

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA

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Th8c

November 3, 1995

TO: Coastal Commissioners and Interested Parties

FROM: Charles Damm, South Coast District Director
John T. Auyong, Staff Analyst

SUBJECT: CITY OF DANA POINT LOCAL COASTAL PROGRAM AMENDMENT
2-95

Coastal Commission meeting of Thursday, November 16, 1995 (Meeting
Notice Item No. 8.c.)

SUMMARY OF STAFF REPORT**I. AMENDMENT SUMMARY**

The City of Dana Point Local Coastal Program (LCP) Amendment 2-95 is an amendment to the Implementation Portion of the City's LCP. Specifically, the proposed amendment would to delete Implementation General Policy #22 from the implementation portion of the Capistrano Beach Specific Plan/Local Coastal Program, which covers the Capistrano Beach area of the City of Dana Point.

Pursuant to Section 30513 and 30514 of the Coastal Act, the standard of review for the proposed local coastal program amendment is conformance with, and adequacy to carry out, the policies of the land use plan portion of the local coastal program.

Implementation General Policy #22 states:

"Existing legal building sites shall not be subdivided in a manner that would create more parcels than the original number."

Capistrano Beach is one of four LCP segments in the City of Dana Point. The Capistrano Beach LCP was originally prepared by the County of Orange and, upon incorporation of the City of Dana Point, which was comprised of portions of unincorporated Orange County

Dana Point LCP 2-95

including Capistrano Beach, was subsequently adopted by the City of Dana Point virtually unchanged. The proposed LCP amendment would not affect any areas of deferred certification.

II. SUMMARY OF STAFF RECOMMENDATION

RECOMMEN- DATION	SUGGESTED MODIFICA- TIONS	PAGE	MOTIONS AND RESOLUTIONS	PAGE
Denial as Submitted; Approval if Modified	Section VII Modify Policy #22	4	VI.1. (Denial)	3
			VI.2. (Approval if Modified)	3

III. SUMMARY OF MAJOR ISSUES

ISSUES	STAFF RECOMMENDED ACTION	ISSUE DISCUSSION AND FINDINGS	SUGGESTED MODIFICA- TION
Impacts to geologic and scenic resources throughout Capistrano Beach resulting from removal of Policy #22 which currently restricts subdivision	DENIAL of proposed deletion	Section VIII.C.1. Page 7	to reword Policy #22 so that no new lots are created on the bluff face. (Page 4)
	APPROVAL WITH SUGGESTED MODIFICATION	Section VIII.C.2. Page 7	

IV. PUBLIC PARTICIPATION

Pursuant to Section 30503 of the Coastal Act and section 13552(a) of the California Code of Regulations, an local coastal program amendment submittal must include a summary of public participation at the local level.

The City prepared a negative declaration which was circulated for comment by governmental agencies. On February 15, 1995, the City Planning Commission held a duly noticed public hearing. The City Council held six duly noticed public hearings before final approval of Resolution No. 95-06-13-01 on June 13, 1995. Thus, the City provided opportunities for public participation at the local level consistent with Section 13535 of the California Code of Regulations.

Dana Point LCP 2-95

V. ADDITIONAL INFORMATION

For additional information regarding this local coastal program amendment request or copies of this staff report, please contact John T. Auyong of the Coastal Commission's South Coast Area office at the address and phone number listed in the letterhead of this report.

VI. STAFF RECOMMENDATION**MOTIONS AND RESOLUTIONS**

Staff recommends that the Commission adopt the following resolutions:

1. Rejection of the Implementation Plan Amendment as Submitted**Motion 1:**

"I move that the Commission reject the Implementation Plan amendment of the City of Dana Point Local Coastal Program Amendment 2-95."

Staff recommends a **YES** vote which would result in the adoption of the following resolution and findings. An affirmative vote of a majority of the Commissioners present is needed to pass the motion.

Resolution 1. (To Reject the IP):

The Commission hereby rejects the Implementation Plan amendment of the City of Dana Point Local Coastal Program Amendment 2-95 on the grounds that it does not conform with or is inadequate to carry out the provisions of the Land Use Plan as certified. There are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the approval of the Implementation Program would have on the environment.

2. Approval of the Implementation Plan Amendment with Suggested Modifications**Motion 2:**

"I move that the Commission approve the City of Dana Point Implementation Plan Amendment 2-95 if it is modified in conformity with the modifications suggested below."

Dana Point LCP 2-95

Staff recommends a **YES** vote for the adoption of the following resolution. The motion requires an affirmative vote of a majority of the Commissioners present to pass the motion.

Resolution 2. (To Certify the IP Amendment if Modified):

*The Commission hereby **approves** certification of the Implementation portions of the City of Dana Point Local Coastal Program Amendment 2-95 based on the findings set forth below on the grounds that the zoning ordinance, zoning map, and other implementing materials conform with and are adequate to carry out the provisions of the Land Use Plan as certified. There are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the approval of the Zoning and Implementation Program if modified would have on the environment.*

VII. SUGGESTED MODIFICATIONS

Modifications are depicted by showing added text in underline and ~~deleted text in~~ strikeout.

Implementation Plan General Policy #22

~~Existing legal building sites shall not be subdivided in a manner that would create more parcels than the original number.~~ No new parcels or lots shall be created on the face of the natural bluffs above Coast Highway.

VIII. FINDINGS AND DECLARATIONS

A. LOCAL COASTAL PROGRAM HISTORY

Prior to the incorporation of the City of Dana Point, the Commission approved the segmentation of then unincorporated coastal Orange County now within the current City limits. One of the segments approved was Capistrano Beach. The entire Capistrano Beach segment is now within the city limits of the City of Dana Point.

The Capistrano Beach LCP is in the form of a "specific plan." Although a specific plan is often used as an implementing action, the County stated that this particular specific plan was to represent both the Land Use Plan (LUP) and Implementation Plan (IP) of the respective subarea LCPs.

The City of Dana Point incorporated in 1989. In creating its first post-incorporation LCP, the City slightly modified and adopted the Capistrano Beach LCP, as well as the Dana Point segment LCP and that portion of the South Laguna segment LCP applicable to the new City.

Dana Point LCP 2-95

On August 14, 1986, the Commission effectively certified the Capistrano Beach Specific Plan/Local Coastal Program (LCP) prepared by the County of Orange for the main area of Capistrano Beach, deferring the Capistrano Bay Community. On April 23, 1987, the Commission effectively certified the Capistrano Bay Community.

B. LOCAL COASTAL PROGRAM AMENDMENT DESCRIPTION

On August 7, 1995, South Coast District Staff received local coastal program amendment request 2-95 from the City of Dana Point to amend the Capistrano Beach Specific Plan/Local Coastal Program (LCP) by deleting Implementation General Policy #22 from the Implementation Plan. Implementation General Policy #22 states:

Existing legal building sites shall not be subdivided in a manner that would create more parcels than the original number.

On August 18, 1995, Commission staff notified the City that the submittal was incomplete and additional information was needed. On August 24, 1995, the City submitted the requested information. Pursuant to Section 30510(b) of the Coastal Act and Section 13553 of the California Code of Regulations, the submittal was deemed to be in proper order for filing as of August 24, 1995.

Pursuant to Sections 30513 and 30514(b) of the Coastal Act, an Implementation Plan amendment must be acted on by the Commission within 60 days after the submittal has been deemed to be in proper order for filing. Pursuant to Section 30517 of the Coastal Act, on October 11, 1995, the Commission extended the 60 day time limit for a period not to exceed one year.

The genesis of Implementation General Policy #22 was in response to a specific lot split which occurred in an area of Capistrano Beach outside the coastal zone. In its original certification of the Capistrano Beach LCP in 1986, this policy was not a suggested modification nor was it mentioned in the Commission staff report. A policy similar to Implementation General Policy #22 is not in the South Laguna or Dana Point LCP segments, the other two LCP documents for the City of Dana Point, nor is it in the Coastal District regulations of the Orange County Zoning Code which is also a part of the City's LCP.

The effect of Implementation General Policy #22, now proposed to be deleted, is to prohibit most divisions of land except for lot line adjustments. The proposal to delete Implementation General Policy #22 is to allow for a specific proposed lot split and associated construction on the resulting two lots. However, the proposed deletion of this policy would apply to the entire area covered by the LCP.

Dana Point LCP 2-95

C. CONSISTENCY WITH CERTIFIED LAND USE PLAN

Pursuant to Sections 30513 and 30514 of the Coastal Act, the standard of review for the proposed amendment to the implementation plan (IP) portion of the certified local coastal program (LCP) is conformance with, and adequacy to carry out, the policies of the land use plan (LUP) portion of the LCP.

The Resources Component of the LCP contains policies to protect coastal resources. The Resources Component of the LCP contains the following policies regarding Geologic Hazards:

Geologic Hazards Policy #19 Enact and enforce regulations which will restrict development in areas subject to substantial hazards to persons and property due to seismic activity and surface soil hazards (LUE).

Geologic Hazards Policy #23 The more unstable areas should be left essentially ungraded and undeveloped with consideration given to their potential for greenbelt or other open space uses (CVALUES).

Geologic Hazards Policy #29 In areas of new development (as defined in Sections 30106 and 30212 of the Coastal Act), a required bluff top setback of 25 feet for all aboveground structures shall be established.

Geologic Hazards Policy #31 No development pursuant to Coastal Act definition shall be allowed within the 25-foot setback from the bluff face with the exception of drainage devices which will contribute to the overall stability of the bluffs.

Geologic Hazards Policy #32 Except for areas that have been stabilized by extensive slope engineering, development on the bluff faces will be restricted to staircases or accessways to provide public beach access, except as otherwise provided by the 2.12, Tourist Commercial designation on the Land Use Plan, Figure V-1.

The LCP Resources Component states that the coastal bluff along Coast Highway is largely devoid of vegetation, but sparse growth of coastal sage scrub vegetation exists throughout the bluff face. The LCP Resources Component also contains a variety of LUP policies relating to scenic resources, including but not limited to the following:

Scenic Resources Policy #40 Ensure land uses within designated and proposed scenic highway corridors are compatible with scenic enhancement and preservation.

Dana Point LCP 2-95

1. Denial of the LCP amendment as Submitted

The deletion of Implementation General Policy #22 from the LCP would delete subdivision standards from the LCP. Thus, from the standpoint of coastal resource protection and processing coastal development permits, the deletion of Implementation General Policy #22 would allow for the division of a parcel of land and the creation of new lots on the bluff face within Capistrano Beach.

The bluffs above Coast Highway are a prominent and scenic natural feature in Capistrano Beach. Therefore, Coast Highway is designated in the LCP as a scenic highway. The LUP has a specific policy regarding the compatibility of land use within a scenic highway corridor. Since Coast Highway is adjacent to these bluffs, the bluffs fall within the scenic corridor.

In addition, these bluffs are steep and subject to instability. The LCP states that landslides are an acute problem in Capistrano Beach because of the weak bedrock, and coastal bluff erosion is one of the more severe economic problems within the study area. This is further evidenced in the recent failure of the portion of the bluffs adjacent to the La Ventana neighborhood of the neighboring City of San Clemente. This particular bluff failure closed Pacific Coast Highway for several months and severely damaged the adjacent blufftop homes. The Commission approved on appeal coastal development permit A5-93-275 to stabilize the failed slope. To minimize this type of potential for bluff failure, the certified LUP contains geologic hazards policies which strictly limit development within 25 feet of the edge of a bluff and on the bluff face, and provide that unstable areas should be left essentially undeveloped.

Eliminating subdivision standards from the LCP would allow existing parcels encompassing the bluff faces to be subdivided into smaller parcels. Smaller parcels would allow for more and denser development potential of the bluff faces, which would result in greater risks of geologic instability. Dense development of the bluff face would also obscure and destroy the bluff faces natural appearance, reducing their scenic value. This would result in development on the bluff which would be inconsistent with the LUP geologic hazards and scenic preservation policies limiting development.

In the absence of an IP policy which assures that no new lots are created on the bluff face, the proposed deletion of IP General Policy #22 cannot be found to be in conformance with and adequate to carry out the certified LUP policies. Therefore, the Commission finds that the proposed amendment to the Implementation Plan as submitted is not in conformance with, nor adequate to carry out, the certified LUP policies and must be denied.

2. Approval of the LCP Amendment With Modifications

The suggested modification would expressly provide that new lots can not be created on the bluff faces above Coast Highway. This modification would assure that no development on the

Dana Point LCP 2-95

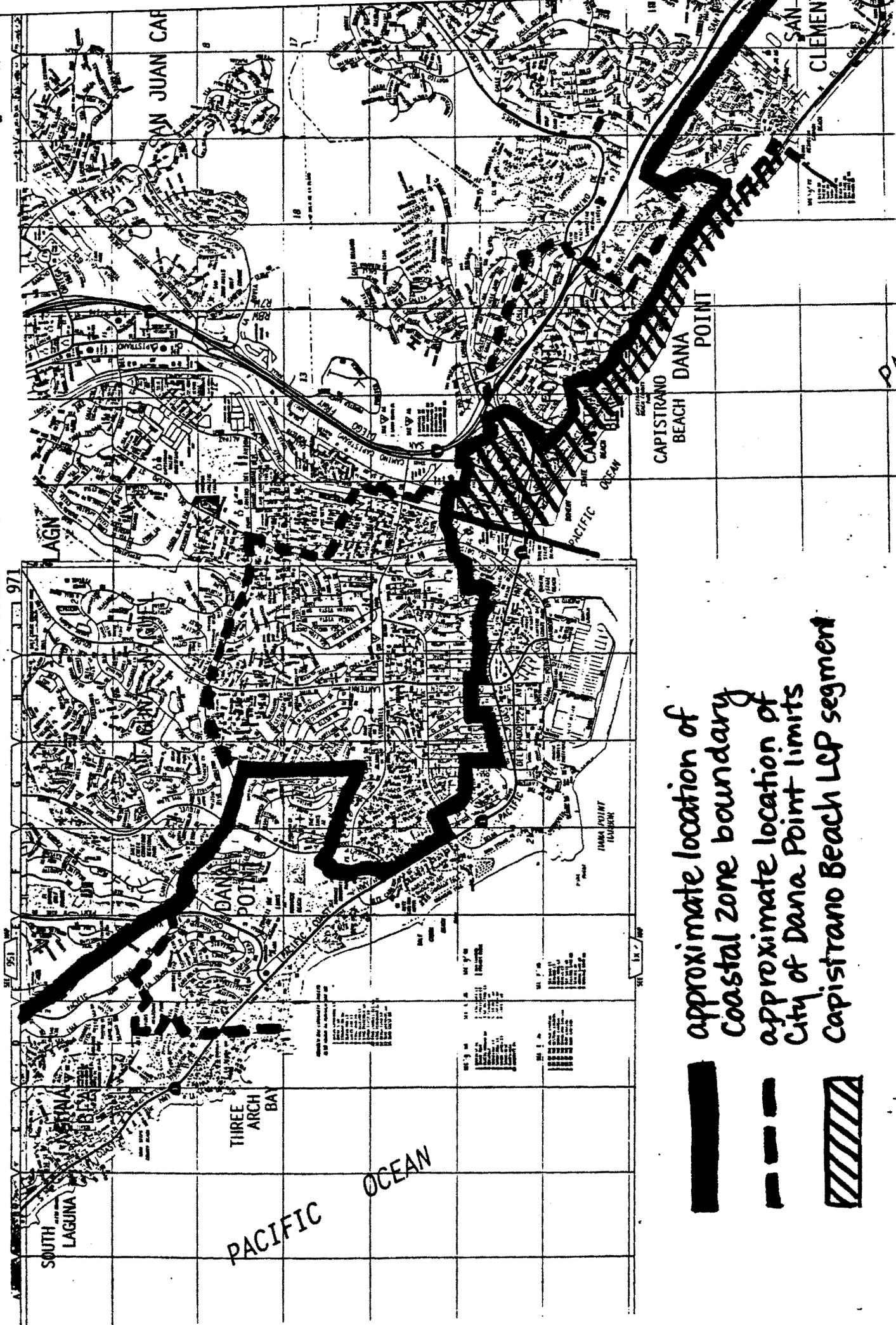
bluff faces would contribute to geologic instability or lessen the scenic value of the bluff faces consistent with the LUP geologic hazards and scenic preservation policies. Therefore, as modified, the Commission finds that the amendment to the IP portion of the LCP would be consistent with, and adequate to carry out, the certified LUP policies.

D. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program (LCP). Instead, the CEQA responsibilities are assigned to the Coastal Commission. However, the Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under Section 21080.5 of CEQA, the Commission is relieved of the responsibility to prepare an EIR for each LCP. Nevertheless, the Commission is required in an LCP submittal to find that the LCP does conform with the provisions of CEQA, including Public Resources Code Section 21080.5(d)(2)(i).

The City of Dana Point LCP amendment 2-95 consists of a Land Use Plan (LUP) amendment and an Implementation Plan (IP) amendment. Relative to the IP amendment, the Commission finds that approval of the IP amendment with the incorporation of the suggested modifications, as listed in Section II of this report, would not result in significant adverse environmental impacts under the meaning of CEQA. Absent the incorporation of these suggested modifications to effectively mitigate potential resource impacts, such a finding could not be made.

Specifically, the Implementation Plan amendment, as modified, would prohibit the creation of new lots which would have impacts on the stability and scenic value of the Capistrano Beach bluffs. The Commission finds that the Capistrano Beach Specific Plan/Local Coastal Program, as modified, will not result in significant adverse environmental impacts under the meaning of the CEQA. Therefore, consistent with Public Resources Code Section 21080.5(d)(2)(i), the Commission finds that there are no feasible alternatives or mitigation measures available which would substantially reduce any significant adverse environmental impacts which the activity may have on the environment.



-  approximate location of coastal zone boundary
-  approximate location of City of Dana Point limits
-  Capistrano Beach LCP segment

Exhibit A Dana Pt. LCP 2-95
 Location Map

RESOLUTION NO. 95-06-13-01

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA APPROVING ZONE CHANGE ZC94-05/ZONE TEXT AMENDMENT ZTA95-01, AND SUBMITTING FOR APPROVAL SAID ZONE CHANGE AND ZONE TEXT AMENDMENT TO THE CALIFORNIA COASTAL COMMISSION AS LOCAL COASTAL PROGRAM AMENDMENT LCPA94-06 FOR REVISIONS TO THE DANA POINT ZONING CODE MAP TO CHANGE THE ZONING DESIGNATION FOR THE PROPERTY LOCATED AT 34431 AND 34441 CAMINO CAPISTRANO FROM RMF-30 "RESIDENTIAL MULTI-FAMILY, 30 UNITS/ACRE" TO RSF-12 "RESIDENTIAL SINGLE-FAMILY, 12 UNITS/ACRE" AND TO DELETE GENERAL PROVISION NO. 22 FROM THE CAPISTRANO BEACH SPECIFIC PLAN/LOCAL COASTAL PROGRAM TO PERMIT SUBDIVISION IN THE CAPISTRANO BEACH AREA

Applicant: Paul Douglas
File No.: FF# 0610-20/ZC94-05, *et al.*/Camino Capistrano, 34431, -41

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

WHEREAS, the applicant has filed a verified application for certain property, to wit:

34431 and 34441 Camino Capistrano (APN 691-121-02); and

WHEREAS, the applicant has made an application to change the zoning designation for the subject property from RMF-30 "Residential Multi-Family, 30 units/acre" to RSF-12 "Residential Single-Family, 12 units/acre" and to delete General Provision No. 22 from the Capistrano Beach Specific Plan/Local Coastal Program to permit the subdivision of the subject property; and

WHEREAS, said verified application constitutes a request as provided by Title 7 of the Dana Point Municipal Code; and

WHEREAS, the Dana Point Planning Commission did, on the 15th day of February, 1995, hold a duly noticed public hearing as prescribed by law to consider said request and did recommend approval of said request by adopting Planning Commission Resolution Nos. 95-02-15-08 (Negative Declaration) and 95-02-15-09; and

*Exhibit B, Dana Pt. LCP 2-95
Submittal Resolution p. 1 of 3*

RESOLUTION NO. 95-06-13- 01
PAGE 2

WHEREAS, the Dana Point City Council did, on the 28th day of March, the 11th day of April, and the 25th day of April, 1995, 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, the City Council considered all factors relating to Zone Change ZC94-05, Zone Text Amendment ZTA95-01 and Local Coastal Program Amendment LCPA94-06 and introduced an Ordinance adopting said request; and

WHEREAS, at its second reading on the 13th day of June, 1995, said Ordinance was duly adopted as Ordinance No. 9507.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Dana Point does hereby adopt Zone Change ZC94-05, Zone Text Amendment ZTA95-01 and Local Coastal Program Amendment LCPA94-06, changing the zoning designation for the subject property from RMF-30 "Residential Multi-Family, 30 units/acre" to RSF-12 "Residential Single-Family, 12 units/acre", as set forth in the attached Exhibit 'A'; and to delete General Provision No. 22 from the Capistrano Beach Specific Plan/Local Coastal Program to permit the subdivision of the subject property, as set forth in the attached Exhibit 'B', which is incorporated herein by this reference.

BE IT FURTHER RESOLVED THAT Zone Change ZC94-05 and Zone Text Amendment ZTA95-01 shall be submitted as an amendment to the Implementation portion of the City of Dana Point Certified Local Coastal Program; and that said amendment shall be submitted as Local Coastal Program Amendment LCPA94-06 to the California Coastal Commission for certification and approval; and that Local Coastal Program Amendment will be carried out in a manner fully consistent with all the provisions of both the California Coastal Act and the City of Dana Point Certified Local Coastal Program.

BE IT FURTHER RESOLVED THAT, pursuant to Section 13551(b)(1) of the California Code of Regulations, this Resolution shall take effect immediately upon approval of the California Coastal Commission without suggested modifications; except that, pursuant to Section 13551(b)(2) of the California Code of Regulations, this Resolution shall take effect only upon formal adoption by the City Council of Dana Point after approval by the California Coastal Commission with suggested modifications.

PASSED, APPROVED, AND ADOPTED this 13th day of June, 1995.


Karen Lloreda, MAYOR

ATTEST:


for SHARON L. WAITS, CITY CLERK

Exhibit B Dana Pt. LCP 2-95 p. 2 of 3
Submittal Resolution

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

I, SHARON L. WAITS, City Clerk of the City of Dana Point, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 95-06-13-01 adopted by the City Council of the City of Dana Point, California, at a regular meeting thereof held on the 13th day of June, 1995, by the following vote:

AYES: Council Members Curreri, Ossenmacher, Mayor Pro Tem Kaufman and Mayor Lloreda
NOES: Council Member Gallagher
ABSENT: None

(SEAL)

Cathy Costello
for SHARON L. WAITS, CITY CLERK