

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
245 W. BROADWAY, STE. 380
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LONG BEACH, CA 90802-4416
(310) 590-5071

**RECORD PACKET COPY**

March 22, 1996

TO: Coastal Commissioners and Interested Persons

FROM: Charles Damm, South Coast District Director
Teresa Henry, Assistant District Director
Steve Rynas, Orange County Supervisor
John T. Auyong, Staff Analyst

SUBJECT: Concurrence with the Executive Director's determination that the action of the City of Dana Point accepting certification with suggested modifications of City of Dana Point Local Coastal Program Amendment 2-95 to the Implementation Plan portion of the Capistrano Beach Specific Plan/Local Coastal Program is legally adequate. (For action at the Coastal Commission's April 9-12, 1996 meeting)

STAFF RECOMMENDATION

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

BACKGROUND

On August 7, 1995, South Coast District Staff received the City of Dana Point's Local Coastal Program ("LCP") amendment request 2-95. The LCP amendment requested the deletion of General Provision No. 22 of the Implementation Plan ("IP") portion of the Capistrano Beach Specific Plan/Local Coastal Program ("CBSPLCP"). Pursuant to Section 13553 of the California Code of Regulations ("Regulations"), on August 18, 1995, staff notified the City in writing that the submittal was incomplete. On August 24, 1995, the City completed the submittal and the submittal was deemed to be in proper order for filing on that date, pursuant to Coastal Act Section 30510(b) and Section 13553 of the Regulations.

On November 16, 1995, the Commission approved Amendment No. 2-95 to the IP portion of the Capistrano Beach LCP with a suggested modification. The Commission's suggested modification involved keeping General Provision No. 22 but with language to clarify that lots consisting entirely of bluff face would not be created, with specific exceptions.

**City of Dana Point LCP Amendment 2-95
Executive Director Checkoff**

On February 27, 1996, the City of Dana Point City Council acknowledged receipt of, accepted, and agreed to the Commission's suggested modifications by passing Resolution No. 96-02-27-01 ("Resolution") and adopting Ordinance No. 96-02 ("Ordinance") incorporating the suggested modification into the CBSPLCP. On March 19, 1996, the City submitted the Resolution and Ordinance for review by the Executive Director.

As provided for in Section 13544 of the California Code of Regulations, the Executive Director must determine that the City's action is legally adequate and report that determination to the Commission. In this case, the Executive Director has determined that the City's action is legally adequate. Unless the Commission objects to the Executive Director's determination, the certification of City of Dana Point LCP Amendment 2-95 to the CBSPLCP shall become effective upon the filing of the required notice of certification with the Secretary of Resources as provided in Public Resources Code Section 21080.5(d)(2)(V).

RESOLUTION NO. 96-02-27-DL

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA ACKNOWLEDGING RECEIPT OF THE CALIFORNIA COASTAL COMMISSION ACTION REGARDING CITY OF DANA POINT LOCAL COASTAL PROGRAM AMENDMENT 2-95; AND ACCEPTING AND AGREEING TO A SUGGESTED MODIFICATION TO GENERAL PROVISION NO. 22 OF THE CAPISTRANO BEACH SPECIFIC PLAN/LOCAL COASTAL PROGRAM

*City of Dana Point
LCP 2-95 E.D. Checkoff*
COASTAL COMMISSION
Resolution

Applicant: Paul Douglas and City of Dana Point
File No.: FF# 0610-20/ZC94-05, et al./Camino Capistrano, 34431, -41

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

WHEREAS, on June 13, 1995, Resolution No. 95-06-13-01 approving Zone Change ZC94-05/Zone Text Amendment ZTA95-01 for the down-zoning of a property at 34431 and 34441 Camino Capistrano and the deletion of General Provision No. 22 of the Capistrano Beach Specific Plan/Local Coastal Program, and submitting said zone change and zone text amendment to the California Coastal Commission as a local coastal program amendment (City of Dana Point LCP Amendment 2-95), was approved by the City Council; and

WHEREAS, on November 16, 1995, the California Coastal Commission certified City of Dana Point LCP Amendment 2-95 with a suggested modification to General Provision No. 22 of the Capistrano Beach Specific Plan/Local Coastal Program; and

WHEREAS, pursuant to Section 13542(b) of Title 14 of the California Code of Regulations, the California Coastal Commission's certification with the suggested modification shall expire six (6) months from November 16, 1995; and

WHEREAS, City of Dana Point LCP Amendment 2-95 will only become effective once the requirements of Sections 13544 and 13551(b) of Title 14 of the California Code of Regulations are met; and

WHEREAS, on January 3, 1996, the Dana Point Planning Commission adopted Resolution No. 96-01-30-01 recommending approval of the suggested modification to General Provision No. 22 of the Capistrano Beach Specific Plan/Local Coastal Program to the City Council with a minor revision; and

WHEREAS, the City Council desires to accept and approve the suggested modification to General Provision No. 22 of the Capistrano Beach Specific Plan/Local Coastal Program through the adoption of Ordinance No. 96-02.

RESOLUTION NO. 96-02-27-01
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NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Dana Point does hereby acknowledge receipt of, accept and agree to the California Coastal Commission's suggested modification to General Provision No. 22 of the Capistrano Beach Specific Plan/Local Coastal Program, to wit (deletions in ~~strike-out~~, additions indicated):

~~Existing legal building sites shall not be subdivided in a manner which 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 except where a proposed new parcel or lot would contain a contiguous portion of the bluff-top that has been identified in a site-specific geology report as being stable and suitable for development, and such development would maintain a minimum 25-foot setback from the bluff edge and would not encroach onto the bluff.~~

Said suggested modification shall become effective thirty (30) days after the adoption of Ordinance No. 96-02 by the City Council, or upon final certification by the California Coastal Commission, whichever occurs latest.

BE IT FURTHER RESOLVED THAT this Resolution and Ordinance No. 96-02 shall be submitted to the California Coastal Commission for review and purposes of final certification of the City of Dana Point Local Coastal Program Amendment 2-95.

PASSED, APPROVED, AND ADOPTED this 27th day of February, 1996.


KAREN LLOREDA, MAYOR

ATTEST:


SHARON L. WAITS, CITY CLERK

City of Dana Point
LCP 2-95 E.D. checkoff

COASTAL COMMISSION
Resolution

EXHIBIT # A

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RESOLUTION NO. 96-02-27-01
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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. 96-02-27-01 adopted by the City Council of the City of Dana Point, California, at a regular meeting thereof held on the 27th day of February, 1996, by the following vote:

- AYES: COUNCIL MEMBERS CURRERI, OSSENMACHER, AND MAYOR LLOREDA
- NOES: COUNCIL MEMBER GALLAGHER
- ABSENT: MAYOR PRO TEM KAUFMAN

(SEAL)

Sharon L. Waits.
SHARON L. WAITS, CITY CLERK

City of Dana Point
LCP 2-95 E.D. Checkoff

COASTAL COMMISSION
Resolution

EXHIBIT # A
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ORDINANCE NO. 96-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADOPTING A SUGGESTED MODIFICATION TO GENERAL PROVISION NO. 22 OF THE CAPISTRANO BEACH SPECIFIC PLAN/LOCAL COASTAL PROGRAM CONSISTENT WITH THE DIRECTION OF THE CALIFORNIA COASTAL COMMISSION IN CERTIFYING CITY OF DANA POINT LOCAL COASTAL PROGRAM AMENDMENT 2-95

APPLICANT: PAUL DOUGLAS AND CITY OF DANA POINT
CASE NO.: FF# 0610-20/ZC94-05, ET AL./CAMINO CAPISTRANO, 34431, -41

WHEREAS, on June 13, 1995, Ordinance No. 95-07 approving Zone Change ZC94-05/Zone Text Amendment ZTA95-01, down-zoning a property at 34431 and 34441 Camino Capistrano and deleting General Provision No. 22 of the Capistrano Beach Specific Plan/Local Coastal Program, was adopted by the City Council and subsequently forwarded to the California Coastal Commission as a request for a local coastal program amendment (City of Dana Point LCP Amendment 2-95) on August 4, 1995; and

WHEREAS, on November 16, 1995, the California Coastal Commission certified City of Dana Point LCP Amendment 2-95 with a suggested modification to General Provision No. 22 of the Capistrano Beach Specific Plan/Local Coastal Program; and

WHEREAS, pursuant to Section 13542(b) of Title 14 of the California Code of Regulations, the California Coastal Commission's certification with the suggested modification shall expire six (6) months from November 16, 1995; and

WHEREAS, City of Dana Point LCP Amendment 2-95 will only become effective once the requirements of Sections 13544 and 13551(b) of Title 14 of the California Code of Regulations are met; and

WHEREAS, the City Council desires to accept and approve the suggested modification to General Provision No. 22 of the Capistrano Beach Specific Plan/Local Coastal Program.

NOW, THEREFORE, the City Council of the City of Dana Point, California, does hereby ordain as follows:

SECTION 1: General Provision No. 22 of the Capistrano Beach Specific Plan/Local Coastal Program is amended as follows (deletions in strike-out, additions ~~in bold~~):

~~Existing legal building sites shall not be subdivided in a manner which 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 except where a proposed new parcel or lot would~~

COASTAL COMMISSION
City of Dana Point
Ordinance LCP 2-95
EXHIBIT # B
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E.D. Checkoff

Ordinance No. 96-02

contain a contiguous portion of the bluff-top that has been identified in a site-specific geology report as being stable and suitable for development, and such development would maintain a minimum 25-foot setback from the bluff edge and would not encroach onto the bluff face.

SECTION 2: The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted at the duly designated posting places within the City and published once within fifteen (15) days after passage and adoption as required by law; or in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance; and within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

NOW, THEREFORE, BE IT ORDAINED THAT the City Council of the City of Dana Point does hereby adopt the California Coastal Commission-suggested modification to General Provision No. 22 of the Capistrano Beach Specific Plan/Local Coastal Program.

PASSED, APPROVED, AND ADOPTED this 27th day of February, 1996.

Karen Lloreda
KAREN LLOREDA, MAYOR

ATTEST:

Sharon L. Waits
SHARON L. WAITS, CITY CLERK

City of Dana Point
LCP 2-95 E.D. Checkoff

COASTAL COMMISSION
Ordinance

EXHIBIT # B
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Ordinance No. 96-02

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 Ordinance No. 96-02 was duly introduced and placed upon its first reading at its regular meeting of the City Council on the 13th day of February, 1996, and that thereafter, said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 27th day of February, 1996, by the following vote, to wit:

- AYES: COUNCIL MEMBERS CURRERI, OSSENMACHER, AND MAYOR LLOREDA
- NOES: COUNCIL MEMBER GALLAGHER
- ABSENT: MAYOR PRO TEM KAUFMAN

Sharon L. Waits

SHARON L. WAITS, CITY CLERK

City of Dana Point
LCP 2-95 E.D. Checkoff
COASTAL COMMISSION
Ordinance

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Ordinance No. 96-02

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

AFFIDAVIT OF POSTING
AND PUBLISHING

SHARON L. WAITS, being first duly sworn, deposes, and says:

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

That in compliance with State Laws of the State of California, ORDINANCE NO. 96-02,
being:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADOPTING A SUGGESTED MODIFICATION TO GENERAL PROVISION NO. 22 OF THE CAPISTRANO BEACH SPECIFIC PLAN/LOCAL COASTAL PROGRAM CONSISTENT WITH THE DIRECTION OF THE CALIFORNIA COASTAL COMMISSION IN CERTIFYING CITY OF DANA POINT LOCAL COASTAL PROGRAM AMENDMENT 2-95

was published in the Dana Point News newspaper on the 7th day of March, 1996, and in further compliance with City Resolution No. 91-10-08-1, on the 8th day of March, 1996, was caused to be posted in three (3) public places in the City of Dana Point, to wit:

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

Sharon L. Waits

SHARON L. WAITS, CITY CLERK
DANA POINT, CALIFORNIA

City of Dana Point
LCP 2-95 E.D. Checkoff

COASTAL COMMISSION

Ordinance _____

EXHIBIT # B _____

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