



January 6, 2015

Teresa Henry, South Coast District Manager  
CALIFORNIA COASTAL COMMISSION  
200 Oceangate, 10<sup>th</sup> Floor  
Long Beach, California 90802-4416

**RE: COASTAL DEVELOPMENT PERMIT CDP13-0018(I) AMENDING AND SUPERSEDING THE CITY'S PREVIOUS APPROVAL OF CDP13-0018 FOR THE DANA POINT HARBOR COMMERCIAL CORE PROJECT**

Dear Ms. Henry:

This letter acknowledges the City's receipt of the letter (and referenced attachments) dated January 5, 2015 by Roger Beard of the Dana Point Boaters Association requesting consideration be given by the California Coastal Commission to amend the City's approval of the above referenced Coastal Development Permit to include "stipulations to address the mitigations we recommend". We would like to point out that the same list of "Recreational Boating Issues and Mitigations Requested by the Dana Point Boaters Association" (dated November 9, 2014) was an attachment to a letter received by Dana Point City Council and Coastal Commission staff prior to the City Council's public hearing on the above referenced Amended CDP application.

Although submitted after the publication of the City' Agenda Report, each of the recommendations proposed by the DPBA were evaluated by City staff, in consultation with OC Dana Point Harbor staff to determine applicability to the discretionary action being considered by the City. As described in the response letter prepared by Brad Gross to Roger Beard (dated November 17, 2014), many of the recommendations involve suggestions for the modification of operational practices that do not pertain to compliance with Harbor LCP policies and/or requirements and therefore are not relevant to the City's action on the Commercial Core CDP. OC Dana Point Harbor did however acknowledge that a modification could be incorporated into the project design to modify a pedestrian stairway in the Festival Plaza area of the project to replace it with a ramp structure, thereby allowing better access for boaters to the dock areas. This modification to the plan was incorporated into the adopted approval resolution for the project as new condition of approval number 57.

Having reviewed the documentation provided, the City believes that the action taken on November 18, 2014 by the City Council is in accordance with all provisions of the City's Municipal Code, the certified Harbor LCP and the Coastal Act as reflected in Resolution No. 14-11-18-06. We would therefore request that the Coastal Commission move forward with approving the Coastal staff recommended action by finding No Substantial Issue and allowing the local government action to become final and effective.

*Harboring the Good Life*

Should you have any questions, please do not hesitate to call me at (949) 248-3567 and/or John Tilton at (949) 248-3570.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ursula Luna-Reynosa". The signature is fluid and cursive, with a large initial "U" and a long horizontal stroke at the end.

Ursula Luna-Reynosa  
Director of Community Development

**CALIFORNIA COASTAL COMMISSION**

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

**Th 10c**

Click here to go to  
 original staff report

**ADDENDUM**

January 5, 2015

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **ADDENDUM TO ITEM TH10C, A-5-DPT-14-0069 FOR THE  
 COMMISSION MEETING OF THURSDAY, JANUARY 8, 2015.**

**A. CHANGES TO STAFF REPORT**

Commission staff recommends modifications to the staff report dated 1/8/14 in the following sections of the staff report: Section V (Findings and Declarations). Language to be added to the findings and conditions is shown in underlined text, and language to be deleted is identified by ~~strike-out~~.

- 1. Add new exhibit, Exhibit No. 8, showing the interim location of the jet ski rental building during the construction period.**
- 2. Page 10 – Modify Section V.C. Substantial Issue Analysis, as follows:**

...

In response to this contention, the Commission considers the degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the relevant provisions of the Coastal Act. The City's action in conditionally approving the Commercial Core project is clear in that both existing boat and personal watercraft concessions are being relocated to a similarly situated area in Planning Area 1 where renters will continue to have access to the Harbor waterways and the water area where the wet slips are located are not within the project area and are not being impacted by the proposed development (**Exhibit No. 8**). Therefore, these Coastal Act and LCP priority uses are not being eliminated and there is no adverse impact to public access created by the project. The approved CDP does not include any development in the water. Therefore, the development will not eliminate any wet slips. When the City approved the Commercial Core project CDP, they also granted an "Approval in Concept" for the future dry stack boat storage facility that would be located partially within the Commission's retained jurisdiction. The City and OC Dana Point Harbor, the applicant, will later submit a consolidated CDP application to the Coastal Commission for approval of the boat storage facility. It will be through review of the consolidated CDP application that impacts to existing wet slips will be addressed.

...

## **B. CORRESPONDENCE RECEIVED**

Commission staff received a letter on January 5, 2015 from the Dana Point Boaters Association in opposition to Coastal Commission Staff's recommendation of No Substantial Issue for A-5-DPT-14-0069 (See attached letter and attachments).

# CDP13-0018(I) Plans & Exhibits, Tab One, Sheets A-03, Interim Development Plan Indicates interim location of Jet Ski Rental Building

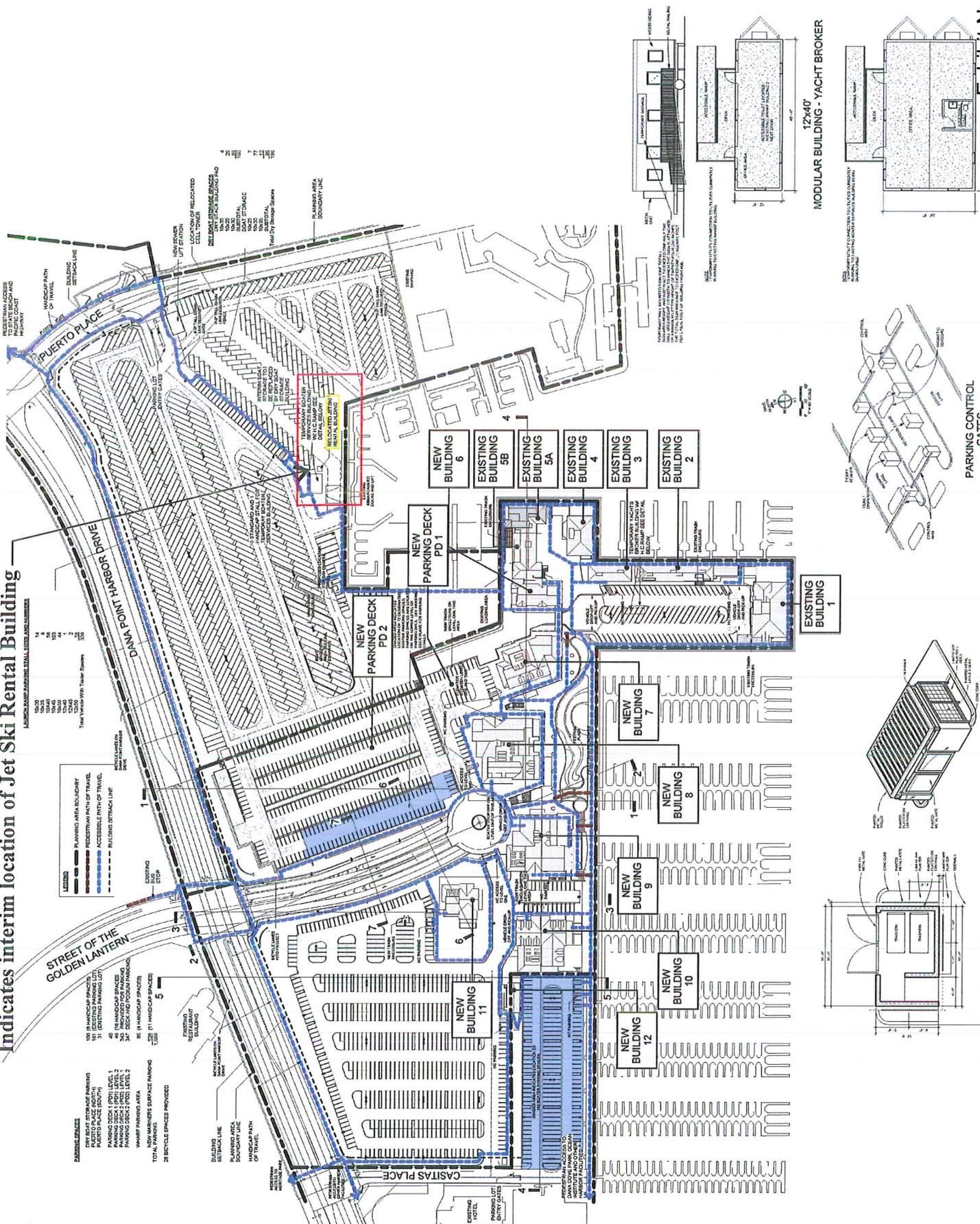
**DANA POINT HARBOR REVITALIZATION  
COMMERCIAL CORE PROJECT**  
COUNTY OF ORANGE  
DANA POINT HARBOR DRIVE  
DANA POINT, CALIFORNIA



DATE: 03/03  
PROJECT #: 2011-018  
SCALE: 1" = 60'-0"  
SHEET #: 4/8

**INTERIM  
DEVELOPMENT  
PLAN**

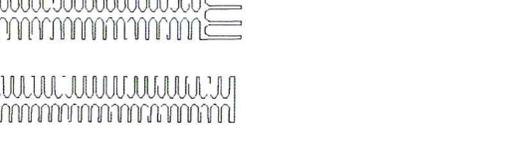
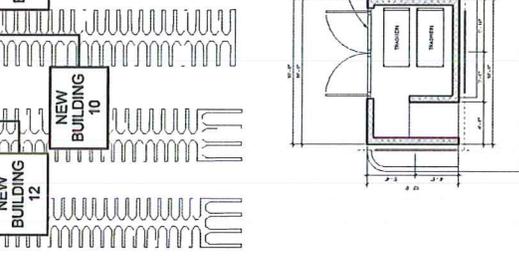
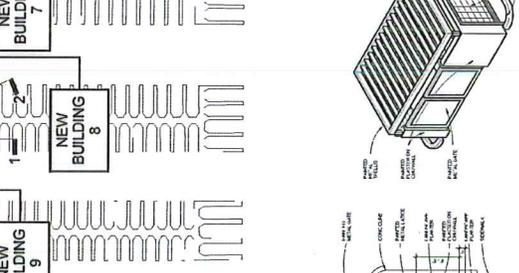
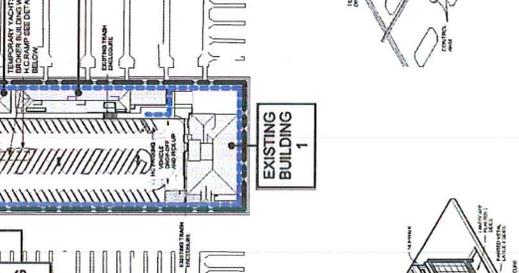
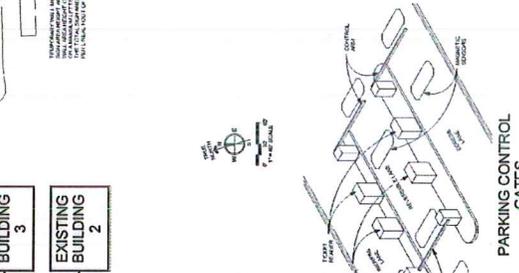
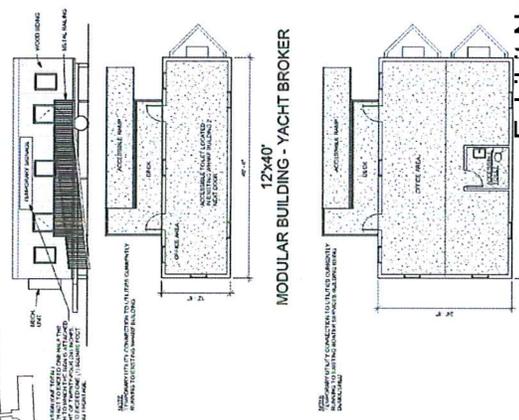
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Post Office Box 461, Dana Point, California 92629

January 5, 2015

TO: *Appellants and named representatives of the Local, Regional and State Government Agencies (see list at end of document)*

SUBJECT: CDP Appeal No. A-5-DPT-14-0069 (County of Orange, Dana Point Harbor Department)

As discussed previously in the first attached correspondence, DPBA (The Dana Point Boaters Association) was formed in 2006 when a groundswell of recreational boaters, along with other local stakeholders, became alarmed by the County of Orange-authored plan to massively redevelop Dana Point Harbor.

We need to go on record here that Bruce Heyman, one of the citizen appellants to the CDP application that is the subject of this letter was a fellow DPBA founder and was our first president. We incorporated as a California not-for-profit corporation in the spring of 2007. Bruce resigned from DPBA during the late summer of 2008 when it became apparent that there were differences in personal styles as well as our strategies for achieving recreational boating goals. I hasten to add that we then both believed, and certainly still do, that Dana Point Harbor is a jewel on the coast of our beautiful state. We also both believed that it requires ongoing citizen action to protect our harbor from the large scale commercial interests that typically value development opportunities over the preservation of affordable recreational boating resources.

Indeed, many stakeholders, not only boaters, believe that it was an unfortunate lack of recreational boater participation in the critical early stages of harbor redevelopment planning, in the 4-5 years following the highly successful project launch by the County appointed Task Force during 1997, that caused most of the issues we are still facing today. I cannot speak for Bruce Heyman as our paths separated years ago, but I can explain DPBA's position on the matter that is coming before the full California Coastal Commission on January 8<sup>th</sup> in Santa Monica. That is the purpose of this letter.

The DPBA leadership team believes that it has been demonstrated abundantly over the past several years that the best form of citizen action is *participation* in the planning process. The proof is demonstrated by the many improvements and corrections to the redevelopment plan since we initially became involved. We've provided a bulleted list of some of the more major revisions which can be found on page one, after paragraph three in our attached letter to Dana Point City Council dated November 8<sup>th</sup>, 2014. It's safe to say that all fellow will stakeholders will agree that the redevelopment plan is a much better product as a result.

As we have publicly stated on many occasions, DPBA supports the current redevelopment plan and wishes redevelopment construction to begin as quickly as possible, so long as the plan includes certain requested mitigations (spelled out in the second document which is attached). Unfortunately, our requests for stipulations to address these mitigations at the local level have gone unacted upon during the long series of plan review and approval meetings. Effectively, local government, while never disagreeing with our concerns, has deferred action on our re-requested mitigations to the Coastal Commission.

The justification often quoted by those responsible within local and regional government agencies has been that the matter will be decided at the California Coastal Commission anyway, regardless of any other considerations. So in their opinion, the quickest way to get that done was to rubber stamp any plan before them.

Obviously we disagree with this strategy, since that is the opposite of how Local Coastal Programs are supposed to work. That said however, Long Beach Staff explained during a conference call in October that the opportunity for plan refinement is now past. Indeed, instead we now face a fork in the road regarding Dana Point Harbor redevelopment. Coastal Commission *procedures* reportedly dictates that either the subject CDP appeal be denied outright, and commercial development will proceed unfettered by any future state planning oversight, or the appeal be approved and a De Novo (“begin again”) process will ensue that would likely take years and cost millions of dollars. We must also add that such a process would be funded by the Dana Point Tidelands Trust, which in turn is funded primarily by recreational boaters’ slip rents.

**To be blunt, we find both of the alternatives above unacceptable.** As we have carefully documented in the second attachment, inclusion of appropriate and practical mitigations would make the proposed land side development of Dana Point Harbor a win for ALL stakeholders. Not a win for commercial development at the cost of a permanent loss for affordable recreational boating resources.

*Further, we also believe that this is where Coastal Commission goals and policy should trump Commission procedures.*

**We therefore ask that the Commission not be bound exclusively by existing staff procedural guidelines. By making certain stipulations during your considerations of the subject CDP application you can assure that both goals and policy continues to be honored.**

**Please deny the CDP appeal but with stipulations to address the mitigations we recommend.**

*Above said, how can this action be executed procedurally at this late date?*

Below we have translated our previous recommendations into what we believe is proper and actionable verbiage. However, first we need to step back for a moment.

Note that there was language in our attached cover letter to Dana Point City Council, dated November 8<sup>th</sup>, which was extracted *directly* from the governing Dana Point Tidelands LCP. Inclusion was intended to cause recipients of this letter to draw an obvious conclusion:<sup>1</sup> The DPBA recommended mitigations must be addressed. The fundamental issue we were attempting to highlight in all 15 of our recommendations was that a bit more CDP language was necessary to protect recreational boating resources during and following commercial core reconstruction. Further, and most importantly, when conflicts with commercial development interests do arise, as they inevitably will, that language was necessary to demonstrate that these resources would be allocated appropriately, as per legally specified, higher priority recreational boating needs.

Indeed, the third attachment below, the letter from OC DPH Director Brad Gross to DPBA, dated November 17<sup>th</sup>, clearly states in writing, that most all of these issues are valid. *However, to paraphrase the letter, these issues are “operational” in nature*<sup>2</sup>.

Again, we disagree. Instead we respectfully request that the following language be employed to deny the subject appeal:

**Motion:** *I move that the Commission determine that Appeal No. A-5-DPT-14-0069 raises NO Substantial issue with respect to the ground on which the appeal has been filed under § 30603 of the Coastal Act, with the understanding that the operational issues described by OC DPH Director Brad Gross in his letter to the Dana Point Boaters Association, dated November 17<sup>th</sup>, 2014, will be addressed in the spirit of the original requests for mitigation.*

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<sup>1</sup> See the discussion beginning in the first paragraph on page two for the language extracted directly from the LCP.

<sup>2</sup> The references to requested mitigations being an *operational issue* is explicitly or implicitly stated in OC DPH’s responses to DPBA requests 6, 8, 9, 10, 11, 12 14 and 15.

**Resolution:** *The Commission hereby finds that Appeal No. A-5-DPT-14-0069 presents **NO SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with Chapter 3 policies of the Coastal Act that cannot readily be addressed by the means described in the motion to deny the subject appeal.*

We believe the language above satisfies a fundamental requirement of an effective democratic government process. Here we quote Ronald Reagan, our former governor and President: *Trust, But Verify*. We also believe that this small revision in language should not act as an impediment, in any foreseeable way, to the actual construction project. We say this because we also believe that it is the intent of the current leadership of OC DPH and the County of Orange to properly address issues we have raised.

In closing and on behalf of Dana Point boaters and other Dana Point Harbor revitalization stakeholders, we wish to recognize the Commissioners and Staff for their invaluable public service, protecting California's beautiful coastline, rich territorial waters and irreplaceable coastal recreational resources. We humbly thank you, as should the generations of Californians to come.

Most respectfully,



Rodger Beard, President  
Representing the Directors, Officers and Membership of the Dana Point Boaters Association

**ATTACHMENTS:**

1. Letter dated 11-8-14 from DPBA to City of Dana Point, Orange County and California State officials,  
Subject: CDP 13-0018(I) Appeal Rehearing<sup>3</sup>
2. Attachment to letter dated 11-8-14,  
Subject: Recreational Boating Issues and Mitigations Requested by DPBA<sup>4</sup>
3. Letter dated 11-17-14 from Brad Gross, OC DPH to Rodger Beard, DPBA,  
Subject: Re: Dana Point Harbor Revitalization - Commercial Core Project - Coastal Development Permit<sup>5</sup>

**ADDRESSEES:**

**TO:**

Teresa Henry, District Manager, California Coastal Commission [Orange County]  
Steve Kinsey, Chairman, California Coastal Commission  
Charles Lester, Executive Director, California Coastal Commission  
Sherilyn Sarb, Deputy Director, California Coastal Commission [Orange County]  
Mary K. Shallenberger, Commissioner, California Coastal Commission  
Fernie Sy, Coastal Program Analyst II, California Coastal Commission[Orange County]

**CC:**

Lisa Bartlett, Fifth District Supervisor, County of Orange  
William Byrd, Citizen Appellant and Owner Capo Beach Watercraft  
Brad Gross, Director, OC Dana Point Harbor  
Bruce Heyman, Citizen Appellant and President, Boaters 4 Dana Point Harbor  
Carlos N. Olvera, Mayor, City of Dana Point

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<sup>3</sup> File: CDP 13-0018(I) DPBA Cover Letter (11-8-14).PDF

<sup>4</sup> File: CDP 13-0018(I) DPBA Requested Mitigations.PDF

<sup>5</sup> File: Dana Point Boaters Association - Coastal Development Permit 11 17 14.PDF



Post Office Box 461, Dana Point, California 92629

November 8, 2014

*To the addressed and respected representatives of the Local, Regional and State Government Agencies, as well as directed staff: (see list at end of document)*

The Dana Point Boaters Association (Dana Point Boaters Association) was formed in 2006 when recreational boaters, along with many other local stakeholders became alarmed by the County of Orange authored plan to redevelop Dana Point Harbor. The goal originally was to repurpose much of the existing land area from affordable recreational boating, general recreation / park and picnic oriented community purposes, for which our harbor is much loved by residents of Southern Orange County, and into what The County still describes as a "Regional Visitor Serving" role.

In the first draft of the proposed Harbor revitalization plan, the new goal of the harbor landside was to feature conventions/meetings, much more business dining, increased shopping as well as resort oriented activates which would then collectively dominate the previously more affordable recreational scene.

Due to active participation and involvement by a wide range of grass-roots community groups, residents, merchants, recreational boaters including the Dana Point Boaters Association, throughout the arduous, and surprisingly lengthy vetting process prescribed by the Coastal Commission, the following items have since been eliminated from the CDP in the form that apparently will come before The City of Dana Point City Council, for the appeal re-hearing on November 18th:

- A hotel/convention center on the water's edge, with meeting rooms, restaurants, tennis courts, replacing the Dana Point Marina motel (*plans have since have been scrapped, at last for short term*).
- A three story parking structure (*instead two stories is now planned*).
- A marine retail center and associate parking, which would have replaced much of the remaining current Embarcadero Marina dry boat storage area (*since has been dropped from plan documents*).
- Two 65 foot high boat storage buildings also known as "boat barns" (*now only one structure is planned*)
- Elimination of over 1100 of 2400 boat slips (*per most recent documents, elimination is now not to exceed 155 slips*).

It is emphasized here that that the process of local community involvement must continue.

This letter is directed to the addressed parties for consideration before, during *and after* the upcoming local appeal rehearing of Dana Point Harbor Landside Reconstruction CDP (Coastal Development Permit) # 13-0018(I) planned for November 18<sup>th</sup>, 2014.

Attached is a nine page, detailed analysis of recreational boating construction issues and mitigations which we strongly believe should be stipulated, as requirements for the approval of the subject CDP by City of Dana Point City Council.

In addition, we wish to draw your attention to the excerpts below, from the “Dana Point Harbor District Regulations”, which legally governs the consideration and issuance of this coastal development permit. Again, we strongly believe that approval of this CDP application must, in all respects, be consistent with the language of this document in order to avoid subsequent rehearing by the full California Coastal Commission.

Here then is the language we wish to draw your close and considered attention to:

Chapter 14 – Dana Point Harbor District Regulations, Page II-14.3 of II-14.12, Paragraph: i)

Commercial Development Phasing – New commercial development shall be phased such that required parking for higher priority uses (e.g., marina boat slips, public boat launch facility, surface boat storage, beach, picnic and parks) is provided and maintained. Parking for these higher priority uses shall be provided as follows:

Commercial Core Area – The first Coastal Development Permit for new development of the Commercial Core shall be required to demonstrate as part of the CDP that required land area has been reserved for parking for higher priority uses located within the Commercial Core area (e.g., designated boater parking, public launch ramp facility and boat storage), in the quantity and location required in Section II-14.2 (j). The CDP shall also require that the parking for the higher priority uses within the Commercial Core shall be constructed and open for use prior to the occupancy of the new Commercial Core development.

Marine Service Commercial, Marine Commercial and Recreation Areas – The location and amount of new development adjacent to park and beach areas shall not adversely impact public use of the low cost water oriented recreation, park and beach uses by ensuring that adequate parking spaces are maintained for these uses. Accordingly, all Coastal Development Permits for new development in Planning Areas 1, 4 and 5 shall demonstrate that the intensity of the proposed development and the proposed hours of operation will not adversely impact public use of the beach or park area within the Planning Area.

Parking for marina boat slips, the public launch ramp facility and dry boat storage shall be provided in the amounts and locations as follows:

Designated Boater Parking – Parking for 2,409 boat slips shall be provided at a minimum ratio of 0.60 parking spaces per slip or end tie unless a net loss of slips is authorized by a Coastal Development Permit. Boater parking shall be located as close as possible to the land/dock connection point of the docks they serve. Typically, the boater parking spaces should be within 300 feet of the land/dock connection point of the docks they serve, but where adherence to this standard is infeasible, the parking spaces shall be within a maximum of 600 feet of the land/dock connection point of the docks they serve. Mitigation measures should be provided to assist boaters with transport of passengers, equipment and provisions from parked vehicles to boats the land/dock connection point of the docks they serve in cases where the distance between parking spaces and the docks exceeds 300 feet and/or where there are other factors present which make such transport difficult.

Public Launch Ramp Facility – There shall be no net loss of the existing three hundred thirty-four (334) vehicle with trailer parking spaces. Redesign and expand the existing five and seven-tenths (5.7) acre boat launch facility to maximize the number of vehicle with trailer parking spaces meeting minimum California Department of Boating and Waterways guidelines (10 by 40 feet). Some large and smaller vehicle with trailer parking spaces shall also be provided in adequate amount to meet demand as determined through the Coastal Development Permit process.

Dry Boat Storage – Maintain space for at least four hundred ninety-three (493) boats to be stored on dry land in Planning Area 1; 400 of these spaces may be provided in a dry stack storage facility. Maintain a minimum of ninety-three (93) surface boat storage spaces, that can accommodate vessels that cannot be stored in a dry stack storage building within the Harbor at all times; additional space shall be provided where feasible.

In closing, we wish to express our sincere appreciation to all the fellow stakeholders who have worked so hard to protect and enhance the beautiful facility which we know today as Dana Point Harbor.

Dana Point Harbor truly is one of the finest, if not the finest multi-purpose recreational harbor in the entire world.

Respectfully,

A handwritten signature in black ink, appearing to read 'Rodger Beard', with a long, sweeping flourish extending to the right.

Rodger Beard, President,  
For The Directors and Officers of  
The Dana Point Boaters Association

ATTACHMENT: CDP 13-0018(I) DPBA Mitigations.PDF

ADDRESSEES:

Lisa Bartlett, Mayor, City of Dana Point  
Brad Gross, Director, OC Dana Point Harbor  
Sherilyn Sarb, Deputy Director [Orange County], California Coastal Commission  
Teresa Henry, District Manager [Long Beach], California Coastal Commission  
Fernie Sy, Coastal Program Analyst II [Long Beach Office], California Coastal Commission

RECREATIONAL BOATING ISSUES AND MITIGATIONS REQUESTED BY  
THE DANA POINT BOATERS ASSOCIATION

**Recreational Boater Access to Wet Slips on Docks M, N and O**

**Scope:** There are approximately 124 boat slips located on docks M, N and O today, including side ties and end ties, based on Dana Point Boaters Association's review of California Coastal Records Project aerial maps.

**Issues:** Access to individual slips today is accommodated by a short walk from the gated lot behind Dick Simon yacht brokerage office. Carts are provided for transport of boater goods from their vehicles to their slips. There is no specific, written action plan within the CDP for mitigation of the negative impact of the significant additional distance from available vehicle parking to boat slips, during and after reconstruction as well as the many additional obstacles such as curbs, barricades and construction related materials and debris.

Mitigation is important and required because the boats on these three docks are some of the largest boats in the harbor. They therefore typically require much more provisioning and transport of travel luggage as well as movement of fuel, mechanical equipment and supplies, repair items, etc. to and from their slips.

It was recently acknowledged and quantified by The Orange County Board of Supervisors (OC BoS) that commercial core reconstruction will have a negative impact on Harbor merchants' use and enjoyment of the benefits of their leases. In the merchants' case, the OC Supervisors quantified this impact and authorized up to a 20% reduction in their minimum rents during the period of commercial core reconstruction.

While clearly, the use and enjoyment of recreational harbor user facilities is not measureable in the same way; however, the impact upon boat slip tenants immediately adjacent to reconstruction who in turn make monthly license payments it is no less real. It is therefore necessary to mitigate for this impact, especially because this priority use of the harbor is higher per the language of the Local Coastal Program (LCP) document and Coastal Act.

**Mitigation 1:** The movement of the existing guest docks, located away from the construction area in the West Basin, was identified during a series of meetings by OC DPH's Boater Focus Group as an obvious benefit, a clear win for both existing recreational slip tenants as well as guest boaters.

Permanent slip tenants benefit from such a move due to more plentiful parking available away from the commercial core both during and after reconstruction. All permanent slip tenants require available vehicle parking space in order to have access to their slips as provided for in their slip license agreement.

Guest boaters on the other hand typically visit the harbor on their boats, and therefore require minimal vehicle parking.

Guest boaters would also benefit from such a move by being much closer to shopping and restaurants. This is typically even more valuable to them than a permanent slip tenant, both because they lack surface transportation and because they have recently been traveling at sea without access to these amenities.

RECREATIONAL BOATING ISSUES AND MITIGATIONS REQUESTED BY  
THE DANA POINT BOATERS ASSOCIATION

We understand there have been a few undocumented, publicly unannounced offers extended to existing Dock M, N and O slip tenants. This program needs to be formally structured in writing, vetted publicly within the boater community, finalized and officially announced as a deliverable that is described within the CDP with firm target date specification.

The movement of all guest slips from their current locations to new locations on Docks N and O should be accomplished prior to start of construction for all boaters wishing to participate, limited only by the number of relocated quest slips available.

- Mitigation 2: A combined boat provisioning, luggage transport and parking management plan is required. A plan that achieves the higher priority use for recreational boating tenants (higher priority than the general public) for the remaining and still impacted recreational boaters on Docks M, N and O should be identified within the CDP application framework. The objectives and general scope of this plan should be specified while the actual mitigation plan should be completed, publicly vetted within the recreational boater community and implemented prior to the actual start of reconstruction, per Dana Point Harbor District Regulations.
- Mitigation 3: While less frequently mentioned during the past three years, a convenient, regularly scheduled baggage and passenger shuttle service<sup>1</sup> was often promised for this relatively small group of boaters by OC DPH and its agents during the many public boater outreach meetings, dating as far back as 2006. This service should be defined in general terms and documented within the CDP document.
- Mitigation 4: Parking for these impacted recreational boaters, as well perhaps for others including merchants, employees and the general public, should be provided from an offsite (outside the harbor) parking location during the period when parking in the commercial core has been reduced by reconstruction.<sup>2</sup> Currently unused South Coast Water District (SCWD) property, ideally combined with and/or adjacent to the planned dry boat storage area makes sense for this temporary purpose. Note that SCWD has already approved such a surface area (the area known as parcel C in the most recently published design documents) and we therefore believe this could be used easily without further study or associated costs.

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<sup>1</sup> A baggage and passenger shuttle service with a published schedule is envisioned; a regularly operating program that addresses boaters, as well as merchants and the general public's needs.

<sup>2</sup> Parking for the general public has been a problem at the commercial core for many years. This justifiably explains why both successful and unsuccessful attempts have been made over time to repurpose boater parking have occurred. While there is more parking, for the general public, anyway one the two story 600+ space parking structure comes online, these parking problems will continue. Hence an ongoing program is required. We believe once included in sales collateral and other harbor information sources that over time it will receive significant use, especially during peak business periods when the harbor is saturated from a parking perspective.

RECREATIONAL BOATING ISSUES AND MITIGATIONS REQUESTED BY  
THE DANA POINT BOATERS ASSOCIATION

**Mitigation 5:** As there are many more boaters with slips on Docks M, N and O than can be accommodated by the existing guest docks outside the commercial core, it is still necessary and has been already been documented within the CDP and elsewhere that recreational boater vehicle parking is to be provided within the new parking structure when it is available for occupancy. It is desirable to provide specific details within the CDP of the quantity, location and means, thereby to provide confirmation that the designated boater parking within the new parking structure is appropriate.

If experimentation is planned (we understand and agree this may be appropriate) then measureable outcomes may be substituted for explicit design within the CDP.

**Mitigation 6:** The CDP document should be modified to call out a new policy that the slip tenants on Dock M, N and O will be notified and given right of first right of refusal on all slip vacancies of approximately the same size slip occurring elsewhere in the harbor, effective before and during the period of commercial core reconstruction, as well as a period of at least ten years following completion of reconstruction.

**Recreational Boater Boat Parking, Docks M, N and O**

**Scope:** Today there are approximately 105 vehicle parking spaces designated for exclusive recreational boater use within the parking lot surrounding the Dick Simon Marine Brokerage, based on Dana Point Boaters Association review of California Coastal Records Project aerial maps.

**Issues:** We recognize that the California Coastal Commission has authorized a reduction in the allotment of designated recreational boater parking spaces from .75 parking spaces per slip harbor-wide, 1.25 spaces per slip in certain areas. The lawful allotment is now .6 parking spaces per boat, harbor-wide.

However, because the boats on docks M, N and O are also some of the largest boats in the harbor, they also require more parking, per boat, than those boats in the well under than 30' length overall which are the large majority of the boats in the harbor today. This is true both during and after construction.

Indeed, some of these boats on docks M, N and O, in the 40-50'+ range require a crew of 3 or more to even operate safely while the over 700 boats in the 22-24' range typically have a total capacity of 4 or less passengers and crew. It has been for this reason that parking availability has been an issue for the tenants of Docks M, N and O for many years. Obviously this has been true even with today's allocation of .85 vehicle parking spaces per slip. It only makes sense therefore to allocate a proportionately larger than average vehicle parking space allocation than .6 for these 124 slip tenants.

During the much of the public vetting lifecycle for commercial core reconstruction, there was reference verbally and in writing to developers' plans to provide designated recreational boater parking within the parking structure. It was with this spirit in mind that Dana Point Boaters Association recommended expansion of the two story parking structure into the "pan handle" area which was originally ground surface area to be dedicated to dry storage boating uses. Recently this matter was again discussed in a meeting with OC DPH. However, there are no explicit plans for such arrangements stated within the CDP.

RECREATIONAL BOATING ISSUES AND MITIGATIONS REQUESTED BY  
THE DANA POINT BOATERS ASSOCIATION

The CDP serves as the final decision point before parking structure construction. It is therefore not possible for recreational boating stakeholders and their representatives (Dana Point Boaters Association for example) to “trust but verify”.

Mitigations 1 - 6: From a mitigation perspective, there is obviously significant overlap between boat slip access and available vehicle parking. Therefore the same previously discussed mitigation solutions above serve here as well.

Mitigation 7: The existing vehicle parking spaces per slip tenant allotment, ~.85/1 ratio, should continue to apply to the slip tenants remaining on Docks M, N and O after relocation of existing guest slips from the area outside the commercial core.

How would this work? For the sake of illustration, assume that the number of permanent recreational boater slips remaining available after all guest slips are transferred to Docks M, N and O is 80. Then the number for vehicle parking spaces needed to service these slips using the existing allotment ratio would be 68 (80 X .85). This figure would be an excess of 20 vehicle parking spaces versus the 48 spaces to be allotted were the .6 spaces per slip harbor-wide criteria strictly applied (80 X .6).

The surplus of 20 vehicle parking spaces to be allotted here (68 – 48) would then be deducted from the total spaces allotted elsewhere in the harbor. Therefore, the .6 harbor-wide allotment would continue to be enforced.

#### **Recreational Boater Access to Wet Slips on Docks J, K and L**

Scope: There are approximately 144 boat slips located on docks J, K and L today, including side ties and end ties, based on Dana Point Boaters Association’s review of California Coastal Records Project aerial maps.

Issues: Access today is accommodated by a short walk from the gated lot that begins behind Mariner’s Village and runs all the way to the bridge at Island Way. Arguably to a lesser degree than will be the case with Docks M, N, and O, but without question still to a significant degree, the recreational boater tenants of Docks J, K and L will be adversely impacted by commercial core reconstruction.

Mitigation 8: As explained within Mitigation 6 above, and second only to the recreational boater tenant of Docks, M,, N and O, the tenants of Docks J, K and L should be noticed and have rights of first refusal to slips becoming vacant elsewhere in the harbor during the period before, during and following completion of reconstruction of the commercial core.

#### **Dry Boat Storage Boater Access and Dry Boat Storage Boater Parking**

Scope: Today there are approximately 517 vessels officially stored on trailers within the harbor’s primary dry storage facility, known as The Embarcadero Marina. This marina also addresses the needs of a significant day-use visiting boater community as well as other ancillary recreational boating services such as Jet Ski, Paddle Board, Kayak and small Sailboat rentals. 334 tow vehicle and trailer spaces are to be allotted during and after commercial core reconstruction for day-use boater associated needs.

RECREATIONAL BOATING ISSUES AND MITIGATIONS REQUESTED BY  
THE DANA POINT BOATERS ASSOCIATION

Regarding this reconstruction, a major new structure, a two story parking deck will occupy a significant portion of the surface area that today is employed within The Embarcadero. When the new parking structure is built and reconstruction is complete the required dry storage capacity will be revised from 517 to 493.

However, only ~105 storage spaces are planned to be “mast up”, on trailers. ~390 storage spaces are to be contained within a new, automated access high-rise structure, often referred to as the “boat barn”. Because it is less words, we are also referring to it by this term here.

Issues: During two stages of the 5-6 year construction period, the number of boats which can actually be permanently stored within The Embarcadero (i.e., boaters with other than day-use access) drops to as low as zero from the Coastal.<sup>3</sup> During several more stages of construction, only 22 boats may be stored.

The CDP attempts to address temporary mitigation by means of a graded and black-topped temporary offsite surface storage yard, to be opened in stages and to be shared with R/Vs and similar uses. This recently approved temporary facility is located off a frontage road over a mile from the harbor entrance. The frontage road is in turn located off a major thoroughfare. Entrance and egress to the frontage road, not yet defined, is acknowledged to require improvement to safely and effectively provide the intended access. The Pacific Coast Highway freeway extension is nearest frontage road access. The alternative frontage road access point (Stonehill Road) is further away. A traffic light has been discussed and is generally known to be a requirement but has not yet been authorized by the City of San Juan Capistrano or South Coast Water District.

Regardless, this not yet blacktopped storage yard has been announced as available by the South Coast Water District. The facility very likely will have a contracted facility operator at some point. However, limited services are planned beyond security and blacktopping may be available. Further, the existing CDP language is silent beyond a statement that offsite space will be provided as mitigation.

To illustrate the shortfall that the currently offered mitigation represents, consider that today payment of Embarcadero monthly rent includes all of the following:

*Secure, gated keycard access, 24/7 security, potable water, dedicated restrooms, surface area lighting, access to electricity, saltwater wash down facilities, direct access to the launch ramp, boat launching services, plus other miscellaneous marina services and supplies.*

For day-use boaters the current construction plan represents only a minor inconvenience, assuming tow vehicle and trailer space is not consumed by dry boat storage boaters, as well as other transit and construction related uses. However, for dry storage boaters, those boaters who are harbor tenants today and permanently store their boats on trailers within The Embarcadero there are many issues still to be addressed, including:

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<sup>3</sup> Today, there are officially, 517 boats stored in surface dry storage within the Embarcadero, and unofficially over 600 boats are stored within the immediate area. The California Coastal Commission has authorized the number be reduced to 493.

RECREATIONAL BOATING ISSUES AND MITIGATIONS REQUESTED BY  
THE DANA POINT BOATERS ASSOCIATION

1. Today these trailer boaters must license and maintain their trailers in condition suitable only for launching and retrieving their boats, without the additional needs obviously associated with significant travel on crowded public and private roads as well as a private portion that today is far less than trailer-boat transit friendly.
2. Today, trailer boaters have almost immediate access to the launch ramp and if their boat is stored outside the storage yard (many are) they have 24/7 launching access.
3. Today, the amenities listed previously are readily and conveniently available for dry storage boater's DIY (Do It Yourself) projects that most all trailer boaters (if not all boaters) do and enjoy on a regular basis. Indeed DIY projects represent a significant component of the affordable boating lifestyle.

This is the lifestyle that dry storage boaters are now paying rent each month to maintain. Given there is not further mitigation, this lifestyle will be eliminated.

4. For each and every use of their boat, an additional "commute time" must be added to both the start and end of the recreational boating experience due to offsite boat storage. A time study would have been done to determine precisely how much time will be lost before the start of each launch, as well as after each return the harbor from the ocean. For some reason this was not done. However, a constructive estimate, inclusive of the delays associated with actual transit as well as the several additional queue times involved<sup>4</sup> could be easily 2+ hours per boating experience.
5. Beyond the matter of additional commute time, there are two other issues that are completely unaddressed within the existing CDP document. They are addressed together here for clarity/expediency but this should not diminish the significance of each as a major issue in and of itself.
  - i. Based upon the current wording of the CDP and existing harbor policy, once the trailer boater's problems are "mitigated" by offsite storage, these boaters technically become day-use boaters and as such they must pay a second time (in addition to their monthly dry storage rent) to access the boat launch area every time they want to use their boat.

So beyond the additional time and inconvenience for the mitigated dry storage boater to get their boat into the water, there is also a new cost component for any boater who wants to use their boat.

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<sup>4</sup> The additional queues include access to the offsite boat yard itself (what are the hours of operation? The CDP does not specify), the trailer hookup / readiness / safety checks (plus a more frequent trailer repair cycle) associated with highway travel, traffic on Pacific Coast Highway (in particular at the intersection with Harbor Drive / Del Obispo), access to the Embarcadero (the Day-User boater entrance gate queue which is often a significant delay), as well as access to Embarcadero amenities which today can be addressed as needed, but during mitigation be accessed more-or-less serially.

RECREATIONAL BOATING ISSUES AND MITIGATIONS REQUESTED BY  
THE DANA POINT BOATERS ASSOCIATION

- ii. Given displaced trailer boaters gain access to The Embarcadero to launch their boat, where do they now store their tow vehicle, which remember must be suitable for highway hauling? <sup>5</sup>

Where do they now park their trailer once the space they previously used to store their trailer has been repurposed for construction of a parking deck?

Answer: unless further mitigation is implemented, existing dry boat storage boaters will either contend for the very same limited surface area that the LCP dictates be reserved for day-use boating, or they must try to find space somewhere else for their tow vehicle and trailer. Neither alternative is acceptable.

6. Last, but not the least of all negative construction project impacts, there is no information available within the CDP to otherwise describe mitigation for dry boat storage or day-use boaters' issues, beyond the fact that dry boat storage boaters must leave the harbor during construction. Here are some of the questions that beg for answers:

- What amount of monthly rent will dry boat storage boaters pay during the 5-6 year period when their boat will be stored more than a mile from the harbor?
- Who they will be paying their month rent to?
- What will be their status regarding return to the harbor when construction is eventually complete?
- There is a subset of 493 dry boat storage boaters that are to be accommodated once Embarcadero reconstruction is complete (meaning the boat barn has also been built) that must store their boats mast up. This subset includes sailboats as well as deep keel and high rise power boats who do not meet requirements for storage within the boat barn. But will the planned ~105 mast up spaces be sufficient? If not sufficient, will there be a wait list and will displaced boaters be given preference?

*It is noteworthy that in the case of 19 harbor merchants to be displaced following commercial core reconstruction this previously overlooked planning oversight has recently been addressed.*

*While not completely germane to the discussion here, it is also noteworthy to add that those trailers that boaters will be upgrading and maintaining to perform highway service during the construction period must be then, in ~390 cases be stored offsite somewhere<sup>6</sup> on a permanent basis or simply sold and repurchased when needed. The reason is that the boat barn will only store boats and not the associated trailers.*

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<sup>5</sup> During construction, a small compact car, for example, will no longer suffice for a dry boat storage boater to visit The Embarcadero and use their boat. They also will be unable to employ the Embarcadero to launch their boat by mule.

<sup>6</sup> In Southern Orange County there is extremely limited trailer storage space available at any price. As a practical matter, the cost to store a boat trailer is the same as the cost to store a trailer with a boat on it.

RECREATIONAL BOATING ISSUES AND MITIGATIONS REQUESTED BY  
THE DANA POINT BOATERS ASSOCIATION

- Mitigation 9: Dry boat storage boaters should continue to pay rent to the County of Orange. This rent should be reduced by at least 20 percent, arguable more, which is analogous to the 20 percent reduction, plus other considerations, recently granted to harbor merchants to be displaced following commercial core reconstruction.
- Mitigation 10: Dry boat storage boaters should continue to retain all current Embarcadero tenant rights and privileges during reconstruction.
- Mitigation 11: Dry boat storage boaters should not pay an additional day-use gate fee to gain access to The Embarcadero during reconstruction and until they are relocated/brought back into the Harbor.
- Mitigation 12: In a similar fashion as discussed in several mitigations pertaining to slip boaters on Docks M, N and O above, new mitigations<sup>7</sup> should also address the needs of dry boat storage boaters.
- Mitigation 13: Services offered within the offsite dry boat storage yard must be improved. At a minimum, restrooms, potable water, access to electricity and a saltwater wash down area (with water) are required.
- Mitigation 14: A service contract must be arranged with the yet to be determined offsite dry storage operator, such that by appointment, boats can be delivered (for the same additional charge they would pay today within The Embarcadero) to the harbor, launched, retrieved, washed down and returned safely to offsite storage.
- Mitigation 15: Because the number of displaced dry storage boats within the current version of the CDP is so high (ALL BOATS during certain stages, the vast majority of all boats in ALL STAGES), the inconvenience to dry boat storage boaters is unacceptably high and the overall Embarcadero congestion level will be unacceptably excessive during most summer and holiday weekends. Therefore some combination of two these two additional mitigations are required:
- The total number of boats being removed from the harbor at any given point must be significantly reduced in some way. Today the number of boats stored on the hard within The Embarcadero is ~516. After completion of all phases, the number is stated as 105 within the CDP. Therefore it seems logical and appropriate the minimum number of boats stored within The Embarcadero should not fall below 105 during construction.
- The “value engineering stage” of construction planning is the logical point to do this. The CDP language should be updated to reflect this new strategic construction objective.
- Additional, convenient, temporary Dry boat storage space must be provided that avoids the necessity for highway travel during construction; especially for sailboats and vessels with masts.

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<sup>7</sup> Note that mitigations 2, 3, 4 and 5 apply to dry storage boaters needs as well.

RECREATIONAL BOATING ISSUES AND MITIGATIONS REQUESTED BY  
THE DANA POINT BOATERS ASSOCIATION

Once available, we think the dry storage deck makes most sense for this temporary purpose. After all it will in fact be located where The Embarcadero is now. A temporary entrance/egress to what's left of The Embarcadero is also required to allow this new mitigation to provide sufficient value.

In the interim before the parking structure is available, dry boat storage space with launching capability should be sought or created elsewhere within the harbor.

/end of document/

November 17, 2014

Mr. Rodger Beard  
Dana Point Boaters Association  
P.O. Box 461  
Dana Point, CA 92629

Re: Dana Point Harbor Revitalization - Commercial Core Project - Coastal Development Permit

Dear Mr. Beard,

Thank you for your letter and your list of construction issues and requests related to the Dana Point Harbor Revitalization Commercial Core Project's Coastal Development Permit (CDP). OC DPH has consistently worked with the Dana Point Boater's Association and we remain committed to continuing our constructive relationship. We received your letter on Monday November 10, 2014. We appreciate your concern regarding the Harbor Revitalization and we provide the following response to your requests.

DPBA Request 1:

This program has already been implemented informally and boats have begun to move. OC Dana Point Harbor is open to working with Dana Point Harbor stakeholders that will include the Boaters Association to formalize the program for future and post construction operations. However, parking for docks M, N & O, in their current location, is provided for during and after construction, meeting the requirements of the Local Coastal Program (LCP) regarding proximity to the docks they serve and the quantity required.

DPBA Request 2:

The location of +/- 95% of the designated boater parking in the Harbor will remain unchanged as a result of the Commercial Core Project. The +/- 5% which will change are associated with Docks M, N & O, and will be relocated to the lower level of the proposed parking deck. The location of these designated boater parking spaces is consistent with the policies and regulations of the LCP.

Policy I-6.2.4-6 of the LCP says "*mitigation measures should be provided to assist boaters with transport of passengers, equipment and provisions from parked vehicles to the land/dock connection point of the docks they serve in cases where the distance between parking spaces and the docks exceeds 300 feet and/or where there are other factors present which makes such transport difficult*".

Mitigation measures to be provided to assist boaters on Docks M, N & O will include a convenient Boater Drop-Off Area on the lower level of the parking deck within 300' of the land/dock connection point (see Project Plans and Exhibits Binder, Tab One, Sheet

A-08) and handcarts will be available for the transport of equipment and provisions. In addition, during normal Harbor operating hours, marina company staff will be available on-call to provide golf cart shuttle services for boaters on M, N & O Docks when needed, to transport passengers, equipment and provisions to the land/dock connection point for those having to park further than 300' from the land/dock connection point. We have also recently made modifications to certain detailed design elements of the Festival Plaza, in order to minimize or eliminate factors, which could make transport from the drop-off and designated parking areas easier by eliminating steps in an area of the Festival Plaza and replaced them with a ramp to make access with handcarts easier. (see Exhibit A)

DPBA Request 3:

Please see the response to DPBA Request 2, which addresses the issues raised in this request regarding shuttle service.

DPBA Request 4:

Regarding your concern with parking for Harbor users during construction, the Construction Management Parking Plan (see Technical Studies, Reports and Information Tab M) provides for sufficient parking on-site during construction.

DPBA Request 5:

Designated boater parking is identified and provided within the lower level of the parking deck and the proposed designated boater parking is consistent with the policies and regulations of the LCP. See the Project Plans & Exhibits Binder, Tab One, Sheet A-04 and A-20 of the CDP documents for the location of the designated boater parking.

DPBA Request 6:

Providing priority status on slip vacancies for boaters on Docks M, N & O is an operational issue. OC DPH will work with Dana Point Harbor stakeholders, including the Boater's Association to discuss and refine this request. At the conclusion of these meetings, OC DPH will direct the marina operators to proceed with agreed upon recommendations. The stakeholder meeting process will begin in the very near future and will conclude prior the start of Phase 2, which is the construction of the parking deck.

DPBA Request 7:

Regarding designated boater parking, the proposed project is consistent with the policies and regulations of the LCP.

DPBA Request 8:

Providing priority status on slip vacancies for boaters on Docks J, K & L is an operational issue. OC DPH will work with Dana Point Harbor stakeholders, including the Boater's Association to discuss and refine this request. At the conclusion of these meetings, OC DPH will direct the marina operators to proceed with agreed upon recommendations. The stakeholder meeting process will begin in the very near future and will conclude prior the start of Phase 2, which is the construction of the parking deck.

DPBA Request 9:

The payment of rent for dry boat storage to the County of Orange is an operational issue and is not a requirement of the LCP. Likewise, potential considerations provided to harbor merchants was also not a requirement of the LCP. However, OC DPH is open to discussing possible solutions to operational problems should they arise, however, the off-site dry boat storage facility will be not be operated by the County of Orange and the County can not dictate how the facility will be operated.

DPBA Request 10:

Retaining the rights and privileges of dry boat storage users during construction is an operational issue and is not a requirement of the LCP. However, OC DPH is open to discussing possible solutions to operational problems should they arise.

DPBA Request 11:

Determining who pays fees for use of the boat launch ramp during construction is an operational issue and is not a requirement of the LCP. However, OC DPH is open to discussing possible solutions within their control, to operational problems should they arise.

DPBA Request 12:

We are not clear on the point of DPBA Request 12, but we assume this is also an operational issue. OC DPH is open to discussing possible solutions to operational problems should they arise.

DPBA Request 13:

Restrooms, potable water and saltwater wash down area are provided at the harbor as boaters launch and retrieve their boats. Providing these services at the off-site dry boat storage location is not a requirement of the LCP.

DPBA Request 14:

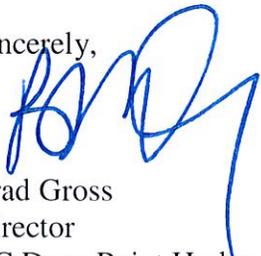
The delivery and launching of boats stored at the off-site boat storage location is an operational issue. This is not a requirement of the LCP. However, OC DPH is open to discussing possible solutions within their control, to operational problems should they arise.

DPBA Request 15:

Maintaining 105 surface dry boat storage spaces on-site during construction is not a requirement of the LCP. However, it is a goal to keep as many surface dry boat storage spaces available on-site during construction as possible. The off-site dry boat storage numbers, listed by construction phase in the CDP, are a worst-case scenario. In the event that certain boats, such as sailboats, (there are less than 30 sailboats in dry storage today) are not able to be stored at the off-site location, there are areas within the Harbor, with underutilized parking, where as many as 105 boats could be stored temporarily, during construction, if necessary. (see Exhibit B)

We hope we have addressed your issues to your satisfaction. In closing, OC DPH has consistently worked with Dana Point Harbor stakeholders including the Boaters Association throughout the development and permitting process for the Dana Point Harbor Revitalization Plan and remain committed to continuing our constructive relationship. We appreciate your support of the Dana Point Harbor Revitalization Commercial Core Project and we look forward to finalizing the Coastal Development Permit process.

Sincerely,

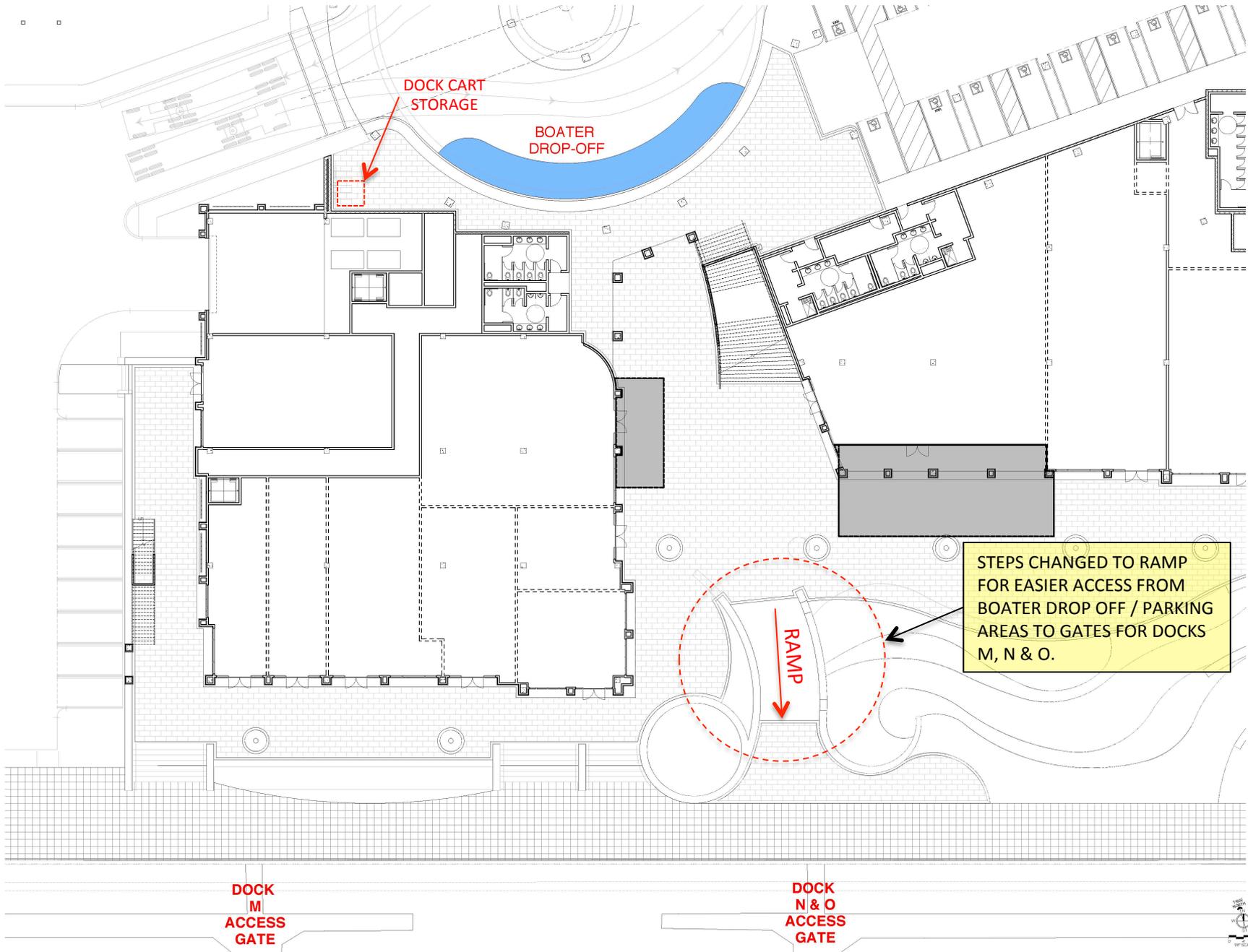


Brad Gross  
Director  
OC Dana Point Harbor

CC:

Lisa Bartlett, Mayor, City of Dana Point  
Steven Weinberg, Mayor ProTem, City of Dana Point  
William Brough, Council Member, City of Dana Point  
Carlos Olvera, Council Member, City of Dana Point  
Scott Schoeffel, Council Member, City of Dana Point  
Doug Chotkevys, City of Dana Point  
Ursula Luna-Reynosa, City of Dana Point  
Sherilyn Sarb, California Coastal Commission  
Teresa Henry, California Coastal Commission  
Fernie Sy, California Coastal Commission

# EXHIBIT A



DANA POINT HARBOR REVITALIZATION  
COMMERCIAL CORE PROJECT

COUNTY OF ORANGE  
DANA POINT HARBOR DRIVE  
DANA POINT, CALIFORNIA



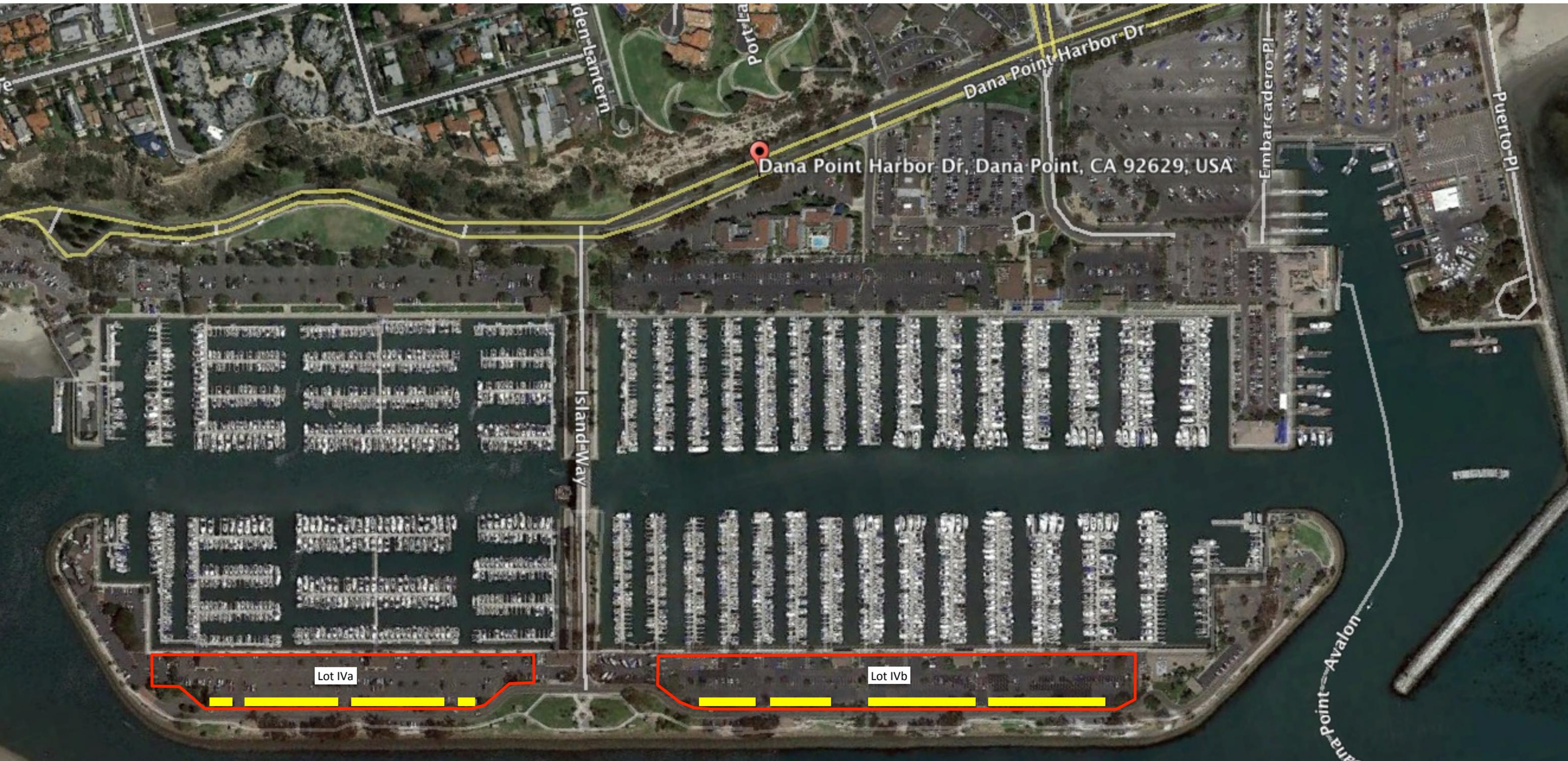
DATE: \_\_\_\_\_  
PROJECT #: 2018-00146  
SCALE: 1/8" = 1'-0"  
0  
NORTH  
SHEET #

FESTIVAL  
PLAZA RAMP

MVE Institutional  
Planning Architecture Interiors



# EXHIBIT B



Possible Temporary On-Site Dry Boat Storage During Construction Phase 4 & 5 in Planning Area 4 (Lots IVa & IVb) if needed up to 105 boats 25' and under

**CALIFORNIA COASTAL COMMISSION**

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

**Th 10c**

Filed: 12/8/2014  
 49th Day: 1/26/15  
 Staff: F. Sy – LB  
 Staff Report: 12/19/2015  
 Hearing Date: 1/8/2014

**STAFF REPORT: APPEAL-NO SUBSTANTIAL ISSUE**

**Local Government:** City of Dana Point

**Local Decision:** Approval with Conditions

**Appeal Number:** A-5-DPT-14-0069

**Applicant:** County of Orange – Dana Point Harbor Department

**Appellants:** William Byrd and Bruce Heyman

**Project Location:** 26450 Dana Point Harbor Drive, Dana Point, Orange County

**Project Description:** Appeal by William Byrd & Bruce Heyman from decision by City of Dana Point granting permit with conditions to County of Orange – Dana Point Harbor Department to construct the Dana Point Harbor Commercial Core Project, which includes renovations of existing buildings, phased demolition and construction of new commercial buildings, reconfiguration of streets and other infrastructure improvements, new parking structure, landscaping, parking management plan, master sign program and conceptual approval of a dry stack boat storage building, crane and storm drains.

**SUMMARY OF STAFF RECOMMENDATION**

The staff recommends that the Commission, after public hearing, determine that **no substantial issue exists** with respect to the grounds on which the appeal has been filed for the following reasons: the project, as approved by the City of Dana Point, does provide for continued rental of jet skis, kayaks and other personal watercraft during construction, provides adequate land area for the required 493 dry boat storage spaces within Planning Area 1, that an accurate baseline analysis has been conducted as a basis of the required Parking Management Plan which supports recreational boating resources, and buildings have been designed to be consistent with the community character and have been designed to provide and enhance coastal public views through scenic corridors.

## I. MOTION AND RESOLUTION

Staff recommends a **YES** vote on the following motion:

**Motion:** *I move that the Commission determine that Appeal No. A-5-DPT-14-0069 raises NO Substantial Issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the Commissioners present.

**Resolution:**

*The Commission hereby finds that Appeal No. A-5-DPT-14-0069 presents **NO SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with Chapter 3 policies of the Coastal Act.*

## II. APPELLANT'S CONTENTIONS

On December 8, 2014 an appeal by William R. Byrd, leasee representing Capo Beach Watercraft, was filed (**Exhibit No. 4**). The contentions of that appeal are summarized as follows:

1. Capo Beach Watercraft, with landside and dock lease areas, has provided low and no cost jet ski, SeaDoo, Waverunner, kayak and boat rentals to the public for 30 years, to 10,000 yearly customers. The proposed coastal development permit includes construction of a stack boat storage building eliminating Capo Beach Watercraft at its current location. His customers will be denied public access to the Harbor waterways and Pacific Ocean, without responsible planned relocation for this lease, inconsistent with the requirements of the Coastal Act.
2. The proposed coastal development permit eliminates the Embarcadero Marina Boat Rentals that has provided public coastal access for over 30 years to visitors wanting to rent a sailboat, skiff or duffy. This is inconsistent with the requirements of the Coastal Act.
3. The coastal development permit as proposed eliminates the 9 overnight wet slips that have been available to dry storage tenants for a nominal fee for over 30 years, inconsistent with the requirements of the Coastal Act. The subject coastal development permit did not approve any development in the water and therefore did not eliminate any wet slips.
4. The coastal development permit (CDP) as proposed does not conform to the public access policies of the Coastal Act.

Bruce Heyman, representing Boaters 4 Dana Point Harbor, on June 27, 2014 filed an appeal of the City's June 17, 2014 conditional approval of the coastal development permit (CDP13-0018) (**Exhibit No. 5**). to allow to construct the Dana Point Harbor Commercial Core Project, which includes renovations of existing buildings, phased demolition and construction of new commercial buildings reconfiguration of streets and other infrastructure improvements, new parking structure, landscaping, parking management plan, master sign program and conceptual approval of a dry stack storage building, crane and storm drains. A representative from Boaters 4 Dana Point Harbor (B4DPH) attended the November 18, 2014 City Council meeting on behalf of the organization. On December 10, 2014, the last day of the appeal period for the amended coastal development permit (CDP13-0018(I), Bruce Heyman sent a letter to Commission staff indicating that he would like to continue his previous appeal for the amended project. The appeal also contains four attachments; namely, letter from Bruce Heyman to the Dana Point Planning Commission dated May 12, 2014, letter from Bruce Heyman to City of Dana Point City Council dated June 14, 2014, letter from Bruce Heyman to the T. Henry of the California Coastal Commission dated May 12, 2014, and letter from Bruce Heyman to City of Dana Point City Manager dated June 13, 2014 (**Exhibit No. 5**). Below are the points raised in the appeal:

1. The Implementation plan requires 493 dry boat spaces to be maintained within the harbor (and specifically within Planning Area 1), per Implementation Plan Sections 4.5r, 14.2i and 14.2j. See also Appendix M, page 29 of the CDP Application. Project Plan fails to maintain required, higher protected use resources (dry boat storage) within the Harbor at all times. He references his May 12, 2014 communications to Dana Point Planning Commission Commissioners for further information.
2. The proposed Boat Barn (extending over water) requires a California Coastal Commission (CCC) CDP due to retained jurisdiction. CDP13-0018 does not include submittal of boat barn CDP application to the Commission. After construction allowed by CDP, all other options without the Boat Barn which would have allowed compliance with LCP will have been eliminated through construction. OC Dana Point Harbor has stated that without the Boat Barn, there will only be room for about 250 dry boat spaces. This would be a clear violation of Coastal Act Section 30234, even with a new LCP Amendment, which the developer has not proposed.
3. Base Line Analysis required by the Implementation Plan before the first CDP is issued has material errors and omissions the result in undercounting recreational boating resources. He references his communications on behalf of Boaters 4 Dana Point Harbor to T. Henry of the Long Beach office of the California Coastal Commission dated 5/12/2014 for further information.
4. The LUP and the IP (Section 5.5) specify that the building heights within the commercial core must conform to the building heights character of the community. The proposed 60-foot buildings do not conform to the building heights character of the community. The community has a 35-foot building height requirement with an allowance for 40-feet within the new Town Center project. There are a couple of examples where the 35-foot building heights were exceeded in the past but they were not to set precedent.

### III. LOCAL GOVERNMENT ACTION

On May 12, 2014, the City of Dana Point Planning Commission held a public hearing on the proposed project. At the conclusion of the public hearing, the Planning Commission approved with conditions local Coastal Development Permit CDP13-0018 (Resolution No. 14-06-17-06), the Dana Point Harbor Revitalization Commercial Core Project.

On May 27, 2014, Bruce Heyman filed an appeal on the City of Dana Point Planning Commission approval action.

On June 17, 2014, the City of Dana Point City Council held a public hearing on the appeal of the Planning Commission's approval of CDP13-0018. At the conclusion of the public hearing, the City Council adopted Resolution No. 14-06-17-06 upholding the Planning Commission's approval of CDP13-0018.

Following the action by the City Council, a Notice of Final Action related to the City Council's action on CDP13-0018, as required by both the Coastal Act and City's Local Coastal Program (LCP), was submitted to the Long Beach office of the California Coastal Commission on June 19, 2014. A Notification of Appeal Period was provided to the City by Coastal Commission staff, dated June 26, 2014, indicating an expiration of the ten (10) working day appeal period on July 8, 2014.

An appeal of CDP13-0018 was filed by Bruce Heyman on June 27, 2014 with the California Coastal Commission South Coast Area Office in Long Beach.

An additional appeal of CDP13-0018 was filed on behalf of Coastal Commissioners Mary Shallenberger and Dr. Robert Garcia on July 8, 2014.

On July 21, 2014, the applicant for CDP13-0018, the County of Orange/Dana Point Harbor, submitted a waiver of the 49 day rule to waive their right to a hearing within 49 days after an appeal has been filed with the Coastal Commission.

Amendments to the City Council's approval of CDP13-0018 were scheduled to be considered by the City of Dana Point City Council on October 7, 2014, but was instead continued to November 18, 2014. At the conclusion of the public hearing on November 18, 2014, the City Council approved with conditions amendment CDP13-008(I) (Resolution No. 14-11-18-06).

Following the action by the City Council, a Notice of Final Action related to the City Council's action on CDP13-0018(I) (**Exhibit No. 1**), as required by both the Coastal Act and City's Local Coastal Program (LCP), was submitted to the Long Beach office of the California Coastal Commission on November 24, 2014. A Notification of Appeal Period was provided to the City by Coastal Commission staff, dated November 26, 2014, indicating an expiration of the ten (10) working day appeal period on December 10, 2014.

An appeal of CDP13-0018(I) was filed by William R. Byrd, leasee representing Capo Beach Watercraft, with the California Coastal Commission South Coast Area Office in Long Beach.

On December 10, 2014, the last day of the appeal period for the amended coastal development permit (CDP13-0018(I), Bruce Heyman sent a letter to Commission staff indicating that he would like to apply his previous appeal contentions for the first City approval of the CDP to an appeal of the City approval of the amended CDP.

#### **IV. APPEAL PROCEDURES**

After certification of Local Coastal Programs (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Developments approved by cities or counties may be appealed if they are located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea or within 300-feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff [Coastal Act § Section 30603(a)].

In addition, an action taken by a local government on a coastal development permit application may be appealed to the Commission if the development constitutes a “major public works project” or a “major energy facility” [Coastal Act § Section 30603(a)(5)].

§ Section 30603 of the Coastal Act states:

- (a) *After certification of its Local Coastal Program, an action taken by a local government on a Coastal Development Permit application may be appealed to the Commission for only the following types of developments:*
  - (1) *Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.*
  - (2) *Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.*

§ Sections 30603(a)(1) and (2) of the Coastal Act establish the project site as being appealable by its location between the sea and first public road and that it is located on State tidelands.

§ Section 13111 of Title 14 of the California Code of Regulations allows an appeal of a local government’s decision on a coastal development permit application once the local appeal process has been exhausted. In accordance with § Section 13573, an appellant shall be deemed to have exhausted local appeals once the appellant has pursued his or her appeal to the local appellate body, except that exhaustion of all local appeals shall not be required if:

*(1) The local government or jurisdiction require an appellant to appeal to more local appellate bodies than have been certified as appellate bodies for permits in the coastal zone, in the implementation section of the Local Coastal Program.*

*(2) An appellant was denied the right of the initial local appeal by a local ordinance which restricts the class of persons who may appeal a local decision.*

*(3) An appellant was denied the right of local appeal because local notice and hearing procedures for the development did not comply with the provisions of this Article.*

*(4) The local government jurisdiction charges an appeal fee for the filing or processing of appeals.*

The grounds for appeal of an approval, by a certified local government, of a local CDP authorizing development in the appealable area are stated in § Section 30603(b)(1), which states:

*(b)(1) The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in [the Coastal Act].*

The grounds listed for the current appeals include contentions that the approved development does not conform to the standards set forth in the certified LCP regarding protection of public views, emphasis and protection of priority uses in the harbor, evaluation of hazard impacts, establishment of a sign program, as well as, transportation demand measures and recreation policies set forth in the Coastal Act. § Section 30625(b)(2) of the Coastal Act requires a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal was filed pursuant to § Section 30603. If Commission staff recommends a finding of substantial issue, and there is no motion from the Commission to find no substantial issue, the substantial issue question will be considered moot, and the Commission will proceed to the de novo public hearing on the merits of the project. The de novo hearing will be scheduled at a subsequent Commission hearing. A de novo public hearing on the merits of the project uses the certified LCP as the standard of review.

In addition, for projects located between the first public road and the sea, findings must be made that any approved project is consistent with the public access and recreation policies of the Coastal Act. § Sections 13110-13120 of the California Code of Regulations further explain the appeal hearing process.

At the hearing on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicants, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing.

The Commission will then vote on the substantial issue matter. It takes a majority of Commissioners present to find that no substantial issue is raised by the local approval of the subject project.

## **V. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

### **A. PROJECT DESCRIPTION AND LOCATION**

The subject site, Dana Point Harbor, is approximately 276.8 acres, owned and operated by the County of Orange and located entirely within the City of Dana Point (**Exhibit No. 2**). The Harbor is bordered by the Pacific Ocean to the south, Dana Point Headlands and the Old Cove Marine Life Preserve to the west, Doheny State Beach to the east and a variety of commercial, hotel, residential and public park uses to the north. It is a man-made County of Orange regional recreational facility built in a cove formed by the headlands of Dana Point to the north in Capistrano Bay. The harbor is constructed entirely on State tidelands that were granted to the County of Orange. The Dana Point Harbor Revitalization Plan, to be discussed more thoroughly below) applies only to filled and unfilled tidelands; there are no non-tidelands within the subject LCP area. Although the uplands are filled tidelands and would normally be under the Commission's jurisdiction, the Commission has delegated to the City permit authority for the filled tidelands pursuant to § Section 30613 of the Coastal Act. The Commission retains original coastal development permit jurisdiction over unfilled tidelands. The harbor construction was completed in the early 1970's and with the exception of the Dana Wharf buildings, routine maintenance and some other minor improvements, the County has not remodeled or constructed any new facilities since that time. Beginning in the late 1990's, planning for the Harbor's revitalization began. In 2008, the City of Dana Point proposed to amend the Local Coastal Program (LCP) to incorporate the Dana Point Harbor Revitalization Plan (replacing sections of the Dana Point Specific Plan relevant to the Dana Point Harbor (1986 LCP), a project specific amendment, that would establish new land use designations and implementation policies throughout the harbor. In October 2009, the Land Use Plan (LUP) was approved by the Commission; and in January 2011, the Implementation Plan (IP) was approved by the Commission.

The proposed coastal development permit (CDP13-0018(I)) is for the Commercial Core project, which encompasses only an approximately 37.7 acre subarea of the entire Dana Point Harbor. The remaining areas of the harbor including the beach area and "Island Area" (accessed by a two-lane bridge extending across the marinas), where recreational uses are currently located, are not a part of CDP13-0018. The project is the landside focal point of the Dana Point Harbor Revitalization Plan, which proposes to reconstruct and expand the landside commercial area. More specifically, the project consists of the following: the phased demolition of existing commercial and boater support facilities, renovation and/or construction of new retail/restaurant/office space for a total of 31,949 square feet of retail uses, 12,309 square feet of office-related uses, 77,178 square feet of restaurant (with an additional 13,822 square feet of outdoor dining areas), 2-level parking deck, open space Festival Plaza area and dry stack boat storage building. An Approval in Concept for the dry stack boat storage building is part of the City's approval. Site improvements are also proposed consisting of circulation/street/parking

area reconfigurations, installation of two new traffic signals and infrastructure improvements and relocation of existing South Coast Water District Sewer Lift Station and telecommunications/SONGS towers. Additionally, the project is being processed concurrently with a Parking Management Plan and Master Sign Program. Lastly, the City has also approved in concept a dry stack boat storage building, a 25-foot high, 4-ton capacity, 18-foot high bridge jib crane, and the abandonment of an existing storm drain outfall and replacement with a 42-inch outfall, and upgrades to another existing outfall to increase the size from the existing 12-inch to 18-inch, which all ultimately need a coastal development permit from the Coastal Commission because they involve development within areas where the Commission retains permit jurisdiction (**Exhibit No. 3**).

## **B. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS**

§ Section 30625(b)(2) of the Coastal Act states that the Commission shall hear an appeal of a local government action taken after certification of its local coastal program unless the Commission determines that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to § Section 30603. The term "*substantial issue*" is not defined in the Coastal Act or its implementing regulations. § Section 13115(b) of the Commission's regulations simply indicates that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." In previous decisions on appeals, the Commission has been guided by the following factors.

1. The degree of evidentiary and legal support for the local government's decision that the development is consistent with the certified LCP;
2. The extent and scope of the development as approved by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, § Section 1094.5.

Staff is recommending that the Commission find that **no substantial issue** exists with respect to the grounds on which the appeal has been filed because the project approved by the City is consistent with the City's certified Local Coastal Plan and the public access and recreation policies in Chapter 3 of the Coastal Act as set forth below:

## **C. SUBSTANTIAL ISSUE ANALYSIS**

As stated in Section IV of this report, the local CDP may be appealed to the Commission on the grounds that the proposed development does not conform to the standards set forth in the certified Local Coastal Program (LCP) or the public access policies of the Coastal Act. Pursuant

to § Section 30625 of the Coastal Act, the Commission must assess whether the appeal raises a substantial issue as to the project’s consistency with the certified LCP or the access policies of the Coastal Act.

The grounds for this appeal relate to the proposed project’s alleged inconsistency with a number of policies and standards of the certified LCP for the area and the Coastal Act. Namely, the first appellant, Mr. Byrd, alleges that the Dana Point Harbor Commercial Core project relocates his personal watercraft lease in a manner that denies public access to the Harbor waterways and the Pacific Ocean; eliminates nine (9) overnight wet slips that have been available for a nominal fee; and does not conform to the public access policies of the Coastal Act. The second appellant, Mr. Heyman, alleges that the project fails to maintain the required 493 dry boat storage spaces within the Harbor at all times; project does not include submittal of a CDP application to the Commission for the construction of the dry stack boat storage structure and without the structure there will not be adequate land area for the required number of dry boat storage spaces once the proposed project is constructed; the LCP-required baseline parking analysis has material errors and omissions resulting in undercounting recreational boating resources; and that the proposed 60 foot high buildings do not conform to the character of the community

The Commission’s standard of review for determining whether to hear the appeal is Cal. Pub. Res. Code § 30625(b)(1); 14 C.C.R. § 13321. Applying the five factors listed in the prior section (B. Factors to be Considered in Substantial Issue Analysis) clarifies that the appeal raises no “substantial” issue with respect to the City’s certified Local Coastal Plan or the public access and recreation policies in Chapter 3 of the Coastal Act.

### **Priority Land Use**

Dana Point Harbor is held in trust by the County of Orange (Orange County Dana Point Harbor) in favor of the people of the State of California for the purpose of waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, open space purposes and commercial uses incidental to these uses, pursuant to the common law Public Trust Doctrine. To that end, the certified Dana Point Harbor LCP promotes the use of the Harbor for navigation, fishing, public access, water-oriented recreation and the provision of coastal-dependent uses adjacent to the water through leasing of the publicly owned land. Commercial uses, incidental to the above uses, are also allowed. Consistent with the Coastal Act, the commercial uses that are preferred in the Harbor are coastal-dependent and coastal-related uses that enhance the public’s enjoyment of the beach and other water areas. Water-dependent uses such as recreational and commercial boating, and fishing, and boating support uses such as dry boat storage, shipyard and boat repair and personal watercraft rental and sales, have priority over other commercial uses of the Harbor.

The certified LCP contains policies and standards to carry out these priorities. The Land Use Plan (LUP) policies include 4.2.2-6, 4.4.1-2, 4.4.1-3, 4.4.1-6, 5.1.1-8, 8.5.1-1, 8.5.1-2, 8.5.1-3, (the full text of these LUP Policies and found in **Exhibit No. 6**). The Implementation Plan (IP) contains the following standards that carry out the LUP policies: General Regulation 8, 4.5, 5.5, 14.2, 14.6, (the full text of these IP standards are found in **Exhibit No. 6**).

The Byrd appeal alleges that the Commercial Core project is inconsistent with the public access policies of the Coastal Act in that his long time jet ski, kayak, SeaDoo, Waverunner and boat

rental concession (Capo Beach Watercraft) is being relocated and that there are no provisions for “responsible planned relocation for his lease”, that another long time concession, Embarcadero Marina Boat Rentals, renting sailboats, skiffs and duffies, is also being eliminated, and that 9 overnight wet slips that are available at a nominal fee, are also being eliminated.

In response to this contention, the Commission considers the degree of factual and legal support for the local government’s decision that the development is consistent or inconsistent with the relevant provisions of the Coastal Act. The City’s action in conditionally approving the Commercial Core project is clear in that both existing boat and personal watercraft concessions are being relocated to a similarly situated area in Planning Area 1 where renters will continue to have access to the Harbor waterways and the water area where the wet slips are located are not within the project area and are not being impacted by the proposed development. Therefore, these Coastal Act and LCP priority uses are not being eliminated and there is no adverse impact to public access created by the project. The approved CDP does not include any development in the water. Therefore, the development will not eliminate any wet slips. When the City approved the Commercial Core project CDP, they also granted an “Approval in Concept” for the future dry stack boat storage facility that would be located partially within the Commission’s retained jurisdiction. The City and OC Dana Point Harbor, the applicant, will later submit a consolidated CDP application to the Coastal Commission for approval of the boat storage facility. It will be through review of the consolidated CDP application that impacts to existing wet slips will be addressed.

In the Heyman appeal on behalf of the Boater 4 Dana Point Harbor (B4DPH), it is alleged that the CDP is inconsistent with the certified LCP in that it allows the required 493 dry boat storage spaces to be relocated off-site, during construction. The certified LCP contains findings and policies concerning the importance and priority of maintaining and enhancing recreational and commercial boating and boating support uses in the Harbor. Arguments were made during the Commission’s review of the Land Use Plan that there were over 500 boats being stored on land within the Harbor. The Commission required that a total of 493 dry boat storage spaces be provided at all times within the Harbor and allowed up to 400 of those spaces to be provided in a dry stack boat storage structure, up to 65-feet in height. The certified LUP does not however prohibit the temporary off-site storage of boats during construction. The Commercial Core project has always involved extensive redevelopment of a portion of the Harbor, as detailed in the EIR for the LCP and the revitalization project. The LCP requires that the development of a Construction Phasing Plan, a Construction and Temporary Operations Plan, as well as a Parking Master Plan that has as a goal, among others, to minimize impacts to access for boat owners to the marina and business owners during the 5-year construction period, as well as public access to the boat launch ramp facility, boat storage and the other recreational amenities of the Harbor in the area of the proposed project. The CDP approved the project to be phased over a 5 year period. One of the reasons the construction period is 5 years is because the applicant, OC Dana Point Harbor, as well as the City determined that it was important to minimize the disruption to the businesses as well as the recreational use of the Harbor. The new parking structure will be first constructed followed by the new commercial buildings surrounding the new parking. The existing businesses will relocate to the new structures before their existing businesses are removed. The Construction Phasing Plan, a Construction and Temporary Operations Plan, as well as a Parking Master Plan approved as a part of the Commercial Core CDP utilizes a combination of on-site and off-site storage of boats. For a significant amount of time during the

construction period there will be approximately 200 boats stored on-site. Upon completion of the phased project there will be 495 boats stored on-site at all times. Therefore, the proposed CDP is consistent with the certified LCP with regards to the provision of on-site boat storage while complying with the requirements to maximize access to the marina, businesses, and public launch ramp for owners and the general public.

The B4DPH appeal also raises concern that no CDP application for the dry stack boat storage facility was required to be submitted in conjunction with the approval of the CDP and further that the land area needed to store 493 boats will not be available if the Commercial Core project is allowed to proceed prior to approval and construction of the dry stack boat storage structure. The boat storage structure would be located partially within the City's jurisdiction and partially within the Commission's retained jurisdiction, overhanging the water. The certified LCP allows for the Commission to act on a single consolidated permit for development within both jurisdictions if the local government, the applicant and Commission agree to this processing. The City's action did include approval of an "Approval in Concept" for a 65-foot high dry stack storage building and the applicant, OC Dana Point Harbor, and the City will request a single consolidated permit for the structure. However, no CDP application has been submitted.

Although no CDP application has been submitted to the Coastal Commission for this structure, the City has given the project conceptual approval to allow the application to be submitted. The City's approval of the Commercial Core project did however include an analysis demonstrating that there is land area available to provide for the required 493 dry boat storage spaces in Planning Area 1 (PA1) along with the Commercial Core development is constructed (**Exhibit No. 7**). The Commission notes that the LCP does not require the construction of a dry stack boat storage structure. The structure, with a capacity of up to 400 boats, is simply allowed. The County can choose to store the boats in a manner other than in a 65-foot high structure, though an amendment to this CDP or a new CDP is approved. LUP Policy 14.2(j) requires that 493 dry boat storage spaces be provided in PA 1 and that 93 of those spaces be surface spaces for those boats that cannot be stored in a stack storage structure. However, the County states that they intend to apply for and construct the facility. Coastal Commission staff asked the City to demonstrate that adequate land area is reserved to store the required minimum of 493 boats should the structure not be built. The findings of the CDP demonstrate that at least 493 boats can be stored within PA 1, without the construction of a dry stack boat storage structure allowed for in the LCP. However, the County states that it fully intends to construct the facility. To ensure timely construction of the facility, the CDP includes Special Condition No. 55 which requires that the CDP application for the dry stack boat storage building and related infrastructure be submitted to the Coastal Commission within 6 months of the issuance of building permits for the Commercial Core project. Further, Special Condition No. 56 requires that the County obtain a CDP from the Commission and prepare and submit construction level plans for the facility for plan check review to OC Building Department, with evidence of such submittal to the Coastal Commission Executive Director and the City of Dana Point, prior to construction of Buildings 10 and 11 of the Commercial Core project. Therefore, the Commission finds that the locally approved project, as conditioned, is consistent with the LCP that prioritizes boating support use over visitor-serving commercial use of the Harbor and the requirement that the Commercial Core development not preclude the provision of at least 493 boat storage spaces in PA 1.

The B4DPH appeal also challenges the baseline analysis that was prepared to determine the number of existing dry boat storage spaces, wet boat slips, and parking spaces that was required by the LCP to be submitted with the first CDP for the Commercial Core project area to be used as the basis for the required Parking Management Plan. The appeal states that there are “material errors and omissions that result in undercounting recreational boating resources”, and refers to a letter he sent to Commission staff dated May 12, 2014 (**Exhibit No. 5**). That letter alleges a change in use of 3 docks that were reconstructed under a CDP waiver 5-91-866, states that number of required boat owner parking spaces should be based on the pre-Coastal Act standard in effect when the Harbor was constructed; that pitch-fork side ties (and associated parking) should be counted in the number of wet boat slips; and that boats stored in the public boat launch ramp facility and the shipyard should be counted as dry boat storage spaces.

The LCP Implementation Plan, § Section 14.6, Parking Management Plan, requires that the baseline data reflect “legal and permitted development”. The applicant also prepared a baseline analysis for the parking spaces, including boat trailer spaces, within the public boat launch ramp facility for the City’s review in conjunction with the CDP. The City reviewed the B4DPH May 12, 2014 letter and stands by their findings that the legal and permitted development is accurately counted in their baseline analyses. Further, the CDP provides more than the required 493 dry boat storage spaces, more than the 334 public launch ramp boat with trailer spaces, and the required number of parking spaces throughout the Harbor for all uses, and retains the LCP approved parking ratio of 0.6 designated boater parking spaces for the existing 2,409 wet boat slips although the County argues that not all 2,409 wet slips are legally existing slips. The Commercial Core project does not include any development in the water. Therefore, the Commission finds that the proposed project is consistent with the certified LCP with regards to the establishment of an accurate baseline count of parking and wet and dry boat slips and spaces and the appeal raises no substantial issue with regards to this issue.

Therefore, the Commission finds that there is no factual basis for the B4DPH contentions that the project affects the ability to provide the required 493 dry boat storage spaces within PA 1 or that a dry stack storage building is precluded by the approval of this project, or that the baseline analysis is inaccurate and results in the undercounting of recreational boating resources. To the contrary, there is adequate factual support for the findings made by the City of Dana Point in conditionally approving the Commercial Core project. Therefore, the Commission finds that there is no substantial issue with regards to the factual and legal support for the local government’s action on the subject CDP.

Although the extent and scope of the development approved are significant, there are no significant adverse impacts to the existing boating opportunities, including personal watercraft rentals, within the project area caused by the proposed Commercial Core project. Also, the extent and scope of the Commercial Core development are great in that the project represents a comprehensive reconstruction of a portion of the Dana Point Harbor over a 5-year period. However, the development as conditioned does not significantly adversely impact the public access or boating priority uses of the area.

Likewise, the significance of the resources affected by the decision is great. The resources of the portion of the Dana Point Harbor affected by the local CDP include the land area of the Harbor that contains 493 dry boat storage spaces, 334 boat/trailer parking spaces in the public boat

launch ramp facility, and the parking resources for the existing 2,409 slip marina, commercial and sports fishing uses, the Puerto Place park and the existing commercial uses. Although the resources are significant, the City's action in conditionally approving the CDP ensures that there are no significant adverse impacts to the resources of the project area.

The precedential value of the local government's decision for future interpretations of its LCP is not adversely implicated in this instance. The City of Dana Point has correctly applied the relevant policies of the certified LCP in conditionally approving the proposed project. Therefore, the appeals raise no substantial issue with regards to this factor.

Whether the appeal raises local issues, or those of regional or statewide significance is a factor the Commission considers in determining whether there is a substantial issue raised. These appeals raise local issues and not those of regional or statewide concern. Mr. Byrd's appeal objects to his personal watercraft concession, and another similar concession, being relocated nearby, within the Harbor, during the construction period. In the Boaters 4 Dana Point Harbor appeal, Mr. Heyman is concerned about the existing boats that are stored on land having to be stored at an off-site location during construction, that the CDP application for the future dry stack boat storage structure has not yet been submitted to the Coastal Commission, that the number of existing boater parking spaces in the Harbor is not accurately reflected in the City's Baseline Analysis and that the development does not conform to the character of the community with regards to building heights. These are concerns specifically related to the Dana Point Harbor and of the proposed project.

### **Community Character**

The first factor is the degree of factual and legal support for the local government's decision that the development is consistent with the certified LCP. The appellant asserts that the LUP and IP specify that the building heights within the Commercial Core must conform to the building heights character of the community, but that the proposed 60-foot tall buildings in the Commercial Core do not conform. The LCP contains detailed policies that allow the 35-foot height limit to be exceeded, provided the proposed development is consistent with the character of the community and the scale of existing development and certain design features and development standards are incorporated. Land Use Plan (LUP) Policy 8.5.1-3, states that all new development in the harbor shall not exceed the maximum building height of 35-feet, however it also states that there are exceptions to that height limit, which include allowance of a Dry Stack Storage Building to have a maximum height of 65-feet and buildings in the Commercial Core area to have a maximum building height of 60-feet. However, these height are only allowed to the extent that significant coastal public views through scenic corridors and from scenic viewpoints are protected and enhanced. Implementation Plan (IP) Policy 4.5 also allows a Dry Stack Storage Building to exceed the 35-foot height limit to a maximum 65-foot height and IP Policy 5.5 allows buildings in the Commercial Core area to have a maximum building height of 60-feet provided that significant coastal public views through scenic corridors are protected and enhanced. IP Policy 5.5 also requires certain design features be implemented to enhance and protect views. Additionally, IP General Regulation Policy No. 8 states in part that: "*All new buildings in the Harbor shall be consistent with the character of the community in architectural form, bulk and height of the community, including other structures within one-half mile of the Dana Point Harbor LCP boundary.*"

Architectural and urban design elements have been implemented that protect and enhance significant coastal public views through scenic corridors. For example, buildings have been oriented so that public views will be expanded or enhanced, such as the creation of the Festival Plaza that aligns with the main Harbor entrance from Street of the Golden Lantern and the incorporation of numerous public view outlook locations as part of the Commercial Core podium design. The city conducted an analysis of buildings within 0.5 mile of the harbor boundary and found that they range in height between 42 and 55-feet. By comparison, there are 5 new structures proposed as part of the Commercial Core that exceed the height limit of 35-feet, 1 building (the Dry Stack Boat Storage Building) is proposed at the maximum building height of 65-feet for Planning Area 1 and all others are at or below the maximum building height of 35-feet or the allowable exception of 60-feet if the building is connected to the parking deck podium structure. The exception, as allowed by IP Policy 5.5 for Planning Area 2 requires incorporation of architectural design features, public view preservation features and limiting habitable building square footage to areas of the building below 40-feet (as measured from finished grade) with the exception of 1 building if the space is devoted to accommodate harbor wide view for purposes of harbor related public safety operations.

In this case, the local government's decision included an analysis of the existing community character within 0.5mile of the Harbor and employed design and architectural features to lessen the visual impact of the structures while correctly applying the policies of the City's certified LCP. Thus, the appeal raises no substantial issue regarding conformity therewith.

The second factor is the scope of the development approved by the local government. The scope of the approved development is the revitalization of the commercial portion of the Dana Point Harbor. The scope of the approved development alone does not support a finding that the appeal raises a "*substantial issue*".

The third factor is the significance of the coastal resources affected by the decision. The appellant states that the community character is affected since the proposed 60-foot tall buildings do not conform to the heights in the community. There are policies in the certified LCP that do allow buildings to exceed the height limit of 35-feet to a maximum of 65-feet or 60-feet, as long as significant coastal public views through scenic corridors and from scenic viewpoints are protected and enhanced. As required by the certified LCP, the project has been designed to protect and enhance scenic views. A majority of the proposed buildings conform to the surrounding heights and the ones that do not have been sited and designed to incorporate architectural features that reduce adverse impacts on the visual resources of the community. Thus, coastal resources are not significantly adversely affected by the decision. Therefore, the appeal does not support a finding that it raises a "substantial" issue for Coastal Act purposes.

The fourth factor is the precedential value of the local government's decision for future interpretations of its LCP. This factor is considered in order to avoid leaving decisions in place that could create a precedent for how the relevant provision of the LCP is to be interpreted. As approved by the City, the development will not have a negative precedent for future decisions regarding revitalization of Dana Point Harbor since these issues were adequately analyzed as required by the City's certified LCP. Therefore, the appeal does not raise any significant issue with respect to the precedential value of the local government's decision for future interpretations of its LCP.

The final factor is whether the appeal raises local issues, or those of regional or statewide significance. This appeal raises a localized issue related to community character within a half mile of the project site. The appeal does not raise any issues of statewide significance in that the development has been found to be consistent with the character of the surrounding community, pursuant to the requirements of the certified LCP.

Therefore, in conclusion, the Commission finds that the local government's action does not raise any substantial Local Coastal Plan or Chapter 3 public access and recreation policy issues. Therefore, no substantial issue exists with respect to the approved project's consistency with the LCP or Chapter 3 public access and recreation policies.

**RESOLUTION NO. 14-11-18-06**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING COASTAL DEVELOPMENT PERMIT CDP13-0018(I), AMENDING COASTAL DEVELOPMENT PERMIT CDP13-0018 FOR DEVELOPMENT OTHERWISE REFERRED TO AS THE DANA POINT HARBOR COMMERCIAL CORE PROJECT, A PARKING MANAGEMENT PROGRAM, A MASTER SIGN PROGRAM AND APPROVALS IN CONCEPT.**

Applicant/Property Owner:  
OC Dana Point Harbor/County of Orange

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

WHEREAS, on December 20, 2013, the applicant filed a verified application for a Coastal Development Permit for the phased demolition of existing commercial and boater support facilities, the renovation and/or construction of new retail/restaurant/office space (including outdoor dining), two level parking deck and podium structure, infrastructure and street improvements, parking area reconfigurations, a Parking Management Plan, Master Sign Program and approvals-in-concept for a Dry Boat Storage Building and other Marine Services Commercial improvements; and

WHEREAS, said verified application constitutes a request as provided by Title 9 of the Dana Point Municipal Code and Chapter 16 of the Dana Point Harbor Revitalization Plan and District Regulations; and

WHEREAS, the Dana Point Harbor Revitalization Plan & District Regulations is part of a comprehensive planning program that has included extensive analysis of the Harbor area, including Final Environmental Impact Report No. 591 that has been certified by the Orange County Board of Supervisors and covers all Dana Point Harbor Revitalization Plan improvements in accordance with the California Environmental Quality Act (CEQA); and

WHEREAS, due to the incorporation of additional policies, regulations and development standards by the California Coastal Commission and the City of Dana Point as part of the Local Coastal Program Amendment ("LCPA") review and certification process, the previously certified Final EIR No. 591 prepared for the Revitalization Plan required review to determine whether the previous conclusions remain valid; and

WHEREAS, pursuant to the requirements of CEQA Guidelines Section 15164 and 15152, OC Dana Point Harbor prepared an Addendum to Final EIR No. 591 to provide a record of the changes resulting from the certification of the City's LCPA and determined that the Addendum and the certified Final EIR No. 591 serve as the environmental review of the Dana Point Harbor Revitalization Plan as modified; and

WHEREAS, a Project Requirement and Monitoring Program has been prepared to meet the requirements of CEQA Section 21081.6 as mitigation measure monitoring program. The Project Requirement and Monitoring Program is designed to ensure compliance with the mitigation measures imposed upon the Dana Point Harbor Revitalization Plan to avoid or substantially lessen the significant effects identified in Final Program EIR No. 591; and

WHEREAS, the Project Condition/Requirement and Mitigation Monitoring Program is attached hereto as Exhibit A and is incorporated herein by reference; and

WHEREAS, the Planning Commission did, on the 12<sup>th</sup> day of May, 2014 hold a duly noticed public hearing as prescribed by law to consider said request; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, said Commission considered all factors and approved Coastal Development Permit CDP13-0018; and

WHEREAS, on May 27, 2014, the appellant filed an appeal of the Planning Commission decision; and

WHEREAS, the City Council did, on the 17<sup>th</sup> day of June, 2014, hold a duly noticed public hearing as prescribed by law to consider the appeal; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, of all persons desiring to be heard, said Council considered all factors relating to the appeal of Coastal Development Permit CDP13-0018 and upheld the Planning Commission's approval; and

WHEREAS, on June 19, 2014 the City filed a Coastal Development Permit Application Notice of Final Action pursuant to Municipal Code Section 9.69.090 with the California Coastal Commission; and

WHEREAS, on June 27, 2014 an Appeal From Coastal Permit Decision of Local Government was filed by Bruce Heyman with the California Coastal Commission; and

WHEREAS, on July 7<sup>th</sup> and 8<sup>th</sup> an Appeal From Coastal Permit Decision of Local Government (A-5-DPT-14-0036) was filed by California Coastal Commissioners Mary K. Shallenberger and Dr. Robert Garcia pursuant to Section 30625 of the Coastal Act; and

WHEREAS, the City has conducted consultations with Coastal Commission staff and OC Dana Point Harbor and is recommending the incorporation of amendments into Coastal Development Permit CDP13-0018 for the Dana Point Harbor Commercial Core Project to address issues raised by the appellant and Coastal Commissioners Shallenberger and Garcia in their respective appeals of the City's approvals; and

WHEREAS, the City Council, after giving notice as prescribed by law, held a duly notice public hearing on October 7, 2014 and, continued the hearing to November 18, 2014; and

WHEREAS, the City Council, held a public hearing on November 18, 2014, regarding the amendments to Coastal Development Permit CDP13-0018 for the Dana Point Harbor Commercial Core Project and found that the proposed amendments are in accordance with the Dana Point Harbor Revitalization Plan and District Regulations and the previously certified Final EIR No. 591 prepared for the Revitalization Plan; and

WHEREAS, at said public hearing, upon hearing and considering the analysis provided in the City Council Agenda Report, including all referenced documents and exhibits, testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors relating to the amendments of Coastal Development Permit CDP13-0018(I).

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

- A) The above recitations are true and correct.
- B) OC Dana Point Harbor will be required to obtain a separate Coastal Development Permit approval from the California Coastal Commission for all proposed Marina Services Commercial improvements receiving City approval-in-concept.

Findings:

- C) Based on the evidence presented at the public hearing, the City Council adopts the following findings and approves the amendments to Coastal Development Permit CDP13-0018(I), subject to conditions.
  1. That the proposed development is in conformity with the Dana Point Harbor Revitalization Plan & District Regulations as certified by the California Coastal Commission **in that the proposed project has been designed in conformance with the Land Use Policies and Development Standards and Requirements of the Marine Services Commercial and Day Use Commercial Planning Areas of the Dana Point Harbor Revitalization Plan & District Regulations.**
  2. That the proposed development, if located between the nearest public roadway and the sea or shoreline of any body of water is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act (Coastal Act Section 30333 and 30604(c); 14 Cal. Code of Regulations Section 13096) **in that by an Act of the California**

**State Legislature (Chapter 321 of the Statutes of 1961 becoming effective on September 15, 1961) ownership of certain tidelands and submerged land of the State of California (inclusive of Dana Point Harbor) was granted to the County of Orange who has continuously operated Dana Point Harbor as a public facility since it first opened in 1971 and retains all rights pursuant to the Tidelands Grant.**

3. **That the proposed development conforms with Public Resources Code Section 21000 et seq. and that there are no feasible mitigation measures or feasible alternatives available that would substantially lessen any significant adverse impact(s) that the activity may have on the environment in that the Orange County Board of Supervisors, through Resolution No. 06-013 certified on January 31, 2006 FEIR No. 591 in its composite form as complete and adequate in that it addresses all environmental effects of the Dana Point Harbor Revitalization Plan and fully complies with the requirements of CEQA and the County's environmental analysis procedures and pursuant to the requirements of CEQA Guidelines Section 15164 and 15152, prepared an Addendum to FEIR No. 591 to provide a record of the changes resulting from the certification of the City's LCPA by the California Coastal Commission.**
4. **That the proposed development, if it includes structures in excess of thirty-five (35) feet in height is in conformity with the provisions of the Dana Point Harbor Land Use Plan and District Regulations to preserve significant coastal public views through scenic corridors and from scenic viewpoints in that as demonstrated in the Story Pole Staking Plan and View Analysis using the same views as first analyzed as part of FEIR No. 591 and updated to include the current project design elements, the anticipated development will have similar impacts on views and will result in significant and unavoidable long-term off-site aesthetic impacts due to the development of the dry stack boat storage building which will partially obstruct views from surrounding roadways, parks and the State Beach as indicated in FEIR No. 591; but will provide enhanced coastal view opportunities through scenic corridors not presently available through the creation of the Festival Plaza, Pedestrian Promenade and by providing new view overlooks as part of the project design. The architectural design is consistent with the character of the community in architectural form, bulk and height in that the development's architectural elements and proposed building heights and/or exceptions conform to requirements of the City's Harbor LCP Part II District Regulations, Chapters II-4 and II-5.**
5. **That the proposed development conforms with the Dana Point Harbor Land Use Plan to maintain sufficient parking for coastal dependent and coastal related land uses in that a Parking Management Plan, incorporating the**

findings and recommendations of the Dana Point Harbor Baseline for Slips, Dry Boat Storage, Launch Ramp & Parking Analysis (October 2013), a Transportation Demand Management Plan (October 2013), and Construction Management Parking Plan (December 2013), has been prepared that provides 4,500 parking spaces and facilitates the best possible use of the parking while prioritizing and avoiding adverse impacts on priority uses, including designated boater parking, boat launch ramp parking and dry boat storage opportunities, and includes provisions for the use of off-site locations during peak Harbor usage periods has been prepared and will be updated on a routine basis.

6. That the proposed development will maintain adequate space for a minimum of 493 boats to be stored on dry land and a minimum of 334 vehicle with trailer parking spaces for public launch ramp purposes in Planning Area 1 or provides for the storage of boats at off-site locations during construction of Commercial Core Project improvements in that the project includes the development of a dry stack boat storage building capable of storing up to 400 boats and maintains surface boat storage spaces for a minimum of 93 boats that cannot be stored in the dry stack boat storage building; provides a minimum of 334 spaces located adjacent to the public boat launch ramp on a continual basis; and provides for adequate off-site storage facilities for all boats displaced during construction in accordance with the Construction Management Parking Plan.
7. That the proposed development will be sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreation areas, and will provide adequate buffer areas to protect such resources in that the subject site is presently completely built-out with similar existing land uses and the site contains very little vegetation or coastal resources that could be considered to be significantly impacted by the proposed upgrades to Harbor infrastructure and facilities, and the project application includes Tree Trimming and Maintenance Procedures for Harbor Bird Habitat that have been developed to ensure the long-term protection of wading bird heronries, breeding, roosting and nesting habitat of birds protected by the Fish and Game Code and the Migratory Bird Treaty Act.
8. That the proposed development will minimize the alterations of natural landforms and will not result in undue risks from geologic and erosional forces and/or flood and fire hazards in that the proposed project is located on manmade landforms previously developed and a geotechnical investigation with recommendations and conclusions

**addressing site preparation, foundation design, lateral spreading for proposed buildings and retaining walls addressing geologic forces; a Preliminary Shoreline Management Plan and Wave Uprush Analysis prepared for the project provides current and future assessments of seasonal and long-term shoreline changes consistent with the best available science currently available standard and the information included in the Coastal Commission Draft Sea Level Rise Policy Guidance document that will be updated as new regulations and technologies are identified and/or regulatory standards are adopted by local, state and federal agencies relating to risks from flooding, inundation; that adequate County and City preparedness plans are in place and regularly updated to protect public safety and the project has received conditional approval from the Orange County Fire Authority that will minimize fire hazards.**

9. **That the proposed development will maintain compliance with the provisions of the National Pollution Discharge Elimination System and the requirements of the City of Dana Point Local Implementation Plan and Storm Water/Surface Runoff Water Quality Ordinance and Municipal Separate Storm Sewer System Permit in that water quality Best Management Practices have been incorporated into the project design, including low flow diversions, infiltration trenches, bioretention without underdrains, drywells, permeable pavement and underground infiltration galleries in accordance with the approved Conceptual Water Quality Management Plan that also establishes responsibilities and timeframes for the construction and long-term maintenance of all new storm water and pollution control management systems in the Harbor.**
10. **That the proposed development will be visually compatible with the character of surrounding areas, and, where feasible, will restore and enhance visual quality in visually degraded areas in that proposed project consists of the revitalization of an existing, fully developed harbor and the proposed improvements involve the replacement and enhancement of existing land uses in the Harbor, and includes new structures with contemporary building materials, variations in roof heights, new landscape improvements, and implementation of a comprehensive signage program that will enhance visual quality in the Harbor and facilitate public access.**
11. **That the proposed development will conform with the General Plan, Zoning Code, applicable Specific Plan, Local Coastal Program, or other applicable adopted plans and programs in that this application is being reviewed for compliance with the Coastal Act provisions and other applicable state laws concerning specific coastal resources, compatibility with**

adjacent development, hazard areas, coastal access concerns and that land use priorities have been applied to determine the locations and intensity of land and water uses as part of the proposed development which is consistent with all applicable provisions of the Dana Point Harbor Revitalization Plan & District Regulations that is the applicable Local Coastal Program addressing land use and the implementation of projects in the OC Dana Point Harbor.

Conditions:

**A. GENERAL CITY OF DANA POINT DISCRETIONARY APPROVAL REQUIREMENTS:**

1. The Project Condition/Requirement and Mitigation Monitoring Program, attached hereto as Exhibit A for the Project, shall constitute conditions of approval by reference. Where there is a conflict between these conditions and the MMP, the more restrictive shall apply as determined by the OC Dana Point Harbor Director.
2. Approval of this application permits the phased demolition of existing commercial and boater support facilities, the renovation and/or construction of new retail/restaurant/office space (including outdoor dining), two level parking deck and podium structure, infrastructure and street improvements, parking area reconfigurations, a Parking Management Plan, Master Sign Program and approvals-in-concept for the construction of a Dry Boat Storage Building and upsizing of two storm drain outfalls for approval of a Coastal Development Permit by the California Coastal Commission. Subsequent submittals for this project shall be in substantial compliance with the plans presented to the City Council and in compliance with the applicable provisions of the Dana Point Harbor Revitalization Plan & District Regulations, the City of Dana Point General Plan, City Zoning Code and other application provisions of the City's Local Coastal Program.
3. This discretionary permit(s) will become void two (2) years following the effective date of the approval if the privileges authorized are not implemented or utilized or, if construction work is involved, such work is not commenced with such two (2) year time period or; the Director of Community Development or the Planning Commission, as applicable grants an extension of time. Such time extensions shall be requested in writing by the applicant or authorized agent prior to the expiration of the initial two-year approval period, or any subsequently approved time extensions.

4. The application is approved for the location and design of the uses, structures, features, and materials, shown on the approved plans. Any relocation, alteration or addition to any use, structure, feature or material, not specifically approved by this application, will nullify this approving action. If any changes are proposed regarding the location or alteration to the appearance or use of any structure, an amendment to this permit shall be submitted for approval by the Director of Community Development. If the Director of Community Development determines that the proposed change complies with the provisions and the spirit and intent of this approval action, and that the action would have been the same for the amendment as for the approved plans, he may approve the amendment without requiring a new public hearing.
5. Failure to abide by and faithfully comply with any and all conditions attached to the granting of this permit shall constitute grounds for revocation of said permit.
6. The County, any tenants or any successor-in-interest shall defend, indemnify and hold harmless the City of Dana Point ("CITY"), its agents, officers, or employees from any claim, action, or proceeding against the CITY, its agents, officers, or employees to attack, set aside, void or annul an approval or any other action of the CITY, its advisory agencies, appeal boards, or legislative body concerning the project. Applicant's duty to defend, indemnify, and hold harmless the City shall include paying the CITY's attorney's fees, costs and expenses incurred concerning the claim, action, or proceeding.

The County, any tenants or any successor-in-interest shall further protect, defend, indemnify and hold harmless the City, its officers, employees, and agents from any and all claims, actions, or proceedings against the City, its officers, employees, or agents arising out of or resulting from the negligence of the applicant or the applicant's agents, employees, or contractors. Applicant's duty to defend, indemnify, and hold harmless the City shall include paying the CITY's attorney's fees, costs and expenses incurred concerning the claim, action, or proceeding.

7. The County and/or their designee shall be fully responsible for knowing and complying with all conditions of approval, including making known the conditions to the City staff for future governmental permits or actions on the project site.
8. The applicant shall be responsible for coordination with SDG&E, AT&T California and Cox Communication Services for the provision of electric, telephone and cable television services.

53 ORIGINAL  
SPECIAL  
CONDITIONS

9. The use of the City's public right of way for all  
not be allowed, except as permitted by An  
encroachment permit is required for all use of the public right-of-way.
10. Prior to issuance of any permit for work affecting neighboring properties,  
the applicant must secure written approval for the use of neighboring  
property for any proposed construction and improvements from all  
affected properties.
11. During the construction phase, all construction materials, wastes, grading  
or demolition debris, and stockpiles of soil, aggregates, soil amendments,  
etc. shall be properly covered, stored, managed, secured and disposed to  
prevent transport into the streets, gutters, storm drains, creeks and/or  
coastal waters by wind, rain, tracking, tidal erosion or dispersion.
12. The applicant shall prepare and provide to the City a copy of all needed  
reports and implement all required actions to meet current NPDES permit  
water quality regulations including, but not limited to, a Water Quality  
Management Plan, a Storm Water Pollution Prevention Program, and all  
other required water quality related reports/actions.
13. Should dewatering be necessary, the applicant shall apply and secure a  
separate discharge permit from the Regional Water Quality Control Board  
and from any other regulatory agency with jurisdiction, and submit a copy  
of the permit (s) to the City.
14. The hours of operation of construction equipment that produces significant  
noise or levels noticeably above general construction noise shall be  
limited to the allowable hours indicated in the Dana Point Municipal Code.
15. The applicant shall submit street improvement plans for all components of  
work that will impact City streets, fund and construct said improvements  
in compliance with City standards, for review and approval by the City  
Engineer. The applicant shall include all plans and documents in their  
submittal as required by the current City Public Works Department's plan  
check policies, City of Dana Point Municipal Code and the City of Dana  
Point Grading Manual and City's Municipal Separate Storm Sewer  
Systems (MS4s) Permit requirements. This includes, but is not limited to,  
the following:
  - a. Required asphalt renovation on all City roadways including pavement  
repairs and overlay limits.
  - b. Required sidewalk and curb and gutter repairs.
  - c. Required median renovation work, including replacement of existing  
irrigation, trees and plant material.

- d. Required City monument signage.
  - e. Other customary related street improvements.
16. For City streets, the applicant shall provide design documents, fund and construct traffic signal modifications and improvements, including but not limited to, traffic signal interconnect, conduit, wire, pull boxes, controller and enclosure, traffic signal poles, audible pedestrian push buttons, and all other required equipment as directed and approved by the City Engineer.
  17. Street Improvement Plans provided by the Applicant for purposes of processing the Coastal Development Permit are conceptual in nature, and may change based on input provided during the City review and approval process.
  18. All street improvement and traffic signal work at the intersection of Puerto Place and Dana Point Harbor Drive shall be completed prior to construction of any on site buildings. Alterations to this Condition necessary for Project Phasing may be approved by the City Engineer.
  19. The applicant shall provide design documents for all construction traffic control for the construction of all proposed City street improvements, and to support construction of improvements on County property. The traffic control plans shall be prepared by a licensed California Traffic or Civil Engineer and submitted for review and approval by the City Engineer.
  20. The applicant shall relocate all impacted public and private utilities to allow for the construction of the proposed improvements along Dana Point Harbor Drive. Further, the applicant shall provide easements, if needed, on the applicant's property to allow for the necessary relocations as approved by the City Engineer, relating to City streets.
  21. The applicant shall construct all sidewalk improvements to match the widths of adjoining or remaining public sidewalks.
  22. The applicant shall provide a permit from South Coast Water District for water and sewer services, and construct all necessary public and private infrastructure to support said services.
  23. Applicant shall prepare a comprehensive utility plan for all existing and proposed utilities on surrounding City streets that are impacted. Further, all above grade structures shall be fully screened from public view with landscaping or other improvements to the satisfaction of the City Engineer.

24. The applicant's licensed engineering consultants shall submit a final certification for all City street signing and striping and traffic signal improvements for review and approval by the City Engineer by separate submittal. The final improvement certification by the Civil Engineer (per the City's standard Civil Engineer's Final Certification Template for Final Approval) shall approve the improvements as being substantially completed in conformance with the approved improvement plans.
25. The applicant shall submit a final stamped certification from the Traffic Engineer for all signal and traffic improvements for review and approval by the City Engineer by separate submittal. The final improvement certification by the Traffic Engineer (per the City's standard Civil Engineer's Final Certification Template for Final Approval) shall approve the improvements on City streets as being substantially completed in conformance with the approved improvement plans.
26. An encroachment permit is required for all work on City property per the City's Municipal Code, City Standards and other local and state requirements. All work in the right-of-way shall be completed in conformance with the Encroachment Permit conditions and approved plans to the satisfaction of the City Engineer.
27. All landscaping and irrigation installed on City property shall be installed per an approved landscape and irrigation plan. A State licensed landscape architect shall certify that all plants, irrigation and other improvements have been installed in accordance with the specifications of the final plan and shall submit said certification in writing to the Director of Community Development and the Director of Public Works. The applicant shall contact the Community Development Department once all landscaping has been installed in accordance with the approved plans.
28. Any damage to improvements (landscape, irrigation, hardscape, sidewalks, etc.) on City property shall be restored to the satisfaction of the City Engineer.
29. All permanent BMP's on the project shall be installed and approved by either the project Landscape Architect or the Civil Engineer of Record. The applicant shall submit to the City and County of Orange, a final certification stating that all improvements associated with water quality meet the approved project WQMP by separate submittal. The final improvement certification by the record civil engineer shall approve the improvements as being substantially completed in conformance with the approved WQMP.

30. A grading permit shall be obtained prior to any work including demolition activities.
31. The County and/or their designee shall exercise special care during the construction phase of this project to prevent any off-site siltation and shall provide erosion control measures of a type, size and location as approved in consultation with the City of Dana Point Director of Public Works. The erosion control measures shall be shown and specified on the grading plan and shall be constructed to the satisfaction of the Director, OC Public Works prior to the start of any other grading operations. Prior to the removal of any erosion control devices so constructed, the area served shall be protected by additional drainage facilities, slope erosion control measures and other methods as may be required by the Director, OC Public Works. The applicant shall maintain the erosion control devices until the Director, OC Public Works approves of the removal of said facilities.
32. The project shall meet all water quality requirements including Low Impact Development (LID) implementation.

**B. COUNTY STANDARD CONDITIONS OF PROJECT APPROVAL:**

33. Prior to issuance of certificates of use and occupancy, OC Dana Point Harbor and/or their designee shall provide plans or identify measures to comply with standard County procedures for implementing the Uniform Fire Code in the use of any combustible and flammable liquids, above-ground or underground storage of such materials, welding and potential spark production, and building occupancy rating in a manner meeting the approval of the Fire Chief. Further, a copy of the approved "UFC Implementation Plan" shall be furnished to the Manager, Building Inspection Services, prior to the issuance of any certificates of use and occupancy.
34. Prior to the issuance of any grading permits or the issuance of a building permit, whichever occurs first, OC Dana Point Harbor and/or their designee shall provide evidence of adequate fire flow. The "Orange County Fire Authority Water Availability for Fire Protection" form shall be signed by the applicable water district and submitted to the Fire Chief for approval. If sufficient water to meet fire flow requirements is not available an automatic fire extinguishing system may be required in each structure affected.
  - A. Prior to the issuance of a building permit, OC Dana Point Harbor and/or their designee shall submit plans for the required automatic fire sprinkler system in any structure to the Fire Chief for review and

approval. Please contact the Orange County Fire Authority at (714) 744-0499 to request a copy of the "Orange County Fire Authority Notes for New NFPA 13 Commercial Sprinkler Systems."

- B. Prior to the issuance of a certificate of use and occupancy, this system shall be operational in a manner meeting the approval of the Fire Chief.

**35. FIRE LANE MARKING**

- A. Prior to the issuance of any grading or building permits, OC Dana Point Harbor and/or their designee shall submit plans and obtain approval from the Fire Chief for fire lanes on required fire access roads. The plans shall indicate the locations of red curbs and signage and include a detail of the proposed signage including the height, stroke and colors of the lettering and its contrasting background. Please contact the Orange County Fire Authority at (714) 744- 0499 or visit the Orange County Fire Authority website to obtain a copy of the "Guidelines for Emergency Access Roadways and Fire Lane Requirements".

- B. Prior to the issuance of any certificate of use and occupancy, the fire lanes shall be installed in accordance with the approved fire lane plan. Tenant Leases or other approved documents shall contain a fire lane map, provisions prohibiting parking in the fire lanes, and an enforcement method.

- 36. Prior to the issuance of any grading permits, OC Dana Point Harbor and/or their designee shall obtain the approval from the Fire Chief for the construction of any gate across required fire department access roads. Please contact the Orange County Fire Authority at (714) 744-0499 or visit the Orange County Fire Authority website to obtain a copy of the "Guidelines for Design and Installation of Emergency Access Gates and Barriers."

**37. FIRE ALARM SYSTEM**

- A. Prior to the issuance of a building permit, plans for the fire alarm system shall be submitted to the Fire Chief for review and approval. Please contact the Orange County Fire Authority at (714) 744-0499 or visit the Orange County Fire Authority website to obtain a copy of the "Guideline for New and Existing Fire Alarm Systems."
- B. This system shall be operational prior to the issuance of a certificate of use and occupancy.

38. Prior to the issuance of a building permit or installation of an aboveground tank, plans shall be submitted to the Fire Chief for review and approval. Please contact the Orange County Fire Authority at (714) 744-0499 for additional information.

**39. HAZARDOUS MATERIALS**

- A. Prior to the issuance of a grading or building permit, OC Dana Point Harbor and/or their designee shall submit to the Fire Chief a list of all hazardous, flammable and combustible liquids, solids or gases to be stored, used or handled on site. These materials shall be classified according to the Uniform Fire Code and a document submitted to the Fire Chief with a summary sheet listing the totals for storage and use for each hazard class. Please contact the Orange County Fire Authority at (714) 744-0499 or visit the Orange County Fire Authority website to obtain a copy of the "Guideline for Completing Chemical Classification Packets."
- B. Prior to the issuance of a building permit, OC Dana Point Harbor and/or their designee shall complete and submit to the Fire Chief a copy of a "Hazardous Materials Disclosure Chemical Inventory and Business Emergency Plan" packet. Please contact the Orange County Fire Authority Hazardous Materials Services Section at (714) 744-0463 to obtain a copy of the packet.

40. Prior to the issuance of any building permits, OC Dana Point Harbor and/or their designee shall submit a detailed letter of intended use for each building on site to the Fire Chief for review and approval.

41. OC Dana Point Harbor and/or their designee shall store, manifest, transport and dispose of all on-site generated waste that meets hazardous materials criteria in accordance with the California Code of Regulations Title 22 and in a manner to meet the satisfaction of the Manager, HCA/Hazardous Materials Program. OC Dana Point Harbor and/or their designee shall keep storage, transportation and disposal records on site

and open for inspection by any government agency upon request. OC Dana Point Harbor and/or their designee shall store used oil filters in a closed rainproof container that is capable of containing all used oil and shall manage the container as specified in Title 22, Chapter 30, Division 4, Section 66828 of the California Code of Regulations.

42. Prior to the issuance of street improvement permits for County owned property, OC Dana Point Harbor and/or their designee shall design and construct the following improvements in accordance with plans and specifications meeting the approval of the Manager, Subdivision and Grading:
  - A. Streets, bus stops, on-road bicycle trails, street names, signs, striping and stenciling.
  - B. The water distribution system and appurtenances that shall also conform to the applicable laws and adopted regulations enforced by the County Fire Chief.
  - C. Underground utilities (including gas, cable, electrical and telephone), streetlights, and mailboxes.
43. Prior to the issuance of any grading permits, OC Dana Point Harbor and/or their designee shall provide adequate sight distance per Standard Plan 1117 at all street intersections, in a manner meeting the approval of the Manager, Subdivision and Grading. OC Dana Point Harbor and/or their designee shall make all necessary revisions to the plan to meet the sight distance requirement such as removing slopes or other encroachments from the limited use area in a manner meeting the approval of the Manager, Subdivision and Grading Services.
44. As part of street and intersection improvements for County owned property, OC Dana Point Harbor/contractor shall install all underground traffic signal conduits (e.g., signals, phones, power, loop detectors, etc.) and other appurtenances (e.g., pull boxes, etc.) needed for future traffic signal construction and/or for future interconnection with adjacent intersections, all in accordance with plans and specifications meeting the approval of the Manager, Subdivision and Grading.
45. Prior to the issuance of any grading or building permit (whichever comes first), OC Dana Point Harbor and/or their designee shall include in the WQMP the following additional Priority Project information in a manner meeting the approval of the Manager, Inspection Services Division:
  - Include post-construction Structural Treatment Control BMP(s) as defined in the DAMP;
  - Include a conceptual Operation and Maintenance (O&M) Plan that (1)

describes the long-term operation and maintenance requirements for the post-construction Treatment Control BMP(s); (2) identifies the entity that will be responsible for long-term operation and maintenance of the referenced Treatment Control BMP(s); and (3) describes the proposed mechanism for funding the long-term operation and maintenance of the referenced Treatment Control BMP(s).

46. Prior to the issuance of any grading or building permits, OC Dana Point Harbor and/or their designee shall demonstrate compliance under California's General Permit for Stormwater Discharges Associated with Construction Activity by providing a copy of the Notice of Intent (NOI) submitted to the State Water Resources Control Board and a copy of the subsequent notification of the issuance of a Waste Discharge Identification (WDID) Number or other proof of filing in a manner meeting the satisfaction of the Manager, Building Permit Services. Projects subject to this requirement shall prepare and implement a Stormwater Pollution Prevention Plan (SWPPP). A copy of the current SWPPP shall be kept at the project site and be available for review on request.

**C. SPECIAL CONDITIONS OF PROJECT APPROVAL:**

47. Prior to issuance of grading permits, OC Dana Point Harbor and/or their designee shall provide plans or identify measures to comply with standard County procedures to implement all applicable regulations of the South Coast Air Quality Management District. These measures may include using low emission construction equipment, maintaining equipment in tune per manufacturer's specifications; using catalytic converters on gasoline-powered equipment and using reformulated, low-emission diesel fuels and using finishing products in a manner meeting the approval of the Manager, Building Permit Services to demonstrate compliance with local and state air quality management regulations for grading and construction activities.
48. Prior to the issuance of certificates of use and occupancy, OC Dana Point Harbor and/or their designee and/or tenant(s) shall pay fees for the Major Thoroughfare and Bridge Fee Program listed below, in a manner meeting the approval of the Manager, OC Public Works/Subdivision and Grading.
  - a. Coastal Area Road Improvements and Traffic Signals
  - b. San Joaquin Hills Transportation Corridor
49. All landscaping and irrigation, on County property, shall be installed per the approved final landscape and irrigation plan. A State licensed landscape architect shall certify that all plant and irrigation materials have been installed in accordance with the specifications of the final plan and

shall submit said certification in writing to the City of Dana Point Director of Community Development for verification. The landscape plan shall conform to the latest Landscape Efficiency Ordinance adopted by the County of Orange.

50. Prior to the issuance of a precise grading permit, a written approval by the Geotechnical Engineer approving the grading as being substantially in conformance with the approved conceptual grading plan shall be submitted to the City of Dana Point Director of Community Development in consultation with the Orange County Director of Public Works for verification.
51. In conformance with Harbor LCP Policy 6.2.6-12, to avoid conflicts and promote efficient traffic circulation in the Mariners Village and Dana Wharf areas, all deliveries by vehicles longer than 30-feet in length will be conducted between the daily hours of 6 and 11 AM only (including weekends). Only delivery trucks that are accommodated by the standard size parking spaces shall be permitted on Dana Wharf after 11 AM.
52. Prior to release of the roof sheathing inspection, the applicant shall certify by a survey or other appropriate method that the heights of the proposed structures are in compliance with plans approved by the City of Dana Point and the structure heights included as part of this permit.
53. Within five (5) years from the date CDP13-0018(I) is established, OC Dana Point Harbor shall prepare for the City's review an update to the Parking Management Plan for Dana Point Harbor as required by the City's Harbor LCP Part II District Regulations, Section II-14.6 and will subsequently update the Plan on a routine basis to reflect weekday, weekend and seasonal variations in the use of the Harbor parking facilities and minimize overcrowding of high demand parking areas to the greatest extent feasible.
54. Within five (5) years from the date CDP13-0018(I) is established, OC Dana Point Harbor shall prepare for the City's review an update to the Preliminary Shoreline Management Plan and any required technical studies for Dana Point Harbor as required by the City's Harbor LCP Part II District Regulations, Chapter II-3, Special Provision 11 to provide updated assessments of seasonal and long term shoreline changes consistent with the best available science currently available and the information included in the Coastal Commission Draft Sea Level Rise Policy Guidance document and will be updated as new regulations and technologies are identified and/or regulatory standards are adopted by state and federal agencies relating to risks from flooding and inundation. The updated Shoreline Management Plan shall also include provisions for

compliance with all applicable adopted regulatory standards and to the extent new information is available, additional assessments of the following:

- An assessment of any factors that may influence the safety of the existing seawalls;
  - Any new jurisdictional standards/modeling requirements for the assessment of sea level rise and/or recommended design standards for the fortification or replacement of shoreline protective devices;
  - New geotechnical, hydrology or flood information available that is relevant to the assessment of coastal hazards;
  - New public safety procedures.
55. Within six (6) months of the issuance of building permits for the construction of the Commercial Core podium structures, including Buildings 7, 8 and 9, a Coastal Development Permit shall be submitted to the California Coastal Commission for the Dry Boat Storage Building and other related infrastructure improvements in Planning Area 1 in accordance with the requirements and procedures as set forth in Government Code Sections 13056 through 13188.
56. Prior to the issuance of building permits for the Commercial Core Buildings 10 and 11, OC Dana Point Harbor shall provide evidence to the City of Dana Point Community Development Director and Executive Director of the California Coastal Commission that construction plans for the Dry Stack Boat Storage Building have been submitted to the Orange County Building Department for plan check review.
57. The design of the Festival Plaza stairs, located immediately adjacent to Commercial Core Building 9, shall be modified to accommodate a pedestrian ramp to facilitate boater access to the docks. The construction plans, including this modified ramp design, shall be provided to the Director of Community Development for verification concurrent to submittal of construction plans to the Orange County Building Department for plan check review.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Dana Point, California, held on this 18<sup>th</sup> day of November 2014.

  
LISA A. BARTLETT, MAYOR

ATTEST:

  
KATHY M. WARD, CITY CLERK

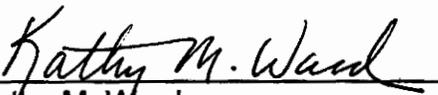
STATE OF CALIFORNIA )  
COUNTY OF ORANGE )  
CITY OF DANA POINT )

I, Kathy M. Ward, City Clerk of the City of Dana Point, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 14-11-18-06 adopted by the City Council of the City of Dana Point, California, at a regular meeting thereof held on the 18<sup>th</sup> day of November, 2014, by the following vote:

AYES: Council Member Olvera, Mayor Pro Tem Weinberg, and Mayor Bartlett

NOES: None

ABSENT: Council Members Brough and Schoeffel

  
Kathy M. Ward  
City Clerk



December 16, 2014

Teresa Henry, South Coast District Manager  
200 Oceangate, 10<sup>th</sup> Floor  
Long Beach, California 90802-4416

**RE: COASTAL DEVELOPMENT PERMIT CDP13-0018(I) AMENDING AND SUPERSEDING THE CITY'S PREVIOUS APPROVAL OF CDP13-0018 FOR THE DANA POINT HARBOR COMMERCIAL CORE PROJECT**

Dear Ms. Henry,

As requested, I am writing to clarify the City's recent approval of the OC Dana Point Harbor's Coastal Development Permit - CDP13-0018(I). As you were informed by the City's Notice of Final Action sent on November 21, 2014, the City Council of the City of Dana Point approved Coastal Development Permit CDP13-0018(I) for the Dana Point Harbor Commercial Core on November 18, 2014. Approval of CDP13-0018(I) supersedes and replaces CDP13-0018 previously approved by the City on June 17, 2014.

While much of the contents of the earlier approval of CDP13-0018 is contained in CDP13-0018(I), there are a number of amendments to the original Coastal Development Permit; including but not limited to:

- The *Dana Point Harbor Boat Launch Ramp Parking – Summer, Weekends and Holiday Utilization Report* has been prepared demonstrating that the design of the proposed boat launch ramp parking area as previously approved by the City satisfies current and future demand for parking vehicles with boat trailers.
- Additional analysis and conditions of approval have been added to ensure the timely construction of the Dry Stack Boat Storage Building (approved in concept) to provide boat storage opportunities in Planning Area 1.
- An alternative dry boat storage plan has been prepared to ensure that a minimum of 493 boats can be dry stored in the event that presently unforeseen reasons preclude the construction of the Dry Stack Boat Storage Building.
- Additional analysis to address potential future shoreline hazards (including inundation) associated with projected sea level rise, tsunamis and storm surges has been incorporated into an updated Shoreline Management Plan and Wave Uprush Analysis; and a condition of approval added to ensure future assessments of seasonal and long-term shoreline changes and any new regulations and/or management practices to reduce the risks of flooding and inundation are periodically prepared.

*Harboring the Good Life*

Teresa Henry – CDP13-0018(I)

December 16, 2014

Page 2

The City Council's approval of CDP13-0018(I) (see previously forwarded RESOLUTION NO. 14-11-18-06) is a standalone approval that replaces the previous approval of CDP13-0018 making any Coastal Commission appeal of CDP13-0018 moot. While an appeal of CDP13-0018 (No. 5-DPT-14-0563) is still pending, because revised application CDP13-0018(I) has been approved by the City Council and a Notice of Final Action forwarded to the Coastal Commission, the approval of CDP13-0018 is superseded and the pending Coastal Commission appeal of No. 5-DPT-14-0563 is obviated. In other words, neither the Applicant nor the City can "go back to" the Original CDP as the appeal process was never finalized and thus, it is not a valid CDP.

It is understood that City Council's subsequent approval of CDP13-0018(I) is appealable to the Coastal Commission.

If you have any questions, please do not hesitate to call me at (949) 248-3567 and/or John Tilton at (949) 248-3570.

Sincerely,



Ursula Luna-Reynosa  
Director of Community Development

cc: Brad Gross, Director, Dana Point Harbor  
Patrick Munoz, City Attorney.





**-Existing Site Plan-**



DATE: 12-18-13  
 PROJECT #:  
 SCALE: 1" = 50'  
 NORTH  
 SHEET #

**EXISTING PLAN**



**Commercial Core Area**

**-Proposed Site Plan-**



DATE:	4-26-13
PROJECT #:	
SCALE:	1" = 50'
NO.:	

NORTH  
 SHEET #:

**PROPOSED PLAN**

**EAST MARINA**

**CALIFORNIA COASTAL COMMISSION**

 SOUTH COAST DISTRICT OFFICE  
 200 OCEANGATE, 10<sup>TH</sup> FLOOR  
 LONG BEACH, CA 90802-4416  
 VOICE (562) 590-5071 FAX (562) 591-5084

DEC 8 2014


**CALIFORNIA  
 COASTAL COMMISSION**
**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**
**Please Review Attached Appeal Information Sheet Prior To Completing This Form.**
**SECTION I. Appellant(s)**

Name: William R. Byrd, Capo Beach Watercraft

Mailing Address: 34512 Embarcadero Place

City: Dana Point

Zip Code: 92629

Phone: 949 370 3206

**SECTION II. Decision Being Appealed**

1. Name of local/port government:

City of Dana Point

2. Brief description of development being appealed:

Dana Point Harbor Revitalization Plan - CDP13-0018 (Commercial Core Project) This Coastal Development Permit is for development, otherwise referred to as the Commercial Core Project, within the Orange County Dana Point Harbor. The Commercial Core Project includes renovations of existing buildings, phased demolition of existing buildings along with phased construction of new commercial buildings, reconfiguration of streets and other infrastructure improvements, a new parking structure, landscape improvements, a parking management plan and a master sign program for the harbor. Approval in concept is also being requested for a dry stack boat storage building.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Dana Point Harbor, Dana Point, California

4. Description of decision being appealed (check one.):

- Approval; no special conditions
- Approval with special conditions:
- Denial

**Note:** For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

**TO BE COMPLETED BY COMMISSION:**

APPEAL NO:

5. DAT-14-0069

DATE FILED:

12.8.14

**CALIFORNIA COASTAL COMMISSION**

SOUTH COAST DISTRICT OFFICE

200 OCEANGATE, 10<sup>TH</sup> FLOOR

LONG BEACH, CA 90802-4416

VOICE (562) 590-5071 FAX (562) 591-5084



DISTRICT:

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)**

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: 11-18-2014 and 6-17-2014

7. Local government's file number (if any): CDP13-0018

**SECTION III. Identification of Other Interested Persons**

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

OCDPH Director Brad Gross  
County of Orange  
24650 Dana Point Harbor Drive  
Dana Point, CA. 92629

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Dana Point Boaters Association, PO Box 461, Dana Point, CA. 92629

(2) Boaters for Dana Point Harbor, PO Box 3137, Dana Point, CA. 92629

(3) Embarcadero Marina Dry Storage Tenants, Names and mailing addresses available through property management, Vintage Marina Partners, 34512 Embarcadero Place, Dana Point, CA. 92629

(4) Dana Point Harbor Association Members, PO Box 701, Dana Point, CA. 92629

## APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

### **SECTION IV. Reasons Supporting This Appeal**

#### **PLEASE NOTE:**

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

1.) Capo Beach Watercraft has provided low cost and in some cases no cost Jet Ski, SeaDoo, Waverunner, Kayak and Boat rentals to the public in the Embarcadero Marina, Dana Point Harbor for the last thirty years. The CDP as proposed includes the construction of a stack boat storage building eliminating Capo Beach Watercraft at its current location. Capo Beach Watercraft currently leases combined landside and dock area. Our 10,000 yearly customers will be denied public access to the Dana Point Harbor waterways and pacific ocean without responsible planned relocation for Capo Beach Watercraft. This is inconsistent with the requirements of the Coastal Act.

2.) The CDP as proposed eliminates the Embarcadero Marina Boat Rentals that have provided public coastal access for over thirty years to visitors wanting to rent a sailboat, skiff or duffy. This is inconsistent with the requirements of the Coastal Act.

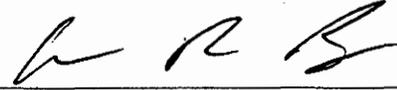
3.) The CDP as proposed will eliminate the nine Embarcadero Marina overnight wet slips that have been available to dry storage tenants for a nominal fee for over thirty years. This is inconsistent with the requirements of the Coastal Act.

4.) The CDP as proposed does not conform to the public access policies of the Coastal Act.

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)**

**SECTION V. Certification**

The information and facts stated above are correct to the best of my/our knowledge.



\_\_\_\_\_  
Signature of Appellant(s) or Authorized Agent

Date: December 5, 2014

**Note:** If signed by agent, appellant(s) must also sign below.

**Section VI. Agent Authorization**

I/We hereby authorize \_\_\_\_\_  
to act as my/our representative and to bind me/us in all matters concerning this appeal.

\_\_\_\_\_  
Signature of Appellant(s)

Date: \_\_\_\_\_

December 12, 2014

Teresa Henry  
California Coastal Commission  
South Coast District Manager  
(562) 590-5071

**RECEIVED**  
South Coast Region

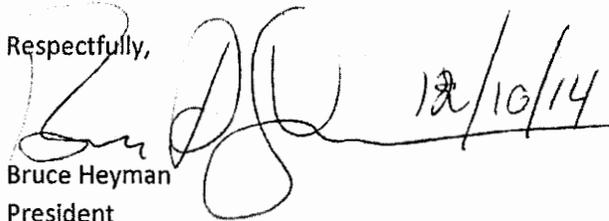
DEC 10 2013

CALIFORNIA  
COASTAL COMMISSION

RE: Appeal of Dana Point Harbor Commercial Core CDP

Boaters 4 Dana Point Harbor wish to continue to appeal the subject CDP. We did participate in the City of Dana Point's most recent action on 11/18/2014.

Respectfully,

  
Bruce Heyman  
President

Boaters 4 Dana Point Harbor  
PO Box 3137  
Dana Point, CA 92629

CALIFORNIA COASTAL COMMISSION

JUN 27 2014

SOUTH COAST DISTRICT OFFICE  
200 OCEANGATE, 10<sup>TH</sup> FLOOR  
LONG BEACH, CA 90802-4416  
VOICE (562) 590-5071 FAX (562) 591-5084

CALIFORNIA  
COASTAL COMMISSION



**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

**Please Review Attached Appeal Information Sheet Prior To Completing This Form.**

**SECTION I. Appellant(s)**

Name: Boaters For Dana Point Harbor

Mailing Address: PO Box 3137

City: Dana Point

Zip Code: CA

Phone: (949) 289-8400

**SECTION II. Decision Being Appealed**

1. Name of local/port government:

City of Dana Point

2. Brief description of development being appealed:

Dana Point Harbor Revitalization Plan - CDP13-0018 (Commercial Core Project) This Coastal Development Permit is for development, otherwise referred to as the Commercial Core Project, within the Orange County Dana Point Harbor. The Commercial Core Project includes renovations of existing buildings, phased demolition of existing buildings along with phased construction of new commercial buildings, reconfiguration of streets and other infrastructure improvements, a new parking structure, landscape improvements, a parking management plan and a master sign program for the harbor. Approval in concept is also being requested for a dry stack boat storage building.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Dana Point Harbor, Dana Point, California

4. Description of decision being appealed (check one.):

- Approval; no special conditions
- Approval with special conditions:
- Denial

**Note:** For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

<b><u>TO BE COMPLETED BY COMMISSION:</u></b>	
APPEAL NO:	<u>A-5-DPT-14-0034</u>
DATE FILED:	<u>6/27/14</u>

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE  
200 OCEANGATE, 10<sup>TH</sup> FLOOR  
LONG BEACH, CA 90802-4416  
VOICE (562) 590-5071 FAX (562) 591-5084



DISTRICT: *South Coast / Long Beach*

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)**

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: 6-17-2014

7. Local government's file number (if any): CDP13-0018

**SECTION III. Identification of Other Interested Persons**

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Brad Gross, Director, OC Dana Point Harbor  
County of Orange  
24650 Dana Point Harbor Dr  
Dana Point, CA 92629

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Dana Point Boaters Association, P O Box 461, Dana Point, CA 92629

(2) Residents of Lantern Bay Estates & Lantern Bay Villias (Addresses can be provided by City of Dana Point. Appellant does not have access)

(3) Dry Boat Storage Licensees in Dana Point Harbor (Addressess can be providec by Vintage Marina Partners, agents for Orange County Harbor Department, OC DPH . Appellant denied access to addresses through OC DPH policy.)

(4) Barbara Merriman,# 3 34300 Lantern Bay Drive, Dana Point, CA 92629

## APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

### SECTION IV. Reasons Supporting This Appeal

#### **PLEASE NOTE:**

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

1) The Implementation plan requires 493 dry boat spaces to be maintained within the harbor (and specifically within Planning Area 1), per Implementation Plan Sections 4.5r, 14.2i and 14.2j. See also Appendix M, p. 29 of CDP Application. Project Plan fails to maintain required, higher protected use resources (dry boat storage) within the Harbor at all times. See May 12, 2014 communications to Dana Point Planning Commission Commissioners attached.

2) Proposed Boat Barn (extending over water) requires CCC CDP due to retained jurisdiction. CDP13-0018 does not include submittal of boat barn CDP application to the Commission. After construction allowed by CDP, all other options without the Boat Barn which would have allowed compliance with LCP will have been eliminated through construction. OC Dana Point Harbor has stated that without the Boat Barn, there will only be room for about 250 dry boat spaces. This would be a clear violation of Coastal Act Section 30234, even with a new LCP Amendment, which the developer has not proposed.

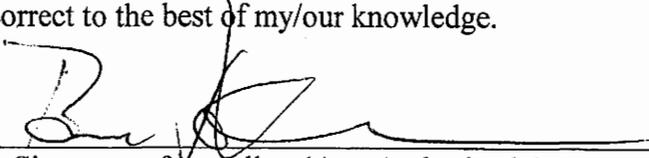
3) Base Line Analysis required by the Implementation Plan before the first CDP is issued has material errors and omissions the result in undercounting recreational boating resources. See Communications to T. Henry Long Beach dated 5/12/2014, from Bruce Heyman on behalf of Boaters 4 Dana Point Harbor, attached

4) The LUP and the IP (Section 5.5) specify that the building heights within the commercial core must conform to the building heights character of the community. The proposed 60 foot buildings do not conform to the building heights character of the community. The community has a 35 foot building height requirement with an allowance for 40 feet within the new Town Center project. There are a couple of examples where the 35 foot building heights were exceeded in the past but they were not to set precedent.

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)**

**SECTION V. Certification**

The information and facts stated above are correct to the best of my/our knowledge.

  
\_\_\_\_\_  
Signature of Appellant(s) or Authorized Agent

Date: June 27, 2014

**Note:** If signed by agent, appellant(s) must also sign below.

**Section VI. Agent Authorization**

I/We hereby authorize \_\_\_\_\_  
to act as my/our representative and to bind me/us in all matters concerning this appeal.

\_\_\_\_\_  
Signature of Appellant(s)

Date: \_\_\_\_\_

May 12, 2014

Dana Point Planning Commission Commissioners:

- Gary Newkirk
- Liz Claus
- Norman Denton III
- April O'Connor
- Susan Whittaker

RE: CDP13-0018 Inconsistencies with the Certified Land Use Plan

Dear Commissioners,

Thank you for the opportunity to bring to your attention a few issues with the subject Coastal Development permit. We specifically describe items where the requirements that were agreed to by the Applicant (OC Dana Point Harbor), the City, and the California Coastal Commission as part of the certification process for the LUP are violated. We believe that the City of Dana Point has a responsibility to insure that the requirements of the certified LUP are met before approving the CDP, and thus it should be returned to the Applicant with a request for appropriate revisions.

**A. Dry Boat Storage**

From the LUP Implementation Plan - Dana Point Harbor District Regulations, Chapter 4.5 Development Standards and Requirements, sub item r)

“Dry Boat Storage: Facilities for dry boat storage shall maintain space for at least **four hundred and ninety-three** (493) boats to be stored on dry land in the Marine Services Commercial area (Planning Area 1)...**shall be maintained within the Harbor at all times** and additional spaces shall be provided where feasible.

From the Dana Point Harbor District Regulations, Chapter 14, Off-Street Parking Standards and Regulations .1) Purpose and Intent:

...and assure that **required land area is provided** for parking facilities for higher priority water-dependent and park users **before non-water dependent land uses are intensified**.

From Chapter 14.2 section i)

Commercial Development Phasing – New Commercial development shall be phased such that required parking for higher priority uses (e.g., marina boat slips, public boat launch facility, **surface boat storage**, beach, picnic and parks) is **provided and maintained**. .... The CDP shall also require that the **parking for the higher priority** users within the Commercial Core shall be constructed and open for use **prior to the occupancy of the new Commercial Core development**.

Chapter 14.2 Section J) reiterates the exact same paragraph that is quoted from above in Chapter 4.5.

We believe that the LUP and its component parts make it clear that boater resources in the subject CDP area are not to be removed from the Harbor during construction or any other time. From the last page of the Application, Appendix M "Dana Point Harbor Revitalization – Construction Management Parking Plan", you will see that for most of the construction plan the number of boats stored in the Harbor will be significantly below the requirement. There is even a time when the number of boats in surface storage in the harbor will be zero! This is clearly at odds with the sections quoted above.

While the provision of offsite storage for boats is a valuable addition to public resources for boating, it is not, and never was allowed to be a replacement for the required high-priority uses specified in the LUP.

**B. Base Line Numbers**

The Base Line report (Appendix J of the County's Application) that is required to be completed before the issuance of the first CDP has a number of issues. Section 14.6 of the Implementation Plan requires a base line report to be submitted with the application for the first CDP in the Commercial Core. Specifically, the number of slips, boater parking and dry boat storage locations is under reported. We are bringing these issues up now as it is only with the publishing of this CDP application that we were able to obtain all of the relevant documents. Please find attached our recent correspondence with California Coastal Commission staff articulating the issues with the report.

**C. Marina Design "No Net Loss"**

From the Dana Point Harbor Implementation Plan, Chapter 12 section 12.5 Development Standards and Requirements, Subsection n):

Marina Design: The goal of any comprehensive redevelopment of the marina facilities shall be **"no net loss" of slips** and shall be in conformance with the latest engineering standards; satisfy ADA design requirements; and give priority to accommodating vessels less than twenty-five (25) feet in length. **The design shall also give consideration to providing slips in new berthing areas** if there is a loss of slips in existing berthing areas due to these design requirements or due to the provision of larger slips to meet demand, **in order to achieve the goal of no net loss of slips harborwide**. Under no circumstances shall the average slip length for the entire Harbor exceed thirty-two (32) feet or result in a net loss of more than one hundred and fifty-five (155) slips overall.

From the same section, subsection j)

Anchorage: The existing quantity of anchorage space shall be maintained and where feasible new anchorages shall be provided in other areas in the Harbor so long as the anchorage space minimizes interference with navigation channels and where shore access and support facilities are available. **Changes in anchorage space to provide new berthing or mooring space may be allowed**, subject to a coastal development permit and other applicable regulatory review.

From Section 14.1 Purpose and Intent:

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These regulations provide and govern the off-street parking of motor vehicles within the Dana Point Harbor. These regulations will result in parking facilities of sufficient capacity and adequate proximity to manage traffic congestion, provide safe and convenient facilities for motorists and pedestrians and assure that required land area is provided for parking facilities for higher priority water-dependent and park uses before non-water dependent land uses are intensified. and may be subject to approval of a Joint-use or shared parking programs may be allowed.

From Section 14.2 sub section i)

Commercial Development Phasing – New commercial development shall be phased such that required parking for higher priority uses (e.g., marina boat slips, public boat launch facility, surface boat storage, beach, picnic and parks) is provided and maintained. Parking for these higher priority uses shall be provided as follows:

Commercial Core Area – The first Coastal Development Permit for new development of the Commercial Core shall be required to demonstrate as part of the CDP that required land area has been reserved for parking for higher priority uses located within the Commercial Core area (e.g., designated boater parking, public launch ramp facility and boat storage), in the quantity and location required in Section 14.2 (j). The CDP shall also require that the parking for the higher priority uses within the Commercial Core shall be constructed and open for use prior to the occupancy of the new Commercial Core development.

We believe that the County has not met the burden of setting aside enough land in the Commercial Core to “park” a zero slip loss plan. Before the County’s LCP could be completed the Coastal Commission required them to prepare a proposal on the new slip inventory (number, location and size). The County complied with this requirement and produced a plan referred to as 3.50. This plan, as submitted by the County would lose 209 slips while accommodating larger vessels. The Coastal Commission was persuaded by our arguments that a zero slip loss goal is attainable, while accommodating larger vessels and meeting modern design and ADA Guidelines.

The Commission’s final direction was zero slip loss but no more than 155 if zero was not possible. The Commission further modified the requirements to allow anchorage areas to be converted to dense and permanent berthing to increase the likelihood of a zero slip loss goal. Such an anchorage, East Anchorage, is adjacent to the area being considered by this CDP. We’ve quoted the relevant sections above.

The County’s plan as submitted to you does not set aside any land for boater parking for marina build out in the East Anchorage. The County has not yet pursued a CDP for the waterside, so we feel the City must require the County to set aside sufficient space to allow parking for slips in the east anchorage until such time as the County can obtain a Coastal Development Permit for that area. Failure to do so will frustrate the Coastal Commissions’ intent to not allow commercial development to eliminate potential higher-use solutions.

Again, thank you for the opportunity to bring to your attention a few issues with the subject Coastal Development permit. We believe we have specifically describe items where the requirements that were agreed to by the Applicant (OC Dana Point Harbor), the City, and the California Coastal Commission as part of the certification process for the LUP are violated by the Applicant's proposal. We believe that the City of Dana Point has a responsibility to insure that the requirements of the certified LUP are met before approving the CDP, and thus it should be returned to the Applicant with a request for appropriate revisions.

Respectfully,



Bruce Heyman  
Boaters 4 Dana Point Harbor  
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Dana Point, CA 92629  
(949) 289-8400  
[bruceheyman@cox.net](mailto:bruceheyman@cox.net)

June 14, 2014

Dear City Council Member,

Thank you for the opportunity to appeal the Planning Commission's decision to grant the developer (OC DPH) Coastal Development Permit 13-0018. I have attached the two documents that we supplied to the commissioners on the day of the hearing. We've also taken the liberty of attaching the two 3 minute talks which were given by Boaters 4 Dana Point Harbor. We are happy to answer any questions you have on these documents.

I would also like to bring up a very serious issue that became apparent to many of us during the hearing. The developer may likely never build the proposed "boat barn". As boaters, we can't say we would be sorry to see the boat barn never built because it is a disaster for boaters. However, it would be much better to have the boat barn than the developer's current alternative, which is nothing.

During the hearing, Mr. Gross of OC DPH reported that there would only be room for 240-250 boats, not the required 493. He further stated, that at that point there would have to be a new Local Coastal Program Amendment to adjust the number of dry boats stored within the harbor to 240 from the current requirement of 493.

City staff pointed out to the Planning Commissioners that if the suggestion of one Commissioner, had a separate vote on the boat barn and it was defeated, then the CDP would no longer be valid. The reason it would be no longer valid is because then the developer would no longer be providing 493 dry boat storage locations in the Commercial Core.

The boat barn is cantilevered over the water and hence cannot receive a CDP from the City, it can only be issued by the Coastal Commission. The Developer presented a 5 year construction plan that articulates that they are not even planning on submitting the CDP application for the Boat Barn to the Coastal Commission until three years into the construction project. By that time, the bulldozers and cement trucks will have eliminated all viable options for a 493 dry boat storage solution in the absence of a boat barn.

Why will the boat barn not be built? There are both financial and fit-for-use reasons. For boaters it presents many seriously negative drawbacks. It fundamentally changes the relationship between a boater and his boat. It becomes very difficult for a boater to run down to the harbor and futz with the boat. It becomes virtually impossible to spontaneously take the boat out for a spin. What does the boater do with the trailer that his boat is currently sitting on? What if he wants to take his boat for an outing in a different harbor, or to an inland lake or river? What if he or she wants to bring it home to work on it or bring it to a professional not in the harbor? Boaters responding to an earlier survey on whether they would they put their boat in the boat barn or not, returned a result that exactly zero would do so.

The financial reasons point out the extreme lunacy of even considering this approach to storing 493 small boats. The developer has informed the community that it will cost \$32,000,000 to build the boat barn. If there are 400 boats in the boat barn (the CDP application number) you will be spending a massive \$80,000 per 26' boat stored!

Another way to look at the absurdity of this approach is the monthly cost to the boaters. They currently pay about \$240 per month to store their boat on a trailer in a lined parking space within what is now being called the Commercial Core. When the developer spends \$32,000,000 to build the building he will have to collect \$583 per boater (30 year loan at 8% with 400 boats). If you assume that most of the \$240 that they pay now is operating costs and profit you would have a total monthly cost to the owner of a 26 foot boat of \$823. That would represent a 250% increase! It also would represent an incredible premium of 63% over the current costs of a far more desirable 30' wet slip.

While the Developer needs the pretense of a boat barn being viable to get this CDP13-0018 approved it clearly is quite likely to not survive the permitting process nor any rational financing scheme.

We urge the City Council to require that the Coastal Development Permit for the Boat Barn be issued before construction or destruction occurs within the Commercial core. We also believe that you as the permitting authority for the LCP, must make sure that the developer will meet the requirements of the Local Coastal Program, and has the financial ability to fully execute any projects that you approve.

Additionally, we would draw your attention to the certified Implementation Plan, Section 14.2 (i):

- i) Commercial Development Phasing – New commercial development shall be phased such that required parking for higher priority uses (e.g., marina boat slips, public boat launch facility, surface boat storage, beach, picnic and parks) is provided and maintained. Parking for these higher priority uses shall be provided as follows:

Commercial Core Area – The first Coastal Development Permit for new development of the Commercial Core shall be required to demonstrate as part of the CDP that required land area has been reserved for parking for higher priority uses located within the Commercial Core area (e.g., designated boater parking, public launch ramp facility and boat storage), in the quantity and location required in Section 14.2 (j). The CDP shall also require that the parking for the higher priority uses within the Commercial Core shall be constructed and open for use prior to the occupancy of the new Commercial Core development.

Section 14.2 (j) specifies dry land storage for 493 boats in Planning Area 1. There is no plan in the developer's application for this proposed CDP to meet the requirements in these sections of the IP. Therefore, we believe the correct response of the City to this application is to deny it until the developer clearly meets the IP requirements. Failure to do so will clearly lead to further delay in the Redevelopment Project.

We are available to answer any questions that you may have. We believe solving this at the local level will be the most expeditious and would welcome the opportunity to work with either the City or the developer.

Respectfully,



Bruce Heyman

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May 12, 2014

Teresa Henry, District Manager  
California Coastal Commission  
South Coast District  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302

Dear Teresa:

We are writing to you to bring to your attention a few points that we disagree with on a report written to you on February 11, 2014 from Mr. Brad Gross, Director, OC Dana Point Harbor. The subject report deals with the base line of boat slips, dry boat parking spaces, trailer tow vehicle parking spaces (launch ramp), boater parking and general parking.

We would offer the following observations:

1) Exhibit B: Coastal Development Permit History correctly identifies that a waiver (5-91-866) was issued by the California Coastal Commission Executive Director for the replacement of three docks. However, it fails to discuss that the terms of the waiver were that there was a commitment that there would be no change in the use of these docks. You can see that as early as 1974, the slips adjacent to the Harbor Patrol Office and the former Beach House Restaurant were used by recreational boaters. (Reference the photo on page 12.) The next page 13 shows the slips under re-construction and page 14 shows that the slips have been re-tasked for commercial fishermen and all of the recreational vessels have been displaced. We believe the change occurred within two years of the issuance of the waiver. Previously the commercial fishermen were based in the commercial area.

2) During previous working sessions with you and your peers, we were informed that for items that were constructed before the coastal act you go back to the relevant municipal or state document for the base line. In this case, a portion of the harbor was built out in advance of the coastal act and we believe the controlling document is "Dana Point Harbor Planned Community District Development Plan" Orange County, California Planning Department Orange County 9:30 AM May 6 1970. That document specifies the boater parking as:

For boat berthing areas: .75 stalls per slip 30 feet and under; 1.2 stalls per slip over 30 feet and under 45 feet; and 1.6 stalls per slip over 45 feet.

Given our slip mix that would yield 0.98 slips per slip which is substantially higher than the baseline numbers reported on page 2 of Mr. Gross's report.

3) On page 5 at the top of the page Mr. Gross sets aside the vessels that are pitch-fork side ties as they encroach into the fairways restricting boat traffic and hence does not include them in the base line. As

early as 1975 (Page 11 Exhibit A) the aerial photos show that the process was being used as the harbor filled out. Also the statement that it encroaches into the fairway is accurate, but not clear that it is material. The Department of Boating and Waterways provides a standard fairway width for areas where the vessels are berthed such that they must back out into the fairway. This is not true along the Pitchforks as they are side ties. As docks require zero modifications to accommodate this approach it is not clear that this was not already included in the original design. It most definitely speaks affirmatively to section 30224 of the Coastal Act.

4) The report totally ignores the business practice that has been implemented by the County Harbor Department since at least 1980. Please look at slide 3 of Appendix A. You will see a cluster of boats in the upper right hand corner of the Launch Ramp's Trailer Tow Vehicle parking area. This cluster will remain throughout all of the satellite images in the report with the exception of the 1975. This cluster represents 83 Dry Boat Storage locations that have month to month leases (like all boaters in the harbor), numbered slots and offer 24 x 7 access to the vessels.

5) On Page 5 paragraph 2 Mr. Gross states that the 1981 issued permit for the shipyard did not specifically state that vessels would be stored within the shipyard property so it was disallowed in his number.

6) Mr. Gross states that 73 vessels were historically stored on the acre of land that has been subsequently removed from the Shipyard lease. Our surveys of that yard routinely yield numbers higher than that (84-94). The proposed harbor plan calls for 93 mast up vessels to be stored on that acre. During the LUP deliberations in 2009 Mr. Gross committed to the Commissioners and public that the acre has always been used for boat storage and will continue to be used for boat storage just that the fence will be moved to the other side. [On certification of the LCP Mr. Gross removed all of the vessels, restriped the acre and now parks Catalina Express customers.]

Mr. Gross further states that because the original lease for the Shipyard did not include specific language that spoke to dry boat storage he is removing it from the base line. Given that dry boat storage is a common activity at a shipyard, has historically been practiced for decades in our harbor and Mr. Gross's commitment that the space has been and will remain dry boat storage, the base line should to be adjusted to reflect this reality.

7) Multiple surveys of the dry boat storage areas have yielded numbers higher than those reported by Mr. Gross. Where Mr. Gross counts 443 (120 + 323), we count between 499 and 506. Again we believe the higher number speaks to section 30224 of the Coastal Act.

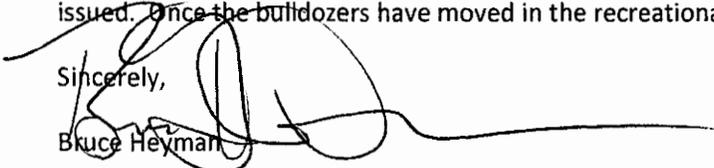
As reported to you by Mr. Gross in his cover letter we were invited, and did attend a meeting on 9/20/2013. We were not provided any materials in advance of the meeting. During the meeting the six-page draft text was distributed but due to a new policy of the County CEO, Mr. Gross was required to collect all of the copies before we were allowed to leave and could file a proper California Public Records Act (PRA) Request. Before we all left we were able to get Mr. Gross to accept a blanket PRA for everyone in the room and pay the 15 cents per copy. However, we were not allowed to have the

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attachments and tables. This remained true during the second meeting, and we have only now, with the issuance of Application for CDP 13-0018 been able to receive, study and comment on the full report.

The intent of the discussion during the Implementation Plan was clear. The Commissioners wanted to know the true baseline of resources in the Harbor before construction began. We are asking you to intervene and make sure that the report is corrected before the first Coastal Development Permit is issued. Once the bulldozers have moved in the recreational resources will be gone forever.

Sincerely,



Bruce Heyman

Boaters 4 Dana Point Harbor

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10  
June 13, 2014

To: Douglas C. Chotkevys  
City Manager  
City of Dana Point  
33282 Golden Lantern  
Dana Point, California 92629

Dear Doug,

Boaters 4 Dana Point Harbor are requesting a continuance for our appeal of Planning Commission approval in 4:1 vote of CDP13-0018, currently scheduled for June 17th. When we were filed the appeal we were informed that the Planning Department would call us and work out a mutually agreeable date for the appeal.

As you know, we were not informed of the date and learned about it from Mr. Jim Miller, who apparently was informed about the appeal over a week and a half ago.

Our principal spokesperson is not able to attend a hearing on the 17<sup>th</sup> due to an unmovable business trip. In the opinion of our Board, this will make it difficult for us to prepare and present a proper appeal.

While our discussion with the Planning Director confirms the date of the hearing, we have yet to receive a formal notice. We believe that the 500+ boaters that are tenants of Planning Area 1 and are directly affected by this CDP have also not been noticed.

We raised and paid the \$500 Appeal Filing Fee and were informed that it was to cover the costs of noticing, and city staff's time. We have not been given the tools to provide proper notice to the affected boaters and by County rules are barred from doing so on our own.

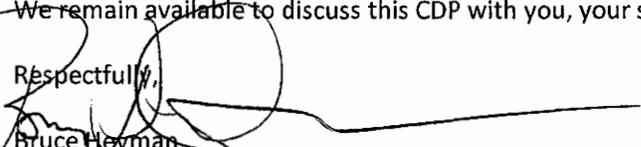
A hearing where a major class of affected individuals is not noticed, is not an effective use of anyone's time.

We believe that resolving the issues with the CDP at the local level would be the most expeditious for all parties and the project as a whole, and encourage you to:

- 1) continue the hearing to agreeable date,
- 2) provide notice to the affected boaters or give us the ability to do so.

~~We remain available to discuss this CDP with you, your staff or the developer.~~

Respectfully,

  
Bruce Heyman

Boaters 4 Dana Point Harbor  
PO Box 3137

## **Dana Point Harbor Local Coastal Program (LCP) Policies**

### **Priority Land Use**

*4.2.2-6 Protect and enhance berthing opportunities in Dana Point Harbor. The goal for any dock replacement should be no net loss of slips harbor-wide. However, if conformance with current engineering and Americans with Disabilities Act (ADA) design requirements, and/or the provision of larger slips to meet demands, requires a reduction in the quantity of slips in existing berthing areas, those slips should be replaced, if feasible, in new berthing areas elsewhere in the harbor (e.g. within a portion of the 'safe harbor' area near the east breakwater). Priority shall be given to provision of slips that accommodate boats less than 25 feet in length. The average slip length shall not exceed 32 feet. If new berthing areas are not available or are limited in size, the net loss of slips harbor-wide shall be minimized and shall not exceed 155 slips.*

*4.4.1-2 Renovation of the southern portion of the Marine Services Commercial area of the Harbor (southern portion of Planning Area 1) may include reconfiguration of the areas presently used for non-shipyard related activities such as boat storage, boat brokerages, jet-ski rentals and sales and kayak rentals to include a future boat storage area.*

*4.4.1-3 To provide enhancements to boater facilities and services in the Marine Services Commercial area (Planning Area 1) one (1) dry stack boat storage facility building may be constructed with a capacity to store up to 400 boats generally ranging in size from 20 to 40 feet. The existing functionality and mode of use of surface boat storage by boaters should be provided within any dry stack boat storage facility to the maximum extent possible. Other services may include ancillary marine-related administrative, professional and business offices, marine retail store, a boater lounge area, a hoist, boat maintenance area, and potentially other boat maintenance and support facilities. The existing public launch ramp and associated vehicle and trailer parking facilities shall be enhanced and maintained. There shall be no net loss of the existing 334 vehicle with trailer parking spaces. The existing vehicle with trailer parking spaces shall be reconfigured such that spaces are maximized and meet the minimum California Department of Boating and Waterways guidelines of 10 x 40 feet to the greatest extent feasible while taking into consideration the demand for larger and smaller spaces. An adequate amount of larger and smaller vehicle with trailer parking spaces shall also be provided for the type of tow vehicles and vessels that use the launch ramp facility, as determined through the Coastal Development Permit process.*

*4.4.1-6 Access to the Marine Services Commercial areas shall be maintained during all construction phases. A Construction Management Plan shall be prepared identifying the configuration of construction staging areas, temporary access routes and parking areas and will be submitted with development permit applications.*

*5.1.1-8 Phase new commercial development such that sufficient parking for higher priority uses (e.g. slips, boat launch, surface boat storage) is provided prior to construction of the new commercial development.*

### 5.5 Development Standards and Requirements

*The following standards shall apply except as otherwise established by an approved Coastal Development Permit per Chapter II-16, Discretionary Permits and Procedures.*

*a) Building site area: No minimum.*

b) *Building site width and depth: No minimum.*

c) *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 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 (see Site Development Standard e, below) 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 structures not in excess of thirty-five (35) feet, nor exceed the height limit by more than five (5) feet shall be permitted.*

d) *Building setbacks: Ten (10) feet minimum from any street (surface parking and landscaping areas may be included as part of setback area).*

*e) Architectural elements:*

*The architectural design of the Commercial Core buildings shall be consistent with the character of the community in architectural form, bulk and height, including other structures located within one-half mile of the Dana Point Harbor LCP boundary, and include as many of the following design elements as practicable:*

- 1. Architectural design elements (including roof overhangs, awnings, dormers, etc.) will be integrated into the building design to shield windows from the sun and reduce the effects of glare.*
- 2. All windows in new construction will be of a type that uses minimally reflective glass.*
- 3. Include the use of courtyards, patios, terraces, balconies, verandas, covered walkways and other defined outdoor spaces wherever possible.*
- 4. Avoid blank walls and other elements that lack pedestrian and visual interest.*
- 5. Buildings shall be designed to reduce the perceived height and bulk of the structure by segmenting the buildings mass into smaller parts.*
- 6. Sloped roofs.*
- 7. Individual buildings clusters of commercial businesses and restaurants will be grouped around a pedestrian scaled Festival Plaza and linked with other areas of the Harbor by a Pedestrian Promenade.*
- 8. Landscaped plazas, recessed entries, windows and recessed groups of windows may be used to break up long building walls. Projections may also be used and take a form of important architectural elements such as entrances, bays, stair towers, cornices, building bases and structural components.*

*f) Parking Deck: The parking deck design shall include a light well that separates the upper deck area, allowing light and/or installation of landscaping elements to enhance the visual appearance. The two-level parking deck shall be engineered and constructed in such a manner to provide direct access from the Street of the Golden Lantern and adjacent Harbor surface parking areas and allow for the potential future expansion of the structure to provide additional parking opportunities, including but not limited to a third level or extension of the parking deck if required and the structure does not exceed the thirtyfive (35) foot height limit restriction.*

*g) Boater Parking: Designated boater drop-off and parking areas will be provided within the Commercial Core area to facilitate boater access. Any new commercial development shall be phased to provide required parking for higher priority uses (e.g., designated boater parking, boat launch ramp and surface boat storage) as specified in Section II-14.2(i), Commercial Development Phasing of these Regulations.*

*h) Pedestrian Access: Separate pedestrian walkways will be provided as part of the parking deck ramp design to minimize the need for pedestrians to use parking aisles to access the business areas of the Commercial Core. In addition, pedestrian linkages will be provided between Harbor amenities, such as those created by the Festival Plaza, Pedestrian Promenade and linear park.*

*i) Off-Street parking requirements: Off-street parking shall be provided as required by the provisions in Chapter II-14, Off-Street Parking Standards and Regulations.*

*j) Signs: Signs shall be permitted in accordance with Chapter II-15, Sign Standards and Regulations.*

*k) Loading: All loading shall be performed in designated areas. When feasible, loading platforms and areas for commercial and restaurant uses shall be screened from view from adjacent streets and adjoining public views.*

*l) Trash, recyclables and storage areas: All storage, including cartons, containers or trash bins, shall be shielded from view within a building or area enclosed by a wall not less than six (6) feet in height and covered with a roof or other structure where feasible. No such area shall be located within fifty (50) feet of any outdoor food service area unless fully enclosed. All outdoor trash and recyclable containers/receptacles shall be covered to prevent scavenging birds and trash from escaping. All containers/receptacles that are accessible to the public shall be conveniently located to encourage cleanliness and recycling.*

*m) Mechanical equipment: All roof-mounted mechanical equipment and communication devices that are visible from the Harbor or other designated public views will be hidden behind building parapets or screening materials from both ground level and elevated areas to the extent feasible. Ground-level mechanical equipment, storage tanks and other similar facilities shall be screened from view with dense landscaping and/or solid walls of materials and finishes compatible with the adjacent structures.*

*n) Fences, Walls: All fences and walls will be designed to have a minimum impact on coastal and scenic views from public areas. Maximum height provided that site distances for vehicular safety purposes are not obstructed shall be eight (8) feet.*

*o) Shelters: All enclosures used to shelter outside eating areas will be designed to make them visible to birds by using clear materials that are etched or tinted, with awnings or covers that are integrated into the architectural design of the buildings.*

*p) Lighting: Street and parking lot lighting shall be concentrated on intersections and pedestrian crosswalks to enhance vehicular and pedestrian safety. All exterior lighting will be designed and located to avoid intrusive effects on the adjacent land uses, atop the bluffs and to wading birds (herons or egrets) or other sensitive species or biological resources. Lighting shall be designed and located so that light rays are aimed at downward onto the site.*

*q) Landscaping: The use of efficient irrigation practices and native or non invasive and drought-tolerant plants to minimize the need for fertilizer, pesticides, herbicides and excessive irrigation*

*practices shall be required for all areas. Landscaping consisting of evergreen or deciduous trees, shrubs, ground cover and/or hardscape will be installed and maintained subject to the following standards:*

- 1. Landscape abutting public streets or other roadways are required and shall be an average depth of ten (10) feet with a minimum depth of five (5) feet.*
- 2. Textured paving may be used to identify lookouts, pathway crossings and edge treatments. All landscape areas will be designed and planted to preserve and enhance distant ocean views and screen or soften building architecture.*
- 3. All landscaped areas will be separated from adjacent vehicular areas by a wall or curb at least four (4) inches higher than the adjacent vehicular area or with some other barrier to be protected from vehicular damage.*
- 4. All areas disturbed by grading operations shall be hydro-seeded or planted with native or non-invasive naturalized plants to control erosion.*
- 5. Trees that are used by wading birds (herons or egrets) or are breeding, roosting or nesting habitat for birds protected by the Fish and Game Code, the Migratory Bird Treaty Act; and owls, raptors and any bird species of special concern shall only be removed for health or safety reasons and shall be protected and maintained pursuant to Special Provision 21, Tree Trimming and Maintenance of Harbor Sensitive Bird Habitat of these Regulations.*
- 6. Irrigation systems that include the use of weather based or sensor controlled technologies shall be provided for all landscaped areas to minimize water use.*
- 7. The use of rodenticides containing any anticoagulant compounds (including, but not limited to Warfarin, Brodifacoum, Bromadiolone or Diphacinone) are prohibited.*

*r) Standards for Roads: All roads shall be constructed to County of Orange specifications, including gradients, width, radius of curvature, striping/stenciling and lighting and shall insure that standard sight distance requirements are achieved.*

*s) Construction Access: Access to the Day Use Commercial areas and designated boater parking areas shall be maintained during all construction phases to the greatest extent feasible. A Construction Management Plan shall be prepared identifying the location and configuration of construction staging areas, temporary access routes and parking areas and shall be submitted with Coastal Development Permit (CDP) application(s) in accordance with the requirements of Chapter II-14, Off-Street Parking Standards and Requirements. Any subsequent changes to the approved Construction Management Plan shall also be consistent with this regulation and shall be incorporated into all applicable construction plans submitted for review and approval prior to issuance of Grading and/or Building Permits by the County of Orange.*

#### 14.2 General Provisions

*Except as otherwise specified in these Dana Point Harbor District Regulations, offstreet parking for the Dana Point Harbor shall be in accordance with the following provisions and regulations:*

*a) Location of off-street parking – Required parking spaces shall be located in close proximity to the use or uses they serve as described in an approved Coastal Development Permit.*

*c) Joint-use or shared parking – In recognition of the unique characteristics of the Harbor and its uses, a comprehensive parking management plan (prepared in accordance with the requirements in Section II-14.6, Parking Management Plan) may be processed with a Coastal Development Permit to demonstrate the aggregate total of otherwise required parking spaces is adequate for the range of commercial and recreational uses proposed. Required designated boater parking shall not be used in joint-use or shared parking plans. The public boat launch ramp facility may be included as part of a joint-use or shared parking plan when all of the following criteria are satisfied:*

*1. The facility may be used only during the non-peak Harbor season (October 1 through May, but excluding Memorial Day weekend).*

*2. The facility may be used only for other boating uses (e.g., sportfishing, whale watching, cruises, charter boat concessions and commercial ferry service).*

*3. At no time shall the total number of parking spaces used exceed twenty percent (20%) of the spaces in the boat launch ramp facility.*

*4. None of the spaces immediately adjacent to the boat launching area shall be used.*

*d) Accessibility and usability – All parking (on-street and off-street) shall be fully and independently usable and accessible and in conformance with LUP Chapter I-6, Public Access and Recreation and specifically Exhibit I-6-1, Dana Point Harbor Coastal Access. Existing surface parking areas may be re-stripped to improve efficiencies in parking stall configuration.*

*e) Maximum grades permitted:*

*1. Wherever access is taken from a street, alley or driveway to an off-street parking area serving commercial or community facilities, the driveway or other vehicular accessway shall have a maximum grade of plus fifteen percent (15%) or a minus two percent (-2%), measured from the street, alley or driveway grade along the driveway centerline for a distance of not more than eighteen (18) feet. Exceptions may be approved by the County of Orange in consultation with the City of Dana Point Public Works Director for conditions where physical design prevents such extreme grade breaks and provides safe sight distance.*

*2. The maximum grades will generally provide adequate site distance at street level and prevent vehicles from dragging on extreme grade breaks. Exceptions may be approved by the County of Orange in consultation with the City of Dana Point Public Works Director for conditions where physical design prevents such extreme grade breaks and provides safe sight distance.*

3. *Off-street parking spaces and the abutting parking aisles shall have a maximum grade of five percent (5%). Said grade shall be measured across the parking space and the abutting parking aisle in any direction.*

4. *Ramps or driveways providing vehicular access within the interior of an off-street parking area located beyond eighteen (18) feet from the ultimate right-of-way line of a street, alley or driveway shall have a maximum slope of plus or minus twenty percent (20%). When such a ramp or driveway slopes exceed plus or minus ten percent (10%), the ramp or driveway design shall include transitions not less than eight (8) feet in length, having a slope equal to one-half the ramp slope. When parking is provided on a ramp, the maximum slope shall not exceed six percent (6%).*

f) *Parking area notices and directional instructions – Parking area notices, each not to exceed two (2) square feet in area and directional instructions lettered on the paved surface of driveways and parking areas are permitted for parking facilities serving commercial and other public uses. Such parking notices may contain the name of the tenant of a building or land use and only such words or symbols that are directly related or essential to parking, enforcement or the direction of vehicular traffic within the parking area.*

g) *Paving – All permanent paved areas shall be maintained with asphaltic concrete, cement concrete, decorative concrete pavers or other all-weather, non-erodible, hard surfacing. Temporary parking spaces, driveways and maneuvering areas may use decomposed granite or other stable, all-weather surfacing.*

h) *Lighting – Lights shall be designed and located so that direct rays are aimed downward onto the site.*

i) *Commercial Development Phasing – New commercial development shall be phased such that required parking for higher priority uses (e.g., marina boat slips, public boat launch facility, surface boat storage, beach, picnic and parks) is provided and maintained. Parking for these higher priority uses shall be provided as follows:*

*Commercial Core Area – The first Coastal Development Permit for new development of the Commercial Core shall be required to demonstrate as part of the CDP that required land area has been reserved for parking for higher priority uses located within the Commercial Core area (e.g., designated boater parking, public launch ramp facility and boat storage), in the quantity and location required in Section 14.2 (j). The CDP shall also require that the parking for the higher priority uses within the Commercial Core shall be constructed and open for use prior to the occupancy of the new Commercial Core development.*

*Marine Service Commercial, Marine Commercial and Recreation Areas – The location and amount of new development adjacent to park and beach areas shall not adversely impact public use of the low cost water-oriented recreation, park and beach uses by ensuring that adequate parking spaces are maintained for these uses. Accordingly, all Coastal Development Permits for new development in Planning Areas 1, 4 and 5 shall demonstrate that the intensity of the*

*proposed development and the proposed hours of operation will not adversely impact public use of the beach or park area within the Planning Area.*

*j) Parking for marina boat slips, the public launch ramp facility and dry boat storage shall be provided in the amounts and locations as follows:*

*Designated Boater Parking – Parking for 2,409 boat slips shall be provided at a minimum ratio of 0.60 parking spaces per slip or end tie unless a net loss of slips is authorized by a Coastal Development Permit. Boater parking shall be located as close as possible to the land/dock connection point of the docks they serve. Typically, the boater parking spaces should be within three hundred (300) feet of the land/dock connection point of the docks they serve, but where adherence to this standard is infeasible, the parking spaces shall be within a maximum of six hundred (600) feet of the land/dock connection point of the docks they serve. Mitigation measures should be provided to assist boaters with transport of passengers, equipment and provisions from parked vehicles to boats or to the land/dock connection point of the docks they serve in cases where the distance between parking spaces and the docks exceeds three hundred (300) feet and/or where there are other factors present which make such transport difficult.*

*Public Launch Ramp Facility – There shall be no net loss of the existing three hundred thirtyfour (334) vehicle with trailer parking spaces. Redesign and expand the existing five and seven-tenths (5.7) acre boat launch facility to maximize the number of vehicle with trailer parking spaces meeting minimum Department of Boating and Waterway guidelines (10 x 40 feet). Some larger and smaller vehicle with trailer parking spaces shall also be provided in adequate amount to meet demand as determined through the coastal development permit process.*

*Dry Boat Storage - Maintain space for at least four hundred ninety-three (493) boats to be stored on dry land in Planning Area 1; 400 of these spaces may be provided in a dry stack storage facility. Maintain a minimum of ninety-three (93) surface boat storage spaces, that can accommodate vessels that can not be stored in a dry stack storage building, within the Harbor at all times; additional spaces shall be provided where feasible.*

*k) Bicycle Parking – All parking facilities shall be designed to include safe and secure parking for bicycles.*

*l) Parking facilities for the physically handicapped – Public accommodations or facilities, including commercial and other public uses shall provide parking spaces for the physically handicapped in compliance with the following provisions:*

*1. Parking spaces required – The following table establishes the number of handicap parking spaces required for any parking area serving one or more land uses:*

*Handicapped Parking Requirements*

<i>Total Number of</i>	<i>Number of</i>
------------------------	------------------

<i>Parking Spaces</i>	<i>Handicapped Parking Spaces Required</i>
<i>1-4</i>	<i>0</i>
<i>5-40</i>	<i>1</i>
<i>41-80</i>	<i>2</i>
<i>81-120</i>	<i>3</i>
<i>121-160</i>	<i>4</i>
<i>161-300</i>	<i>5</i>
<i>301-400</i>	<i>6</i>
<i>401-500</i>	<i>7</i>
<i>Over 500</i>	<i>1 for each 200 additional spaces</i>

2. *Parking space size – Physically handicapped parking spaces shall be located as near as practical to a primary entrance. If only one space is provided, it shall be fourteen (14) feet wide and outlined to provide a nine (9) foot parking area and a five (5) foot loading and unloading area. When more than one space is provided in lieu of providing a fourteen (14) foot-wide space for each parking space, two spaces can be provided within a twenty-three (23) foot-wide area lined to provide a nine (9) foot parking area on each side of a five (5) foot loading and unloading area in the center. The minimum length of each parking space shall be eighteen (18) feet.*

3. *Arrangement of parking spaces – In each parking area a bumper or curb shall be provided and located to prevent encroachment of other cars over the required width of walkways. Also, the space shall be located so that a handicapped person is not compelled to wheel or walk behind parked cars other than their own. Pedestrian ways which are accessible to the physically handicapped shall be provided from each such parking space to the related facilities, including curb cuts or ramps as needed. Ramps shall not encroach into any parking space except where such encroachment into the length of any handicapped space does not limit the handicapped person’s ability to leave or enter their vehicle.*

4. *Slope of parking spaces – Surface slopes of parking spaces for the physically handicapped shall be the minimum possible and shall not exceed one-half percent (0.5%) in any direction.*

5. *Identification – Each parking space reserved for the handicapped shall be identified by a permanently affixed reflectorized sign constructed of porcelain on steel, beaded text or equal, displaying the International Symbol of Accessibility. This sign shall not be smaller than seventy (70) square inches in area and shall be centered at the interior end of the parking space at a minimum height of eighty (80) inches from the bottom of the sign to the parking space finished grade, or centered on the wall at the interior end of the parking space at a minimum height of thirty-six (36) inches from the parking space finished grade, ground or sidewalk. A sign shall also be posed, in a conspicuous place, at each entrance to the offstreet parking facility, not less than seventeen (17) inches by*

*twenty-two (22) inches in size with lettering not less than one (1) inch in height, which clearly and conspicuously states the following:*

*“Unauthorized vehicles not displaying distinguishing placards or license plates issued for physically-handicapped persons may be towed away at the owner’s expense.”*

*In addition to the above requirements, the surface of each parking space shall have a surface identification duplicating the symbol of accessibility in blue paint, at least three (3) sq. ft. in area.*

*6. Parking structures – Entrances to and vertical clearances within parking structures shall have a minimum vertical clearance of 8 feet, 2 inches where required for accessibility to handicap parking spaces.*

#### 14.6 Parking Management Plan

*A Dana Point Parking Management Plan (PMP) shall be prepared under the direction of OC Dana Point Harbor to identify and address the parking requirements and locations for all areas and land uses throughout the Harbor, including an operation and implementation program. The Parking Management Plan will implement all applicable parking and traffic management policies set forth in the Dana Point Harbor Revitalization Plan Land Use Plan, the provisions of this Chapter and fully satisfy the requirements of the County of Orange Parking Code.*

*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 development of the parking management plan.*

*A Parking Management Plan shall be submitted with the first Coastal Development Permit for development of the Commercial Core area improvements and establish a baseline assessment of the current and future parking demands throughout the Harbor. The PMP shall take into account weekday, weekend and seasonal variations in the use of the Harbor facilities to make the best possible use of the parking, while prioritizing parking usage to avoid adverse impacts on designated boater parking and boat launch ramp parking areas, in addition to balancing parking area usage in such a way as to minimize overcrowding of high demand areas. The PMP shall also address specific compliance measures to implement the requirements included in the Southern California Air Quality Management District’s Regulation XV of the Air Quality Management Plan, including transportation demand management strategies (i.e., preferential parking for vanpooling/carpooling, employee subsidy program(s) for use of transit passes or vanpooling/carpooling, flextime work schedules, etc.) that will be implemented by Harbor businesses and facilities to reduce traffic congestion and parking demand.*

*The Dana Point Harbor Parking Management Plan shall be organized to include the following information at a minimum:*

- a) Introduction – summarizing the conditions at the time, including land uses throughout the Harbor, special land use related or pre-existing regulatory restrictions, business hours, operational considerations and anticipated future growth demand estimates that may affect parking utilization or management practices.*
- b) Existing Parking Conditions – describing the existing parking supply and demand, including within individual parking areas and in each of the Harbor Planning Areas. A description of the existing utilization patterns in terms of occupancy of the parking supply (parking demand or utilization survey) for both typical and peak Harbor usage periods (including weekday and weekend days) shall also be provided along with an assessment of operational practices for parking area management.*
- c) Long-Term Future Parking Assessment – providing description of the various components that affect parking dynamics throughout Dana Point Harbor. Detailed estimations and assessment of parking demand in the future within each Planning Area shall also include a summary of the methodology used in the preparation of these forecasts (i.e., key assumptions, parameters and other relevant information).*
- d) Design and Operational Plans – providing detailed information on the modification of any Harbor parking areas to address specific user demand and/or operational methods and responsibilities for controlling, monitoring and adjusting management procedures for parking area usage.*

*Parking area design criteria shall include, but are not limited to the following:*

- 1. Satisfy the provisions and requirements as contained in Section II-14.2, General Provisions of this Chapter.*
- 2. Maintain designated parking ratios as contained in Section II-14.3, Standards for Individual Permitted Uses of this Chapter, including maintaining boater parking at a minimum ratio of 0.60 parking spaces per boat slip or side tie.*
- 3. Providing designated boater parking areas within three hundred (300) feet of the land/dock connection point of the docks the parking spaces serve, but where adherence to this standard is infeasible, no greater than six hundred (600) feet of the land/dock connection point of the docks they serve.*
- 4. Phasing of new commercial development such that required parking for higher priority uses (e.g., designated boater parking, boat launch ramp and surface boat storage) is provided as specified in Section II-14.2(i).*
- 5. Providing adequate parking in close proximity to the land uses the parking is intended to support. Parking areas outside of the Commercial Core shall not be*

*used to meet the parking demand for new development inside of the Commercial Core.*

*6. Providing strategies that include use of a combination of on-site and off-site parking areas to be utilized for employee's, sport fishing and charter boat concessions, passenger ferry service and Harbor visitor parking during significant special events and/or periods of peak Harbor usage.*

*7. Hotel design shall emphasize providing adequate parking for guests and maintaining boater access to boater designated parking consistent with Section 14.6(d).3 above.*

*8. Consolidation of individual parking areas whenever possible to minimize the number of driveways on major streets.*

*9. Reducing the demand for parking by including programs to enhance the use of alternative modes of circulation, including providing convenient transit stop locations, water taxi and shuttle stops, bicycle paths and pedestrian trails throughout the Harbor.*

*e) Construction and Temporary Operations Plans – describing operational and parking management practices to ensure public and boater access will be provided to all Harbor facilities and businesses to the extent they can be safely accessed during construction activities and reduce parking congestion/conflicts. The plans shall also include the locations of shuttle drop-off areas, relocation of public transit facilities and provision of valet service (if construction operations do not allow convenient parking adjacent to the existing businesses).*

*f) Summary of Recommendations, Conclusions and Implementation Schedules describing potential options for ongoing monitoring/reporting to increase the efficiency of parking area utilization and minimize congestion and any operational inefficiencies.*

## **Community Character**

*8.5.1-1 New building architecture shall encourage irregular massing of structures.*

*8.5.1-2 Building massing should be asymmetrical and irregular with offsets in plan, section and roof profile.*

*8.5.1-3 All new development in the Harbor shall not exceed a maximum building height of thirty-five (35) feet; exceptions to the 35 foot height limit include the following:*

- Dry Stack Boat Storage building in the Marine Services Commercial area (Planning Area 1) shall have a maximum building height of sixty-five (65) feet;*
- Commercial Core area (Planning Area 2) buildings fronting on the Festival Plaza or structures fronting the East Marina Boat Basin (Planning Area 10) shall be a maximum of sixty (60) feet high;*

- *Visitor-Serving Commercial (Planning Area 3) building(s) shall have a maximum height of fifty (50) feet;*
- *Elevators, appropriately screened mechanical units and chimneys that do not exceed the ten percent (10%) of the total roof area for all new and existing/remodeled structures, should conform to the applicable height limit, but may exceed that height limit by no more than five (5) additional feet.*

*These heights are only allowed to the extent that significant coastal public views through scenic corridors and from scenic viewpoints are protected and enhanced. Buildings, excluding the dry stack storage building, need to be consistent with the character of the area.*

*The limitations on height for the Marine Services Commercial area (Planning Area 1) shall not apply to shipyard cranes and/or other equipment necessary to provide for boat maintenance and repair.*

*8.5.1-4 The appearance of long, continuous row structures shall be avoided through the provision of open spaces, setbacks from public walkways, varied roof treatments, staggered, stepped-back exterior building facades and incorporation of a variety of building designs, materials and colors.*

#### GENERAL REGULATIONS

##### *8. Community Character*

*All new buildings in the Harbor shall be consistent with the character of the community in architectural form, bulk and height of the community, including other structures located within one-half mile of the Dana Point Harbor LCP boundary. New development within the Harbor shall provide a scale and setting for retail merchants and restaurants that encourages pedestrian opportunities through the use of widened sidewalks, outdoor plazas, promenades, courtyards and landscape design. Long, continuous row structures shall be avoided through the provision of open spaces, setbacks from public walkways, varied roof treatments, staggered and stepped-back exterior building facades and the incorporation of a variety of building designs, materials and colors.*

##### 4.5 Development Standards and Requirements

*The following standards shall apply except as otherwise established by an approved Coastal Development Permit per Chapter II-16, Discretionary Permits and Procedures.*

*a) Building site area: No minimum.*

*b) Building site width and depth: No minimum.*

*c) Building height limit: Thirty-five (35) feet maximum. For the Dry Boat Storage building, an exception to the thirty-five (35) foot maximum height limit may be approved, to a maximum of sixty-five (65) provided significant coastal public views through scenic corridors and from scenic*

viewpoints as shown on Exhibit I-8.1 of the Land Use Plan, are protected and enhanced. 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 structures not in excess of thirty-five (35) feet, nor exceed the height limit by more than five (5) feet shall be permitted. The limitations on height for Planning Area 1 shall not apply to shipyard cranes and/or other equipment necessary to provide for boat maintenance and repair.

d) *Building setbacks: Ten (10) feet minimum from any street (surface parking and landscaping areas may be included as part of setback area).*

e) *Architectural elements: Architectural design elements (including roof overhangs, awnings, dormers, etc.) will be integrated into the building design to shield windows from the sun and reduce the effects of glare. All windows in new construction will be of a type that uses minimally reflective glass. If enclosures used to shelter outside eating areas are designed using clear materials, they shall be etched or tinted to make them visible to birds in order to prevent bird strikes.*

f) *Dry boat storage building: The design of the dry boat storage building may include marine retail uses and covered areas for boat maintenance where dust collection systems may be provided to help reduce the amount of particulates released into the atmosphere.*

g) *Off-Street parking requirements: Off-street parking shall be provided as required by the provisions in Chapter II-14, Off-Street Parking Standards and Regulations.*

h) *Signs: Signs shall be permitted in accordance with Chapter II-15, Sign Standards and Regulations.*

i) *Loading: All loading shall be performed in designated areas. When feasible, loading platforms and areas for commercial and restaurant uses shall be screened from view from adjacent streets and adjoining public views.*

j) *Trash, recyclables and storage areas: All storage, including cartons, containers or trash bins, shall be shielded from view within a building or area enclosed by a wall not less than six (6) feet in height and covered with a roof or other structure where feasible. No such area shall be located within fifty (50) feet of any outdoor food service area unless fully enclosed. All outdoor trash and recyclable container receptacles shall be covered to prevent scavenging birds and trash from escaping. All containers/receptacles that are accessible to the public shall be conveniently located to encourage cleanliness and recycling.*

k) *Mechanical equipment: All roof-mounted mechanical equipment and communication devices that are visible from the Harbor will be hidden behind building parapets or screening materials from both ground level and elevated areas to the extent feasible. Ground-level mechanical equipment, storage tanks and other similar facilities shall be screened from view with dense landscaping and/or solid walls of materials and finishes compatible with the adjacent structures.*

*l) Fences, Walls: All fences and walls will be designed to have a minimum impact on coastal and scenic views from public areas. Maximum height shall be eight (8) feet, provided that site distances for vehicular safety purposes are not obstructed.*

*m) Lighting: Street and parking lot lighting shall be concentrated on intersections and pedestrian crosswalks to enhance vehicular and pedestrian safety. All exterior lighting will be designed and located to avoid intrusive effects on the adjacent land uses, the breeding, nesting or roosting activities of herons, egrets and any bird species listed pursuant to the Federal or California Endangered Species Acts, California bird species of special concern as well as owls and raptors, atop the bluffs and Doheny State Beach. And Lighting shall be designed and located so that light rays are aimed at downward onto the site.*

*n) Landscaping: The use of efficient irrigation practices and native or non- invasive drought-tolerant plants to minimize the need for fertilizer, pesticides, herbicides and excessive irrigation practices shall be required for all areas. Landscaping consisting of evergreen or deciduous trees, shrubs, ground cover and/or hardscape will be installed and maintained subject to the following standards:*

- 1. Landscape abutting public streets or other roadways are required and shall be an average depth of ten (10) feet with a minimum depth of five (5) feet.*
- 2. Textured paving may be used to identify lookouts, pathway crossings and edge treatments. All landscape areas will be designed and planted to preserve and enhance distant ocean views and screen or soften building architecture.*
- 3. All landscaped areas will be separated from adjacent vehicular areas by a wall or curb at least four (4) inches higher than the adjacent vehicular area or with some other barrier to be protected from vehicular damage.*
- 4. All areas disturbed by grading operations shall be hydro-seeded or planted with native or non- invasive naturalized plants to control erosion.*
- 5. Trees that are used by wading birds (herons or egrets) or are breeding, roosting or nesting habitat for birds protected by the Fish and Game Code, the Migratory Bird Treaty Act; and owls, raptors and any bird species of special concern shall only be removed for health or safety reasons and shall be protected and maintained pursuant to Special Provision 21, Tree Trimming and Maintenance of Harbor Sensitive Bird Habitat of these Regulations.*
- 6. Irrigation systems that include the use of weather based or sensor controlled technologies shall be provided for all landscaped areas to minimize water use.*
- 7. The use of rodenticides containing any anticoagulant compounds (including, but not limited to Warfarin, Brodifacoum, Bromadiolone or Diphacinone) are prohibited.*

*o) Standards for Roads: All roads shall be constructed to County of Orange specifications, including gradients, width, radius of curvature, striping/stenciling and lighting and shall insure that standard sight distance requirements are achieved.*

*p) Ship Yard: 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.*

*q) Boat Launch Ramp Parking: The required redesign and expansion of the existing five and seven-tenths (5.7) acre boat launch facility shall maximize the number of vehicle with trailer parking spaces meeting minimum Department of Boating and Waterway guidelines (10 x 40 feet). At a minimum, the existing three hundred and thirty-four (334) vehicle with trailer parking spaces shall be maintained. However, both larger and smaller vehicle with trailer parking spaces shall also be provided in adequate amount to meet demand as determined through the Coastal Development Permit process.*

*r) Dry Boat Storage: Facilities for dry boat storage shall maintain space for at least four hundred and ninety-three (493) boats to be stored on dry land in the Marine Services Commercial area (Planning Area 1); four hundred (400) of these spaces may be provided in a dry storage facility (dry stack building, deck and/or surface storage areas). The existing functionality and mode of use of surface boat storage by boaters should be provided within any dry stack boat storage facility to the maximum extent feasible. Additionally, a minimum of ninety-three (93) surface boat storage spaces, that can accommodate vessels that can not be stored in a dry stack storage building, shall be maintained within the Harbor at all times and additional spaces shall be provided where feasible.*

*s) Construction Access: Access to the Marine Services Commercial areas and designated boater parking areas shall be maintained during all construction phases to the greatest extent feasible. A Construction Management Plan shall be prepared identifying the location and configuration of construction staging areas, temporary access routes and parking areas and shall be submitted with Coastal Development Permit (CDP) application(s) in accordance with the requirements of Chapter II-14, Off-Street Parking Standards and Requirements. Any subsequent changes to the approved Construction Management Plan shall also be consistent with this regulation and shall be incorporated into all applicable construction plans submitted for review and approval prior to issuance of Grading and/or Building Permits by the County of Orange.*

*t) Doheny State Beach Access: Any modifications to the public parking area adjacent to Doheny State Beach (Puerto Place parking lot) shall not adversely affect public access to the state park and shall be coordinated with the California State Department of Parks and Recreation to ensure ongoing and future access opportunities are provided.*

*u) Public Fishing: Public access onto Harbor jetties, including provisions for public fishing shall be provided wherever feasible and to the extent such access can be safely provided.*

v) *Puerto Place Park: The existing park area located at the south end of Puerto Place shall be maintained for public use. The existing trees within the park area that are used for nesting and roosting by herons and egrets shall be protected for such use. All tree trimming and removal activities shall be consistent with the Tree Trimming Procedures for Harbor Bird Habitat contained in Chapter II-3, General Regulations and Special Provisions.*

w) *Boat-owner self-repair area: As part of any redesign and/or significant new development within the Marine Services Commercial Planning Area (PA 1) an area shall be provided for boat owners to maintain their own vessels in compliance with all applicable regulations pertaining to self-maintenance activities. The boat-owner self-repair area shall be located in proximity to the shipyard or dry boat storage facilities where access and support facilities are available.*

### 5.5 Development Standards and Requirements

*The following standards shall apply except as otherwise established by an approved Coastal Development Permit per Chapter II-16, Discretionary Permits and Procedures.*

a) *Building site area: No minimum.*

b) *Building site width and depth: No minimum.*

c) *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 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 (see Site Development Standard e, below) 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 structures not in excess of thirty-five (35) feet, nor exceed the height limit by more than five (5) feet shall be permitted.*

*d) Building setbacks: Ten (10) feet minimum from any street (surface parking and landscaping areas may be included as part of setback area).*

*e) Architectural elements:*

*The architectural design of the Commercial Core buildings shall be consistent with the character of the community in architectural form, bulk and height, including other structures located within one-half mile of the Dana Point Harbor LCP boundary, and include as many of the following design elements as practicable:*

*1. Architectural design elements (including roof overhangs, awnings, dormers, etc.) will be integrated into the building design to shield windows from the sun and reduce the effects of glare.*

*2. All windows in new construction will be of a type that uses minimally reflective glass.*

*3. Include the use of courtyards, patios, terraces, balconies, verandas, covered walkways and other defined outdoor spaces wherever possible.*

*4. Avoid blank walls and other elements that lack pedestrian and visual interest.*

*5. Buildings shall be designed to reduce the perceived height and bulk of the structure by segmenting the buildings mass into smaller parts.*

*6. Sloped roofs.*

*7. Individual buildings clusters of commercial businesses and restaurants will be grouped around a pedestrian scaled Festival Plaza and linked with other areas of the Harbor by a Pedestrian Promenade.*

8. *Landscaped plazas, recessed entries, windows and recessed groups of windows may be used to break up long building walls. Projections may also be used and take a form of important architectural elements such as entrances, bays, stair towers, cornices, building bases and structural components.*

*f) Parking Deck: The parking deck design shall include a light well that separates the upper deck area, allowing light and/or installation of landscaping elements to enhance the visual appearance. The two-level parking deck shall be engineered and constructed in such a manner to provide direct access from the Street of the Golden Lantern and adjacent Harbor surface parking areas and allow for the potential future expansion of the structure to provide additional parking opportunities, including but not limited to a third level or extension of the parking deck if required and the structure does not exceed the thirtyfive (35) foot height limit restriction.*

*g) Boater Parking: Designated boater drop-off and parking areas will be provided within the Commercial Core area to facilitate boater access. Any new commercial development shall be phased to provide required parking for higher priority uses (e.g., designated boater parking, boat launch ramp and surface boat storage) as specified in Section II-14.2(i), Commercial Development Phasing of these Regulations.*

*h) Pedestrian Access: Separate pedestrian walkways will be provided as part of the parking deck ramp design to minimize the need for pedestrians to use parking aisles to access the business areas of the Commercial Core. In addition, pedestrian linkages will be provided between Harbor amenities, such as those created by the Festival Plaza, Pedestrian Promenade and linear park.*

*i) Off-Street parking requirements: Off-street parking shall be provided as required by the provisions in Chapter II-14, Off-Street Parking Standards and Regulations.*

*j) Signs: Signs shall be permitted in accordance with Chapter II-15, Sign Standards and Regulations.*

*k) Loading: All loading shall be performed in designated areas. When feasible, loading platforms and areas for commercial and restaurant uses shall be screened from view from adjacent streets and adjoining public views.*

*l) Trash, recyclables and storage areas: All storage, including cartons, containers or trash bins, shall be shielded from view within a building or area enclosed by a wall not less than six (6) feet in height and covered with a roof or other structure where feasible. No such area shall be located within fifty (50) feet of any outdoor food service area unless fully enclosed. All outdoor trash and recyclable containers/receptacles shall be covered to prevent scavenging birds and trash from escaping. All containers/receptacles that are accessible to the public shall be conveniently located to encourage cleanliness and recycling.*

*m) Mechanical equipment: All roof-mounted mechanical equipment and communication devices that are visible from the Harbor or other designated public views will be hidden behind building parapets or screening materials from both ground level and elevated areas to the extent feasible. Ground-level mechanical equipment, storage tanks and other similar facilities shall be screened*

*from view with dense landscaping and/or solid walls of materials and finishes compatible with the adjacent structures.*

*n) Fences, Walls: All fences and walls will be designed to have a minimum impact on coastal and scenic views from public areas. Maximum height provided that site distances for vehicular safety purposes are not obstructed shall be eight (8) feet.*

*o) Shelters: All enclosures used to shelter outside eating areas will be designed to make them visible to birds by using clear materials that are etched or tinted, with awnings or covers that are integrated into the architectural design of the buildings.*

*p) Lighting: Street and parking lot lighting shall be concentrated on intersections and pedestrian crosswalks to enhance vehicular and pedestrian safety. All exterior lighting will be designed and located to avoid intrusive effects on the adjacent land uses, atop the bluffs and to wading birds (herons or egrets) or other sensitive species or biological resources. Lighting shall be designed and located so that light rays are aimed at downward onto the site.*

*q) Landscaping: The use of efficient irrigation practices and native or non invasive and drought-tolerant plants to minimize the need for fertilizer, pesticides, herbicides and excessive irrigation practices shall be required for all areas. Landscaping consisting of evergreen or deciduous trees, shrubs, ground cover and/or hardscape will be installed and maintained subject to the following standards:*

- 1. Landscape abutting public streets or other roadways are required and shall be an average depth of ten (10) feet with a minimum depth of five (5) feet.*
- 2. Textured paving may be used to identify lookouts, pathway crossings and edge treatments. All landscape areas will be designed and planted to preserve and enhance distant ocean views and screen or soften building architecture.*
- 3. All landscaped areas will be separated from adjacent vehicular areas by a wall or curb at least four (4) inches higher than the adjacent vehicular area or with some other barrier to be protected from vehicular damage.*
- 4. All areas disturbed by grading operations shall be hydro-seeded or planted with native or non-invasive naturalized plants to control erosion.*
- 5. Trees that are used by wading birds (herons or egrets) or are breeding, roosting or nesting habitat for birds protected by the Fish and Game Code, the Migratory Bird Treaty Act; and owls, raptors and any bird species of special concern shall only be removed for health or safety reasons and shall be protected and maintained pursuant to Special Provision 21, Tree Trimming and Maintenance of Harbor Sensitive Bird Habitat of these Regulations.*
- 6. Irrigation systems that include the use of weather based or sensor controlled technologies shall be provided for all landscaped areas to minimize water use.*

7. *The use of rodenticides containing any anticoagulant compounds (including, but not limited to Warfarin, Brodifacoum, Bromadiolone or Diphacinone) are prohibited.*

*r) Standards for Roads: All roads shall be constructed to County of Orange specifications, including gradients, width, radius of curvature, striping/stenciling and lighting and shall insure that standard sight distance requirements are achieved.*

*s) Construction Access: Access to the Day Use Commercial areas and designated boater parking areas shall be maintained during all construction phases to the greatest extent feasible. A Construction Management Plan shall be prepared identifying the location and configuration of construction staging areas, temporary access routes and parking areas and shall be submitted with Coastal Development Permit (CDP) application(s) in accordance with the requirements of Chapter II-14, Off-Street Parking Standards and Requirements. Any subsequent changes to the approved Construction Management Plan shall also be consistent with this regulation and shall be incorporated into all applicable construction plans submitted for review and approval prior to issuance of Grading and/or Building Permits by the County of Orange.*

## **Coastal Act Policies**

Section 30210 of the Coastal Act, states:

*In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

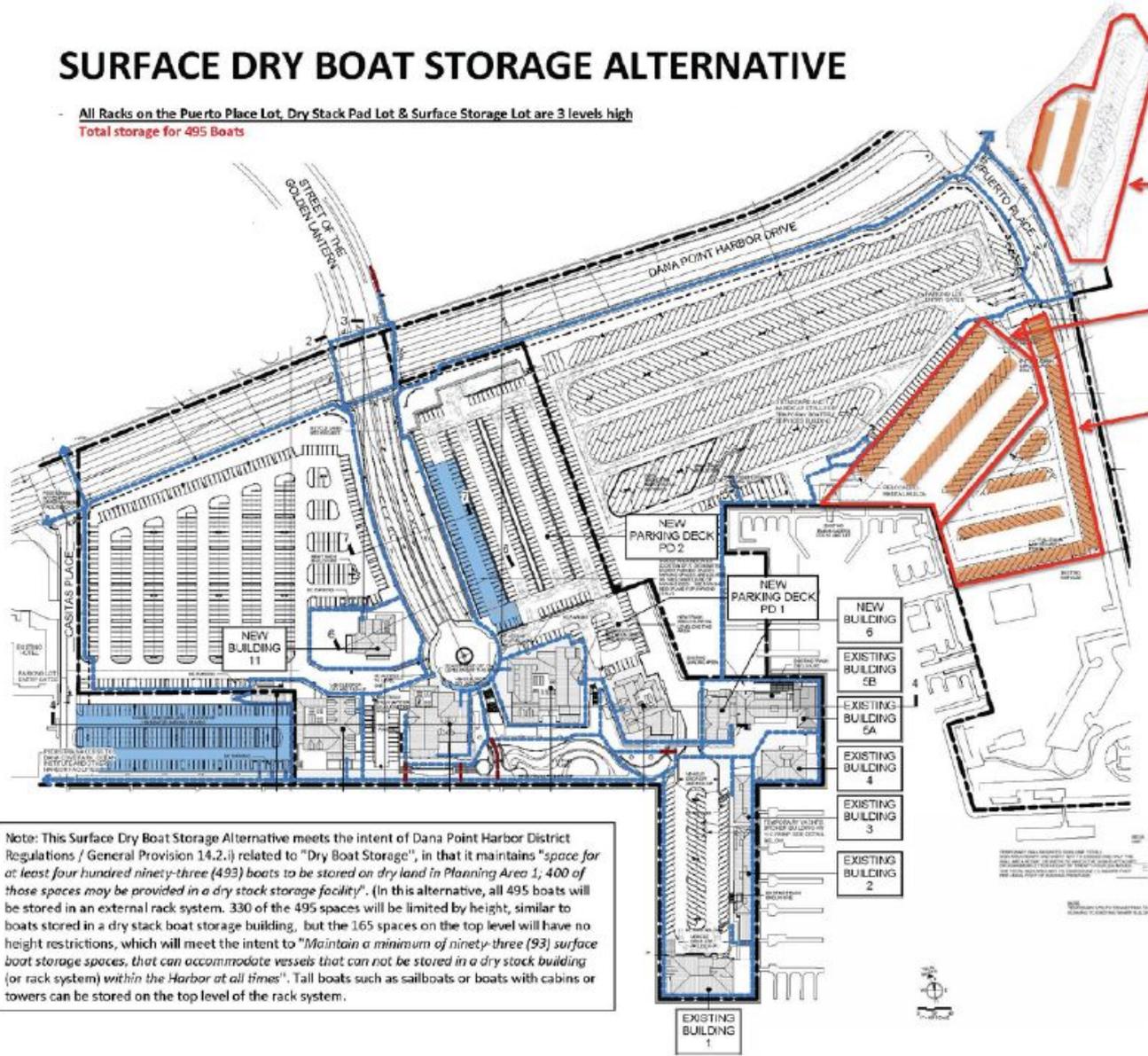
Section 30213 of the Coastal Act, states:

*Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*

*The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.*

# SURFACE DRY BOAT STORAGE ALTERNATIVE

- All Racks on the Puerto Place Lot, Dry Stack Pad Lot & Surface Storage Lot are 3 levels high  
 Total storage for 495 Boats



## Puerto Place Lot

Cars - 118 Spaces  
 Rack Levels 2 & 3 - 60 Spaces  
 Surface Level - 30 Spaces

## Dry Stack Pad Lot

Rack Levels 2 & 3 - 124 Spaces  
 Surface Level - 62 Spaces

## Surface Storage Lot

Rack Levels 2 & 3 - 146 Spaces  
 Surface Level - 73 Spaces

Orange areas are 3 levels

## Totals

330 on Rack Levels 2 & 3  
 165 Surface Level Spaces

## DRY BOAT STORAGE

Puerto Place Lot	90
Dry Stack Pad Lot	186
Surface Storage Lot	219
<b>TOTAL</b>	<b>495 Spaces</b>

Note: This Surface Dry Boat Storage Alternative meets the intent of Dana Point Harbor District Regulations / General Provision 14.2.i) related to "Dry Boat Storage", in that it maintains "space for at least four hundred ninety-three (493) boats to be stored on dry land in Planning Area 1; 400 of those spaces may be provided in a dry stack storage facility". (In this alternative, all 495 boats will be stored in an external rack system. 330 of the 495 spaces will be limited by height, similar to boats stored in a dry stack boat storage building, but the 165 spaces on the top level will have no height restrictions, which will meet the intent to "Maintain a minimum of ninety-three (93) surface boat storage spaces, that can accommodate vessels that can not be stored in a dry stack building (or rack system) within the Harbor at all times". Tall boats such as sailboats or boats with cabins or towers can be stored on the top level of the rack system.

9/15/14