meeting is the Executive Director's determination that the action of the City of Dana Point accepting certification with suggested modifications of Major LCP Amendment no. 1-10 is legally adequate. On behalf of the more than 2,000 members of Dana Point Harbor Now, we want you to be aware that we fully support the determination of the Executive Director on this matter.

Dana Point Harbor Now is proud of the efforts made to assure the Dana Point Harbor Revitalization Plan works for the members of our broad and diverse community. The City of Dana Point's Local Coastal Program Amendment, LCPA 03-06, was approved by your Commission in a way that restores and preserves recreational boating facilities while enhancing visitor serving amenities. Dana Point Harbor Now thanks you again for your efforts and we urge you to concur with the Executive Director's decision at the October 6<sup>th</sup> Commission Meeting.

There are a few individuals within the Dana Point Harbor Community who continue to try to stall the Revitalization of the Harbor. It is our opinion that many concessions were made in order to address the concerns of the broad range of Dana Point Harbor users and this LCP is now ready to guide the future Harbor Revitalization. On our website at [http://danapointharbornow.org/newsletters/newsletter\\_8\\_22\\_11.html](http://danapointharbornow.org/newsletters/newsletter_8_22_11.html) we have addressed how many of the issues, raised by some individuals who remain opposed to the project, have been taken into account and remedied through suggested modifications to the approved documents. We would like to bring these issues to your attention and we ask that you review this information on our website. We have also attached a copy for your use. We would also request that this letter and attachment be made a part of the public record for Item 6a at the upcoming Commission meeting on October 6<sup>th</sup>.

Sincerely,  
Jim Miller

Jim Miller

Founding Member  
Dana Point Harbor Now

Cc: Dr. Charles Lester  
Sherilyn Sarb  
Teresa Henry  
Fernie Sy  
Coastal Commissioners (all)



Dana Point Harbor Now is proud of the efforts made to assure the Dana Point Harbor Revitalization Plan works for the members of our broad and diverse community. The City of Dana Point's Local Coastal Program Amendment, LCPA 03-06, was approved by the California Coastal Commission (CCC) in a way that restores and preserves recreational boating facilities while enhancing visitor serving amenities.

With change, there are always differing opinions and healthy debate. In this case, that has served to make the process stronger and ultimately a more sustainable plan for everyone involved. In response to the positive progress made, to address dissenting opinions and documented changes, an update is in order.

The items below in red, were changes requested and currently being circulated to the public. Many of these items below, in red, have been addressed by the CCC as suggested modifications to the Dana Point Harbor Local Coastal Program (LCP) Land Use Plan and the Implementation Plan. Commentary and excerpts from the documents, related to changes that have been made by the CCC are included below each red item. The 2,000 plus members of Dana Point Harbor Now, support these efforts and the amended documents already approved by the CCC and the City of Dana Point..

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*Shipyard: A shipyard shall be maintained in the Marine Services Commercial Planning Area and shall be no less than 1.6 acres in size, excluding any water area. The expansion, modification or renewal of the shipyard lease shall be required to demonstrate that the proposed size of the lease area is adequate to maintain a full-service shipyard facility that includes boat haul-out and repair services. Boat-owner self-repair areas are encouraged.*

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Response: The CCC approved designated boater parking at the ratio of 0.60 spaces per slip in the same lots that exist today. Only one small lot will need to be relocated due to the proposed development.

Chapter 14.2.j of the Implementation Plan reads:

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Chapter 14.4.1 of the Implementation Plan reads:

*Joint-Use or Shared Parking: The approval of a parking reduction due to joint-use or shared parking shall be based on the following findings:*

*1. Such modification shall not have a negative impact on parking for commercial, visitor-serving, boater, parks or other recreational uses.*

- Restore and maintain Launch Ramp Trailer/Tow Vehicle Parking functionality. Restore original geometry to optimize compliance with Department of Boating and Waterways Design Guidelines. Increase size of parking spaces to accommodate typical use (Proposed design is minimum allowed). Scale back commercial core expansion, do not move "The Street of the Golden Lantern" and do not place parking garage in trailer/tow vehicle parking area.

Response: The CCC did require more spaces (334) and larger spaces (10' x 40' and some larger) be provided. The location of the parking deck has not moved but there is an option being discussed to lengthen and narrow the parking deck to remove the "panhandle" shaped area and "square off" the launch ramp parking lot area for improved circulation.

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- Retain "Park Like Setting" by scaling back commercial core expansion and reducing maximum building height increase. Current zoning maximum is 35' with a proposed increase to 65' the park like setting will be eliminated. Reduce increase to 45'.

Response: The Coastal Commission did require some changes to the building heights and some specific language regarding where certain building height exceptions can be allowed.

Chapter 5.5.c of the Implementation Plan reads:

*Building height limit: All new development shall not exceed a maximum building height of thirty-five (35) feet; any exceptions to this height limitation, up to a maximum of sixty (60) feet, shall be required to demonstrate all of the following:*

1. Significant coastal public views through scenic corridors and from scenic viewpoints as shown on Exhibit I-8-1, Dana Point Harbor View Corridors, of the certified Land Use Plan are protected and enhanced.
2. The combination of architectural design and building heights shall utilize irregular massing with offsets in the plan, section and roof profile to break-up the façade of the structures and provide a pedestrian setting when viewed from the Festival Plaza and marina areas.
3. The buildings are connected to the parking deck podium structure used to create direct vehicular and pedestrian access to the Day Use Commercial amenities, with additional unobstructed views of the ocean and marinas provided from new elevated public vantage points.
4. With the exception of Conceptual Building 4 (the new building proposed in the Dana Wharf area), any additional height above forty (40) feet shall be for architectural features only that do not increase the gross floor area for the purpose of determining parking requirements.

5. *No more than fifty percent (50%) of the total roof area of the structures shall exceed forty (40) feet in height and no more than twenty-five percent (25%) of the same roof area shall exceed fifty (50) feet in height. An exception to this limitation may be permitted for Conceptual Building 4, (the new building proposed in the Dana Wharf area) with a building footprint of less than 5,000 sq. ft., if the majority of the upper level is used to accommodate a harbor-wide view for purposes of harbor-related public safety operations.*
6. *Public/boater access to the dry boat storage/public boat launching facilities are maintained.*
7. *Architectural elements including building heights have been incorporated into the design of the buildings to promote a village atmosphere and maintain the existing community character of the area.*

*Elevators, appropriately screened mechanical units and chimneys that do not exceed ten percent (10%) of the total roof area for all new and existing, remodeled structure not in excess of thirty-five (35) feet, nor exceed the height limit by more than five (5) feet shall be permitted.*

#### **Baseline Numbers:**

In response to the City of Dana Point City Council, adopting the suggested modifications approved by the California Coastal Commission for the Implementation Plan for Local Coastal Program Amendment LCPA06-03 for the Dana Point Harbor Revitalization Plan and District Regulations, Bruce Heyman, in a blog posted August 14, 2011 pointed out what he felt to be a "serious element that is missing from [the] document". The blog read as follows:

Boaters for Dana Point Harbor had made a good case for, and the California Coastal Commissioners agreed that, the numbers the County/City are using for the number of slips, parking and most importantly dry boat storage must be "trued up" before any Coastal Development Permits are to be issued for the Commercial Core expansion projects. This provision is missing from the document presented to the City Council Members and approved by their action.

Response: The City of Dana Point City Council's action on June 13, 2011 adopted the California Coastal Commission's action including all of the suggested modifications made by the Commission. This included a specific modification regarding the baseline numbers, which reads:

*Parking Management Plan shall also provide accurate (baseline) numbers for the number of slips in each area of the harbor, the number of dry boat storage spaces, and the number of parking spaces which currently exist, based on legal and permitted development. These baseline numbers shall be used in development of the Parking Management Plan.*



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CALIFORNIA  
COASTAL COMMISSION

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**Dana Point Harbor Now!**  
**34531 Golden Lantern**  
**Dana Point, CA 92629**

Mr. Fernie Sy  
Coastal Program Analyst  
California Coastal Commission  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302

September 26, 2011

Re: October 6, 2011 Agenda Item 6a - Dana Point Harbor Major LCPA no. 1-10

Dear Mr. Sy,

My Name is Jim Miller and I am one of the founding members of Dana Point Harbor Now.

Item 6a on the agenda for the upcoming October 6<sup>th</sup>, 2011 Coastal Commission Meeting is the Executive Director's determination that the action of the City of Dana Point accepting certification with suggested modifications of Major LCP Amendment no. 1-10 is legally adequate. On behalf of the more than 2,000 members of Dana Point Harbor Now, we want you to be aware that we fully support the determination of the Executive Director on this matter.

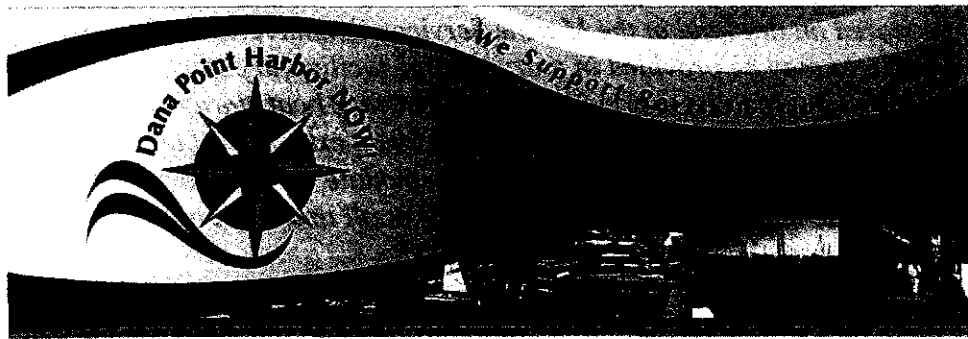
Dana Point Harbor Now is proud of the efforts made to assure the Dana Point Harbor Revitalization Plan works for the members of our broad and diverse community. The City of Dana Point's Local Coastal Program Amendment, LCPA 03-06, was approved by your Commission in a way that restores and preserves recreational boating facilities while enhancing visitor serving amenities. Dana Point Harbor Now thanks you again for your efforts and we urge you to concur with the Executive Director's decision at the October 6<sup>th</sup> Commission Meeting.

There are a few individuals within the Dana Point Harbor Community who continue to try to stall the Revitalization of the Harbor. It is our opinion that many concessions were made in order to address the concerns of the broad range of Dana Point Harbor users and this LCP is now ready to guide the future Harbor Revitalization. On our website at [http://danapointharbornow.org/newsletters/newsletter\\_9\\_22\\_11.html](http://danapointharbornow.org/newsletters/newsletter_9_22_11.html) we have addressed how many of the issues, raised by some individuals who remain opposed to the project, have been taken into account and remedied through suggested modifications to the approved documents. We would like to bring these issues to your attention and we ask that you review this information on our website. We have also attached a copy for your use. We would also request that this letter and attachment be made a part of the public record for Item 6a at the upcoming Commission meeting on October 6<sup>th</sup>.

Sincerely,

Jim Miller  
Founding Member  
Dana Point Harbor Now

Cc: Dr. Charles Lester  
Sherilyn Sarb  
Teresa Henry  
Coastal Commissioners (all)



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**Dr. Charles Lester, Executive Director**  
**California Coastal Commission**  
**45 Fremont Street**  
**Suite 2000**  
**San Francisco, CA 94105**

**September 30, 2011**

**Re: October 6, 2011 Coastal Commission Hearing - Agenda Item 6a**  
**Dana Point Harbor Major LCPA No. 1-10, Executive Director Determination**

Dear Dr. Lester:

Next week, at the October 6, 2011 Coastal Commission Meeting, Item 6a on the agenda is the Executive Director's determination regarding the Dana Point Harbor Revitalization Implementation Plan.

The City of Dana Point and the County of Orange fully support staff's recommendation to concur with the Executive Director's determination that the City's action is legally adequate.

It has taken quite a while, but we are thrilled to be at the culmination of this very long process to certify a Local Coastal Program Amendment (LCPA) for the Revitalization of Dana Point Harbor. Since January of 2006, just 2 months shy of a 6-year time period, there have been a total of 18 public hearings held regarding the Dana Point Harbor Revitalization Plan, combined between the County of Orange, the City of Dana Point and the Coastal Commission. (We have attached a summary of these hearings for your information). The Commission's consideration of the final certification of the LCPA will be number 19. This process has allowed a level of public input that few projects have seen and the Harbor users have definitely played a major role in the crafting of this LCPA.

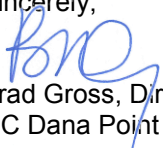
The Staff report clearly outlines the public's last few requests resulting in the Commission's modifications up to and including, "modified the Parking Management Plan provisions to require that accurate baseline numbers for harbor boat slips, dry boat storage spaces and parking spaces, based on legal and permitted development, be determined and used in the development of the parking management plan." We have had dialogue with Coastal staff and clearly understand and are committed to accomplish the direction of the Commission.

We look forward to moving on with the work of Revitalizing Dana Point Harbor, now that the regulatory framework has been determined. We will return to the City of Dana Point and this Commission in the near future with Coastal Development Permits to begin construction of the improvements, which will ultimately improve public access to the Coast for everyone.

We appreciate your time and effort and the time and effort of Coastal Commission staff in getting us here to this very important milestone.

We look forward to seeing you on October 6<sup>th</sup>. Please do not hesitate to call me (949) 923-3798, if you would like to discuss anything in advance of the hearing.

Sincerely,



Brad Gross, Director  
OC Dana Point Harbor

Enclosure (1)

copies (via e-mail):

- Coastal Commissioners (all)
- Dr. Charles Lester, CCC
- Sherilyn Sarb, CCC
- Teresa Henry, CCC
- Fernie Sy, CCC
- Doug Chotkevys, City of Dana Point
- Kyle Butterwick, City of Dana Point

## **Dana Point Harbor Revitalization Public Hearing History (2006 – 2011)**

- 1) 01/10/06 County of Orange Planning Commission**  
**Re: DPH EIR Recommendation**  
Location: Dana Point City Hall  
8 Public Speakers  
Outcome: Planning Commission recommended certification of EIR.
- 2) 01/31/06 County of Orange Board of Supervisors**  
**Re: DPH EIR Certification**  
Location: Santa Ana, CA  
5 Public Speakers  
Outcome: Certified EIR and approved DPH Revitalization Plan
- 3) 06/07/06 City of Dana Point Planning Commission**  
**Re: Local Coastal Program Amendment 06-03**  
Location: Dana Point City Hall  
25 Public Speakers  
Outcome: Voted 5-0 to bring back a revised resolution for approval of the plan, subject to Commission's comments and concerns.
- 4) 06/21/06 City of Dana Point Planning Commission**  
**Re: Local Coastal Program Amendment 06-03**  
Location: Dana Point City Hall  
No Public Comment Taken  
Outcome: Voted to recommend to the City Council, approval of the Dana Point Harbor Revitalization Plan and District Regulations and forward Local Coastal Program Amendment 06-03 to the California Coastal Commission for approval.
- 5) 09/13/06 City of Dana Point City Council**  
**Re: Local Coastal Program Amendment 06-03**  
Location: Dana Point City Hall  
31 Public Speakers  
Outcome: Voted to approve the Dana Point Harbor Revitalization Plan and District Regulations and forward Local Coastal Program Amendment 06-03 to the California Coastal Commission for approval.
- 6) 09/27/06 City of Dana Point City Council**  
**Re: 2<sup>nd</sup> Reading to approve Local Coastal Program Amendment 06-03**  
Location: Dana Point City Hall  
1 Public Speaker  
Outcome: Approved the 2<sup>nd</sup> reading of the Ordinance and Resolution approving the Dana Point Harbor Revitalization Plan and District Regulations and forward Local Coastal Program Amendment 06-03 to the California Coastal Commission for approval.

- 7) **10/08/09 Coastal Commission**  
**Re: Major Amendment Request to the DPH Local Coastal Program Amendment Land Use Plan (LCPA LUP)**  
Location: Oceanside, CA  
65 Public Speakers – +/- 5 hours of public comment  
Outcome: Voted to certify the LCPA LUP with Suggested Modifications.
- 8) **02/08/10 City of Dana Point City Council**  
**Re: Accept Coastal Commission Suggested Modifications to the LUP**  
Location: City of Dana Point City Hall  
11 Public Speakers  
Outcome: Voted to Accept Coastal Commission Suggested Modifications to the LUP
- 9) **02/22/10 City of Dana Point City Council**  
**Re: 2<sup>nd</sup> Reading to accept Coastal Commission Suggested Modifications to the LUP**  
Location: City of Dana Point City Hall  
3 Public Speakers  
Outcome: Approved 2<sup>nd</sup> reading to Accept Coastal Commission Suggested Modifications to the LUP
- 10) **06/09/10 Coastal Commission**  
**Re: Concurrence with the Executive Director's determination that the City's action, re: the LUP, is legally adequate accepting certification with Suggested Modifications**  
Location: Marina del Rey  
5 Public Speakers  
Outcome: Requested modifications be made to the Suggested modifications.
- 11) **07/26/10 City of Dana Point City Council**  
**Re: Accept Coastal Commission Revised Suggested Modifications to the LUP**  
Location: City of Dana Point City Hall  
17 Public Speakers  
Outcome: Voted to accept the Revised Suggested Modifications to the LUP
- 12) **09/27/10 City of Dana Point City Council**  
**Re: 2<sup>nd</sup> Reading to Accept Coastal Commission Revised Suggested Modifications to the LUP**  
Location: City of Dana Point City Hall  
3 Public Speakers  
Outcome: Approved 2<sup>nd</sup> reading to accept the Revised Suggested Modifications to the LUP

- 13) 10/13/10 Coastal Commission**  
**Re: Concur with the Executive Director's determination that the City's action is legally adequate.**  
Location: Oceanside, CA  
11 public speakers  
Outcome: Voted unanimously to concur with the Executive Director's determination that the City's action is legally adequate.
- 14) 01/12/11 Coastal Commission**  
**Re: Implementation Plan (IP) Hearing**  
Location: Long Beach, CA  
22 Public Speakers  
Outcome: Voted unanimously to approve the Implementation Plan with Suggested Modifications.
- 15) 04/13/11 Coastal Commission**  
**Re: Implementation Plan (IP) Hearing**  
Location: Santa Barbara, CA  
1 Public Speaker  
Outcome: Voted unanimously to certify changes to the Implementation Plan Suggested Modifications.
- 16) 06/13/11 City of Dana Point City Council**  
**Re: Accept Coastal Commission Suggested Modifications to the IP**  
Location: City of Dana Point City Hall  
6 Public Speakers  
Outcome: Voted unanimously to approve the Coastal Commission's Suggested Modifications to the IP
- 17) 07/25/11 City of Dana Point City Council**  
**Re: 2<sup>nd</sup> Reading to accept Coastal Commission Suggested Modifications to the IP**  
Location: City of Dana Point City Hall  
1 Public Speaker  
Outcome: Approved the 2<sup>nd</sup> reading of the Ordinance and Resolution approving the Coastal Commission's Suggested Modifications to the IP
- 18) 09/12/11 City of Dana Point City Council**  
**Re: Approved Minutes from 7/25/11**  
Location: City of Dana Point City Hall  
No Public Speakers  
Outcome: Approved the minutes from 7/25/11
- 19) 10/06/11 Coastal Commission**  
**Re: Executive Director Determination**  
Location: Huntington Beach, CA

October 2, 2011

TH6A – Dana Point Harbor

Dear Commissioner,

Boaters for Dana Point Harbor are asking the Coastal Commission to address a serious issue with the Implementation Plan for Dana Point Harbor. Addressing the issue now will:

- a) Implement the wishes of the Commissioners who participated in the January 12, 2011 Implementation plan Hearing,
- b) Eliminate the costly and time/resource consuming enforcement mentioned by the Commissioners and
- c) Reduce future necessity to appeal City of Dana Point issued Coastal Development Permits.

While Boaters for Dana Point Harbor participated in the Revised Findings Hearing, the transcripts from the hearing were not available to the Commission Staff until the morning of the Revised Findings Hearing. Boaters for Dana Point Harbor received a copy from Staff a couple of weeks later. The transcripts, we believe, make it clear that the Commissioners expected the “trued up numbers” to not only be used in the Parking Management Plan but throughout the Implementation Plan. We’ve attached “re-typed” relevant sections from the Commissioners deliberation transcripts.

Boaters for Dana Point Harbor participated in both readings in the Dana Point City Council Chambers raising the issue of “truing up the numbers”. In both cases the City Council Members were told by City Staff that they had only two choices; a) approve the document exactly as submitted or b) restart the entire LCPA process along with an additional spend of millions of dollars and delay of several years. Consequently, the only “truing up” that was done was with regard to a parking management plan in the Harbor, thus leaving all parking spaces, boat slip, and dry boat storage numbers unaddressed, contrary to the wishes of the Commission.

We believe the Coastal Act allows this issue to be quickly resolved in a way that will significantly reduce the future expenditure of the time and resources of the Commission and Commissioners, while providing the coastal access protections provided for in the law. We are asking that you request your Staff to re-issue the document with the following additional words which are underlined. The City will then be free to approve the document and obtain concurrence of the Commission’s Executive Director.

**9. Page 103, Chapter 14, Off-Street Parking Standards and Regulations, Section 14.6 Parking Management Plan, add the following at the end of the first paragraph:** The Dana Point Harbor Parking Management Plan will be updated on a routine basis (every 5 years) or as determined by the Director, OC Dana Point Harbor and/or the City of Dana Point Director of Community Development or as Coastal Development Permit application(s) are processed for Dana Point Harbor Revitalization Plan improvements that affect a significant number of parking spaces or utilization management of parking areas in the Harbor. **The Parking Management Plan shall also provide accurate (baseline) numbers for the number of slips in each area of the harbor, the number of dry boat storage spaces, and the number of parking spaces which currently exist, based on legal and permitted development. These baseline numbers shall be used in the development of the parking management plan and for the determination of the appropriate numbers of parking, slips and dry boat storage.**

We thank you for your consideration of the matter and are available for any questions you may have.



# Th 6a

Respectfully,

Bruce Heyman

President

Boaters for Dana Point Harbor

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[www.boaters4dph.com](http://www.boaters4dph.com)

*Boaters for Dana Point Harbor is a volunteer based organization that has collected approximately 900 signed petitions requesting that we work with the Coastal Commission and others to insure that Recreational Boating within Dana Point Harbor is preserved and protected to the full extent prescribed by the Coastal Act.*