

RECORD PACKET COPY

STATE OF CALIFORNIA - THE RESOURCES AGENCY

PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION

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

W12a



October 16, 1997

TO: Coastal Commissioners and Interested Parties

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

SUBJECT: Concurrence with the Executive Director's determination that the action of the City of Dana Point accepting the Commission's certification with suggested modifications of City of Dana Point Local Coastal Program Amendment 1-96 is legally adequate. (For action at the Commission's November 4-7, 1997 hearing)

Staff Recommendation

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

Background

On June 20, 1996, South Coast District Staff received the City of Dana Point's Local Coastal Program ("LCP") Amendment request 1-96. The LCP amendment request proposed to replace the existing South Laguna Specific Plan/Local Coastal Program with the portions of the Land Use, Urban Design, and Conservation/Open Space Elements of the General Plan, and the City's Zoning Code applicable to the geographic area covered by the South Laguna Specific Plan/Local Coastal Program. The three General Plan elements together would serve as the replacement land use plan ("LUP") as proposed. The Zoning Code would serve as the replacement implementation plan ("IP") as proposed.

Further, the LCP amendment request proposed to certify most of the existing uncertified Monarch Beach LCP segment, with the exception of the Dana Strands area which would be deferred. The portions of the Land Use, Urban Design, and Conservation/Open Space Elements of the General Plan applicable to Monarch Beach would serve as the LUP for Monarch Beach. The portions of the City's Zoning Code applicable to Monarch Beach would serve as the Monarch Beach IP.

Pursuant to Sections 13520 and 13553 of the California Code of Regulations, staff notified the City in writing on July 2, 1996 that the LCP submittal was incomplete. The City submitted the materials requested, and staff deemed the LCP submittal to be in proper order for filing as of July 10, 1996, pursuant to Section 30510(b) of the Coastal Act.

On September 12, 1996, the Commission granted a one-year time extension for action on the LCP amendment request pursuant to Coastal Act Section 30517. On May 13, 1997, the Commission denied City of Dana Point LCP Amendment 1-96 as

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submitted and approved it with suggested modifications. The Commission found the suggested modifications necessary so that the LCP amendment would be consistent with and adequate to carry out the requirements of Chapter 3 of the Coastal Act. On June 23, 1997, a "Notice of Determination" of the Commission's certification of the LCP amendment was mailed to the Secretary of the Resources Agency for filing, pursuant to Section 13544(d) of the California Code of Regulations.

On August 26, 1997, the City of Dana Point City Council adopted Resolution No. 97-08-26-03 incorporating the Commission's suggested modifications into the City's General Plan. Also on August 26, 1997, Ordinance 97-05 incorporating the Commission's suggested modifications into the Zoning Code was introduced. The City Council adopted the ordinance on September 9, 1997. These actions were taken pursuant to Section 13544(a), and within the six month time frame required by Sections 13537(b) and 13542(b), of the California Code of Regulations.

On October 1, 1997, staff received written documentation of the City's actions. As provided for in Sections 13544(b) of the California Code of Regulations, the Executive Director determines that the City's actions of August 26, 1997 and September 9, 1997, are legally adequate. If the Commission does not object to the Executive Director's determination, the LCP amendment request will be effectively certified.

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List of Exhibits

- Exhibit 1: City of Dana Point City Council Resolution 97-08-26-03
(Adopting the Coastal Commission's suggested modifications
to the Land Use Plan portion of Dana Point LCP Amendment
1-96)
- Exhibit 2: City of Dana Point Ordinance 97-05 (Adopting the Coastal
Commission's suggested modifications to the Implementation
portion of the Dana Point LCP Amendment 1-96)

RESOLUTION NO. 97-08-26-03

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING GENERAL PLAN AMENDMENT GPA97-02 AND LOCAL COASTAL PROGRAM LCPA97-02, TO AMEND THE TEXT AND MAPS OF THE DANA POINT GENERAL PLAN IN ACCORDANCE WITH THE ACTION OF THE CALIFORNIA COASTAL COMMISSION CERTIFYING THE CITY'S LOCAL COASTAL PROGRAM FOR THE SOUTH LAGUNA AND LAGUNA NIGUEL SEGMENTS OF THE DANA POINT COASTAL ZONE

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OCT 1 1997

Applicant: City of Dana Point
File Number: FF# 0630-30/GPA97-02/LCPA97-02

CALIFORNIA
COASTAL COMMISSION

WHEREAS, the applicant has made an application to amend the text and maps of the City of Dana Point General Plan in accordance with the action of the California Coastal Commission (CCC) to certify the South Laguna and Laguna Niguel segments of the City's Coastal Zone as detailed in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, said verified application constitutes a request as provided by Title 9 of the Dana Point Municipal Code; and

WHEREAS, the Planning Commission did, on the 16th day of July, 1997, 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 relating to General Plan Amendment GPA97-02 and Local Coastal Program Amendment LCPA97-02.

WHEREAS, the City Council did, on the 26th day of August, 1997, 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 Council considered all factors relating to General Plan Amendment GPA97-02 and Local Coastal Program Amendment LCPA97-02.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

A) The above recitations are true and correct.

B) Based on the evidence presented at the public hearing, the City Council adopts the following findings and approves General Plan Amendment GPA97-02:

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COASTAL COMMISSION

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City of Dana Point LCP Amendment 1-96
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CITY COUNCIL RESOLUTION NO. 97-08-26-03
GENERAL PLAN AMENDMENT GPA97-02
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Findings:

- 1) That the proposed project is consistent with the Dana Point General Plan in that the proposed change promote greater consistency with the California Coastal Act.
- 2) That the proposed project complies with all applicable provisions of the South Laguna Specific Plan Local Coastal Program in the proposed changes promote greater consistency with the California Coastal Act.
- 3) That the proposed project complies with all applicable provisions of the Dana Point Zoning Code.
- 4) That the proposed project complies with all other applicable requirements of state law and local ordinances.
- 5) That the proposed project qualifies as a Statutory Exemption (Section 15265) from the provisions set forth in the California Environmental Quality Act (CEQA), in that this project involves the certification of a Local Coastal Program.
- 6) That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

E.D. Check-off

Dana Point LCP 1-96

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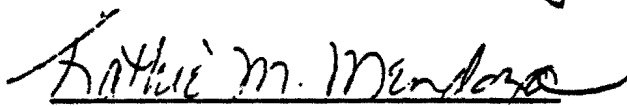
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PASSED, APPROVED, AND ADOPTED this 26th day of August, 1997.



WILLIAM L. OSSENMACHER, MAYOR

ATTEST:



KATHIE M. MENDOZA, CITY CLERK

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CITY COUNCIL RESOLUTION NO. 97-08-26-03
GENERAL PLAN AMENDMENT GPA97-02
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STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

I, KATHIE M. MENDOZA, City Clerk of the City of Dana Point, California,
DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 97-08-
26-3 adopted by the City Council of the City of Dana Point, California, at a regular meeting
thereof held on the 26th day of August, 1997, by the following vote:

AYES: COUNCIL MEMBERS KAUFMAN, LLOREDA, NETZLEY, MAYOR PRO
TEM GALLAGHER AND MAYOR OSSENMACHER
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

(SEAL)

Kathie M. Mendoza
KATHIE M. MENDOZA,
CITY CLERK

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Exhibit "A".
City Council Resolution 97-08-26-03
General Plan Amendment GPA97-02/Local Coastal Program Amendment LCPA97-02

A. Introduction

1. Page 4/Purpose of the General Plan - Rewrite the second paragraph to read as follows:

"Adopted in 1976, the purpose of the California Coastal Act is to generally protect the natural and scenic qualities of the California Coastal Zone. Approximately one-half of the City's land area lies within the California Coastal Zone and is, therefore, subject to requirements of the California Coastal Act (Division 20 of the Public Resources Code commencing with Section 30000). To meet these requirements, the City must have a California Coastal Commission certified Local Coastal Program (LCP) consisting of its "(a) land use plans, (b) zoning ordinances, (c) zoning district maps, and (d) within sensitive coastal resources areas, other implementing actions, which, when taken together, meet the requirements of, and implement the provisions and policies of, this division at the local level." (Public Resources Code 30108.6). Therefore, the portions of the City's General Plan, Zoning Ordinance, Zoning Map and other implementing actions effectively certified by the Coastal Commission will constitute its LCP for that portion of the Coastal Zone within its jurisdiction. California Coastal Commission certification of the City's LCP allows the City to assume responsibility for administering coastal development permits in those areas of its coastal zone that are not on submerged lands, tide lands, public trust lands, or state universities or colleges. As a component of the City's LCP, the portions of the General Plan effectively certified by the Coastal Commission includes required coastal resources planning and management policies which are in conformance with and intended to carry out the Chapter Three policies of the California Coastal Act of 1976 within the various elements of the Plan. These coastal resources planning and management policies shall be applied in a manner which is most protective of coastal resources and public access."

2. Page 7/Local Coastal Program Components - Rewrite this paragraph to read as follows:

"The certified Land Use Plan ("LUP") policies, land use designations, and maps, diagrams, figures, tables and other graphics for the areas covered by the former South Laguna Specific Plan/Local Coastal Program and the formerly uncertified segment (Monarch Beach) are contained in the Land Use, Urban Design, and Conservation/Open Space Elements of the General Plan. Those General Plan policies, land use designations, and maps, diagrams, figures, tables and other graphics which apply specifically to Capistrano Beach, Dana Point Harbor, Dana Point Headlands, Dana Point Town Center, Doheny Village, or other geographic areas of the City which are not within the area covered by the former South Laguna Specific Plan/Local Coastal Program nor the formerly uncertified segment (Monarch Beach) do not apply to development in South Laguna or Monarch Beach. The LUP policies, land use designations, and maps and other graphics contained in the Dana Point Specific Plan/Local Coastal Program and the Capistrano Beach Specific Plan/Local Coastal Program remain in effect."

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Resolution 97-08-26-03 (for the LUP)

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~~As previously described, the General Plan constitutes a portion of the City's Local Coastal Program (LCP). The Certified LUP carries out the requirements of the California Coastal Act by including coastal resources planning and management policies described in Chapter 3 of the California Coastal Act. Identification of these portions of each General Plan element which constitute components of the City's LCP the Chapter Three policies is provided by the inclusion of parenthetical references to the applicable section of the California Coastal Act. For example, a policy statement relating to coastal visual resources will be followed by the parenthetical reference (Coastal Act/30251) to indicate that the policy relates to or addresses scenic and visual qualities of coastal areas as required by that section Section 30251 of the California Coastal Act. Each element The Land Use, Urban Design, and Conservation/Open Space Elements also each contains a table or a reference matrix identifying Coastal Act planning and management issue areas and the Chapter 3 Coastal Act policies included in applicable to that element. Table I-2 provides an LCP Reference Matrix describing the Coastal Act issue areas included within each of the General Plan elements.~~

No changes to the Certified LUP policies, land use designations, and maps, diagrams, tables, and other graphics of the Certified Land Use Plan shall be effective unless and until such changes are effectively certified by the Coastal Commission.

B. Land Use Element

1. Page 10/Policy 1.3 - Rewrite this Policy to read as follows:

"Assure that land use intensities are consistent with capacities of existing and planned public service facilities. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development." (Coastal Act/30250, 30254)

2. Page 10/Policy 1.4 - Rewrite this Policy to read as follows:

"Assure that adequate recreational areas and open space are provided as a part of new residential development to assure that the recreational needs of new residents will not overload nearby coastal recreation areas. (Coastal Act/30252)"

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3. Page 10/Policy 1.6 - Rewrite this Policy to read as follows:

"Encourage the development of unified or clustered commercial centers and neighborhood commercial centers rather than continued development of Strip Commercial shall be encouraged to minimize significant adverse individual or cumulative impacts on public access. (Coastal Act/30250, 30252)"

4. Page 10 - Add a new Policy 1.8 to read as follows:

"Policy 1.8: The location and amount of new development should maintain and enhance public access to the coast by facilitating the provision or extension of transit service, providing non-automobile circulation within the development, providing adequate parking facilities or providing substitute means of serving the development with public transportation, and assuring the potential for public transit for high intensity uses. (Coastal Act/30252)"

5. Page 10 - Add a new Policy 1.9 to read as follows:

"Policy 1.9: New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the certified local coastal program. Special districts which include the coastal zone shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with the City of Dana Point certified local coastal program. (Coastal Act/30254)"

6. Page 11 - Delete Policy 2.2:

Policy 2.2: Prohibit onshore support facilities for oil drilling. (Coastal Act/30260-264)

7. Page 11 - Rewrite this Policy to read as follows:

"Policy 2.4: Develop regulatory mechanisms to mitigate land use conflicts. The portions of the General Plan effectively certified by the Coastal Commission as the Land Use Plan shall take precedence over all other General Plan elements in the area of the City within the Coastal Zone."

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COASTAL COMMISSION
Resolution 97-08-26-03 (for the LUP)

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8. Page 11 - Add a new Policy 2.5 to read as follows:

"Policy 2.5: Encourage the use of shared parking facilities, such as through parking districts or other mechanisms, in a manner that maintains and, where feasible, improves public access to the coast. (Coastal Act/30212.5, 30252)"

9. Page 11 - Add a new Policy 2.6 to read as follows:

"Policy 2.6: Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry. (Coastal Act/30234)"

10. Page 11 - Add a new Policy 2.7 to read as follows:

"Policy 2.7: Increased recreational boating use of coastal waters shall be encouraged, consistent with other provisions of the certified local coastal program. (Coastal Act/30224)"

11. Page 11 - Add a new Policy 2.8 to read as follows:

"Policy 2.8: Coastal-dependent developments, as defined in Chapter 9.75 of the Zoning Code, shall have priority over other developments on or near the shoreline. Except as provided for in Conservation and Open Space Element Policy 3.6, coastal-dependent developments shall not be sited in a wetland. Coastal-related developments should be accommodated within the closest feasible proximity to the coastal-dependent uses they support. (Coastal Act/30255)"

12. Page 11 - Add a new Policy 2.9 to read as follows:

"Policy 2.9: Coastal water areas suited for water-oriented recreation activities shall be protected for such uses. (Coastal Act/30220)"

13. Page 11 - Add a new Policy 2.10 to read as follows:

"Policy 2.10: Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area. (Coastal Act/30221)"

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14. Page 11 - Add a new Policy 2.11 to read as follows:

"Policy 2.11: The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry. (Coastal Act/30222)"

15. Page 11 - Add a new Policy 2.12 to read as follows:

"Policy 2.12: The location and amount of new development should maintain and enhance public access to the coast by assuring that the recreational needs of new residents will not overload nearby coastal recreation areas through the correlation of the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development (Coastal Act/30252(6))"

16. Page 11 - Add a new Policy 2.13 to read as follows:

"Policy 2.13: Oceanfront land that is suitable for coastal dependent aquaculture shall be protected for that use, and proposals for aquaculture facilities located on those sites shall be given priority, except over other coastal dependent developments or uses. (Coastal Act/30222.5)"

17. Page 12/Policy 3.3 - Rewrite this Policy to read as follows:

"Policy 3.3: Priority should be given to those projects that provide for coastal recreational opportunities for the public. Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible. (Coastal Act/30213, 30222, 30223, 30210-212, 30220-224)"

18. Page 12/Policy 3.5 - Rewrite this Policy to read as follows:

"Policy 3.5: Public facilities including parking areas or facilities shall, wherever appropriate and feasible, must be distributed throughout the coastal zone area to eliminate mitigate against the impacts, social and otherwise, of overcrowding and overuse by the public in one of any single area. (Coastal Act/30212.5, 30254)"

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(LUP)

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19. Page 12/Policy 3.10 - Rewrite this Policy to read as follows:

"Policy 3.10: Consider designating vacated street rights-of-way for Recreation/Open Space use. Any public rights-of-way which lead to navigable waters shall not be vacated, and may be used for public recreation/open space or public pedestrian purposes if not needed for vehicular traffic. (Coastal Act/30210-212, 30213)"

20. Page 12/Policy 3.11 - Rewrite this Policy to read as follows:

"Policy 3.11: Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. (Coastal Act/30211)"

21. Page 12 - Add a new Policy 3.12 to read as follows:

"Policy 3.12: Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, or where adequate access exists nearby, including access as identified on Figures UD-2 and COS-4. (Coastal Act/30212)"

22. Page 13/Policy 4.3 - Rewrite this Policy to read as follows:

"Policy 4.3: ~~Provide and protect public~~ Public access, which shall be conspicuously posted, and public recreational opportunities, shall be provided to the maximum extent feasible for all the people to the coastal zone area and shoreline consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. (Coastal Act/30210-212.5, 30213, 30220-224)"

23. Page 13/Policy 4.4 - Rewrite this Policy to read as follows:

"Policy 4.4: Preserve, maintain, and, where feasible, enhance and restore marine resource areas and coastal waters. Special protection shall be given to areas and species of special biological or economic significance. (Coastal Act 30230)"

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24. Page 14 - Add a new Policy 4.10 to read as follows:

"Policy 4.10: Regulate the construction of non-recreational uses on coastal stretches with high predicted storm wave run-up to minimize risk of life and property damage. (Coastal Act/30253)"

25. Page 18/Policy 8.2 - Rewrite this Policy to read as follows:

"Policy 8.2: Assure that adequate public recreational areas and public open space are provided and maintained by the developer as part of a new development. (Coastal Act/30210, 30213, 30240, 30251)"

26. Page 18/Policy 8.6 - Rewrite this Policy to read as follows:

"Policy 8.6: ~~Provide~~ Maximize the provision of extensive public trail and transit loop systems within the Monarch Beach area. The systems shall include access to and along the beach shoreline and to the visitor-serving and public places within Monarch Beach. (Coastal Act/30210)"

27. Page 18/Policy 8.8 - Rewrite this Policy to read as follows:

"Policy 8.8: ~~Allow a beach house as a public commercial facility near the beach. This beach house shall only be accessed by the beach, public trail, and transit loop systems. Salt Creek Beach Park shall be a public park primarily oriented to passive recreational use, with limited active recreational and educational uses which are temporary and non-commercial in nature. (Coastal Act/30210, 30214)"~~

28. Page 19/Policy 8.9 - Rewrite this Policy to read as follows:

"Policy 8.9: Avoid expansion of the golf course or any other land use that occurs at the expense of environmentally sensitive habitat, public park or public areas. (Coastal Act/30210, 30213, 30240)"

29. Page 19/Policy 8.12 - Rewrite this Policy to read as follows:

"Policy 8.12: Within the Monarch Beach Resort Specific Plan, establish a development phasing plan to achieve first, the primary objective of the development of the public open space, public parks, public trails, and public roads; secondly, the visitor serving resort complex; and lastly, the residential dwellings. Concurrent development will may be permitted only if the primary objective is being satisfied. (Coastal Act/30213, 30222)"

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30. Page 19 - Add a new Policy 8.13 to read as follows:

"Policy 8.13: The existing public trails and public recreational facilities within the Monarch Beach Resort Specific Plan area shall be preserved and maintained. Signs shall be posted at conspicuous locations within the Specific Plan area, and a manned information center established in the Monarch Beach Resort hotel, to inform the general public of the public access and public recreation opportunities available within the Specific Plan area. (Coastal Act/30210-30213, 30220-222, 30223)"

31. Page 19 - Add a new Policy 8.14 to read as follows:

"Policy 8.14: Visitor-serving facilities within the Monarch Beach Resort Specific Plan area, including but not limited to the recreational time slots of the golf course and the parking lots of the hotel and golf course, shall be open to the public. (Coastal Act/30210, 30212.5, 30213)"

32. Page 19 - Add a new Policy 8.15 to read as follows:

"Policy 8.15: Preserve, maintain, and where feasible enhance and restore, the riparian habitat, coastal sage scrub habitat, and other environmentally sensitive habitat areas along Salt Creek."

33. Page 20/Policy 9.1 - Rewrite this Policy to read as follows:

"Policy 9.1: Develop regulations to protect and encourage local serving retail and office use adjacent to residentially designated areas. Promote the overlap between visitor and resident serving retail uses by encouraging retail goods and services which serve both market segments in transition areas, such as those designated "Community Commercial," located between primary visitor serving areas and areas designated for residential use as shown on the Land Use Diagram. (Coastal Act/30222)"

34. Page 20/Policy 9.3 - Rewrite this Policy to read as follows:

"Policy 9.3: Encourage resident-serving uses within walking distance of residents areas designated on the Land Use Diagram for residential use, where possible, to minimize the encroachment of resident serving uses into visitor-serving areas, to minimize the use of primary coastal access roads for non-recreational trips, and to minimize energy consumption and vehicle miles traveled by encouraging the use of public transportation. (Coastal Act/30222, 30252, 30253)"

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35. Page 31/Open Space - Rewrite this Section to read as follows:

"Recreation/Open Space: The Recreation/Open Space designation includes both public and private recreational uses necessary to meet the active and passive recreational needs of area residents and visitors as well as open space uses necessary to preserve public views, scenic natural land forms such as bluffs, and environmentally sensitive habitat areas. Recreational activities include golf course driving ranges, community recreational facilities, public parklands and indoor and outdoor sports/athletic facilities. Recreation uses include museums, galleries, outdoor theater, and other similar uses. Open Space uses include public view preservation, habitat restoration projects and other similar uses. The standard intensity of development is only an assumed average City-wide and does not apply to each parcel of land."

C. Urban Design Element

1. Page 3/Policy 1.5 - Rewrite this Policy to read as follows:

"Policy 1.5: Develop the Blufftop Trail from Monarch Beach to Doheny State Park. Final designation of the trail alignment through the Headlands shall be determined through the Specific Plan for the Headlands. (Coastal Act/30210, 30212)"

2. Page 4/Policy 2.1 - Rewrite this Policy to read as follows:

"Policy 2.1: Consider the distinct architectural and landscape character of each community. To the maximum extent feasible, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses. (Coastal Act/30251)"

3. Page 7/Policy 4.3 - Rewrite this Policy to read as follows:

"Policy 4.3: Develop stronger pedestrian, bicycle and visual linkages between public spaces and to and along the shoreline and bluffs. (Coastal Act/30210, 30212)"

4. Page 7/Policy 4.5 - Rewrite this Policy to read as follows:

"Policy 4.5: Protect and enhance existing public views to the ocean from the Coast Highway and selected public sites along the Blufftop trail and Capistrano Beach bluffs through open space designations and innovative design techniques. (Coastal Act/30251)"

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5. Page 7 - Add a new Policy 4.6 to read as follows:

"Policy 4.6: Preserve and maintain existing public accessways, and existing areas open to the public, located within visitor-serving developments in the coastal zone. (Coastal Act/30210, 30212)"

6. Page 7 - Add a new Policy 4.7 to read as follows:

"Policy 4.7: Prohibit the conversion to exclusively private use of existing visitor-serving developments open to the public within the coastal zone. (Coastal Act/30210, 30213)"

7. Page 7 - Add a new Policy 5.7 to read as follows:

"Policy 5.7: Consolidate adjacent parking lots, without reducing the number of parking stalls, in order to decrease the number of ingress and egress points onto arterials. (Coastal Act/30210, 30252)"

D. Conservation/Open Space Element

1. Page 6/Policy 1.1 - Rewrite this Policy to read as follows:

"Policy 1.1: Retain, protect, and enhance local drainage courses, channels, and creeks in their natural condition, where feasible and desirable, in order to maximize their natural hydrologic functioning so as to minimize adverse impacts from polluted storm water run-off. (Coastal Act/30231, 30235, 30236)"

2. Page 7 - Add a new Policy 1.5 to read as follows:

"Policy 1.5: Retain, maintain, protect, and enhance existing riparian habitat adjacent to drainage courses, channels, and creeks through methods such as, but not limited to, the establishment of buffer areas adjacent to such habitats. (Coastal Act/30231)"

3. Page 7 - Add a new Policy 1.6 to read as follows:

"Policy 1.6: Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible to mitigate the loss of any riparian habitat and any downstream impacts, and shall be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing

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structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat. (Coastal Act/30236)"

4. Page 7 - Add a new Policy 1.7 to read as follows:

"Policy 1.7: Maintain and, where feasible, restore the biological productivity and the quality of coastal waters, creeks, and groundwater, appropriate to maintain optimum populations of marine organisms and to protect human health. Measures including, but not limited to, minimizing the adverse effects of waste water discharges, controlling runoff, preventing the depletion of groundwater supplies, preventing substantial interference with surface water flow, maintaining vegetation buffer areas protecting riparian habitats, minimizing alteration of natural streams, and street sweeping, shall be encouraged. (Coastal Act/30231)"

5. Page 7 - Add a new Policy 1.8 to read as follows:

"Policy 1.8: Coordinate with the appropriate Regional Water Quality Control Board, the County of Orange and other agencies and organizations in the implementation of the National Pollution Discharge Elimination System Permits (NPDES) regulations to minimize adverse impacts on the quality of coastal waters. (Coastal Act/30231)"

6. Page 7/Policy 2.5 - Rewrite this Policy to read as follows:

"Policy 2.5: ~~Monitor-Lessen~~ beach erosion by ~~periodically-evaluating-minimizing~~ any natural changes or man-caused activities which would reduce the replenishment of sand to the beaches. (Coastal Act/30235)"

7. Page 8/Policy 2.6 - Rewrite this Policy to read as follows:

"Policy 2.6: ~~Consider-Encourage~~ public acquisition of significant land resources for open space when funds or opportunities are available. (Coastal Act/30240)"

8. Page 8/Policy 2.7 - Rewrite this Policy to read as follows:

"Policy 2.7: Require geotechnical studies for developments that are proposed for steep slopes (4:1 or steeper), on or adjacent to coastal or inland bluffs, and where geological instability may be suspected. (Coastal Act/30253)"

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9. Page 8/Policy 2.8 - Rewrite this Policy to read as follows:

"Policy 2.8: Minimize risks to life and property, and preserve the natural environment, by siting and clustering new development away from. Discourage development in areas which have physical constraints associated with steep topography and unstable slopes; and where such areas are designated as Recreation/Open Space or include bluffs, beaches, or wetlands, exclude such areas from the calculation of net acreage available for determining development intensity or density potential. (Coastal Act/30233, 30253)"

10. Page 8/Policy 2.9 - Rewrite this Policy to read as follows:

"Policy 2.9: Consider preserving Preserve significant natural features where feasible as part of new development. Permitted development shall be sited and designed to minimize the alteration of natural land forms. Improvements adjacent to beaches shall protect existing natural features and be carefully integrated with land forms. (Coastal Act/30240, 30250, 30251, 30253)"

11. Page 8 - Add a new Policy 2.10 to read as follows:

"Policy 2.10: Adopt setback standards which include, at a minimum, a 25 foot setback from the bluff edge or which take into consideration fifty years of bluff erosion, whichever is most restrictive for a particular blufftop site. When necessary, require additional setbacks of buildings and site improvements from bluff faces which will maximize public and structural safety, consistent with detailed site-specific geotechnical report recommendations. (Coastal Act/30253)"

12. Page 8 - Add a new Policy 2.11 to read as follows:

"Policy 2.11: Preserve Dana Point's bluffs as a natural and scenic resource and avoid risk to life and property through responsible and sensitive bluff top development, including, but not limited to, the provision of drainage which directs runoff away from the bluff edge and towards the street, where feasible, and restricting irrigation and use of water-intensive landscaping within the setback area to prevent bluff erosion. (Coastal Act/30251, 30253)"

13. Page 8 - Add a new Policy 2.12 to read as follows:

"Policy 2.12: New bluff top development shall minimize risks to life and property in geologically sensitive areas and be designed and located so as to ensure geological stability and structural integrity. Such development shall have no detrimental affect.

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either on-site or off-site, on erosion or geologic stability, and shall be designed so as not to require the construction of protective devices that would substantially alter natural land forms along bluffs and cliffs. (Coastal Act/30253)"

14. Page 8 - Add a new Policy 2.13 to read as follows:

"Policy 2.13: Bluff repair and erosion control measures such as retaining walls and other similar devices shall be limited to those necessary to protect existing structures in danger from erosion to minimize risks to life and property and shall avoid causing significant alteration to the natural character of the bluffs. (Coastal Act/30251, 30253)"

15. Page 8 - Add a new Policy 2.14 to read as follows:

"Policy 2.14: Shoreline or ocean protective devices such as revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply and minimize adverse impacts on public use of sandy beach areas. (Coastal Act/30210-12, 30235)"

16. Page 8 - Add a new Policy 2.15 to read as follows:

"Policy 2.15: Assure that public safety is provided for in all new seaward construction or seaward additions to existing beachfront single family structures in a manner that does not interfere, to the maximum extent feasible, with public access along the beach. (Coastal Act/30210-212, 30214, 30253)."

17. Page 8 - Add a new Policy 2.16 to read as follows:

"Policy 2.16: Identify flood hazard areas and provide appropriate land use regulations, such as but not limited to the requirement that new development shall have the lowest floor, including basement, elevated to or above the base flood elevation, for areas subject to flooding in order to minimize risks to life and property. (Coastal Act/30235, 30253)"

18. Page 8 - Add a new Policy 2.17 to read as follows:

"Policy 2.17: Establish building code, setback, site design and landscaping requirements that assure adequate fire protection to minimize risks to life and property. (Coastal Act/30253)"

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19. Page 8 - Add a new Policy 2.18 to read as follows:

"Policy 2.18: Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems. (Coastal Act/30233)"

20. Page 8 - Add a new Policy 2.19 to read as follows:

"Policy 2.19: Whenever feasible, the material removed from erosion control and flood control facilities may be placed at appropriate points on the shoreline in accordance with other applicable provisions of the Local Coastal Program, and where feasible mitigation measures have been provided to minimize adverse environmental effects. Aspects that shall be considered before issuing a coastal development permit for such purposes are the method of placement, time of year of placement, and sensitivity of the placement area. (Coastal Act/30233)"

21. Page 8 - Policy 3.1 - Rewrite this Policy to read as follows:

"Policy 3.1: ~~Conserve important~~ Environmentally sensitive habitat areas, including important plant communities, and wildlife habitats, such as, marine refuge areas, riparian areas, wildlife movement corridors, wetlands, and significant tree stands, such as those generally depicted on Figure COS-1, shall be preserved. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade those areas through such methods as, the practice of creative site planning, revegetation, and open space easement/dedications, and shall be compatible with the continuance of those habitat areas. A definitive determination of the existence of environmentally sensitive habitat areas on a specific site shall be made through the coastal development permitting process. (Coastal Act/30230, 30240)"

22. Page 9/Policy 3.2 - Rewrite this Policy to read as follows:

"Policy 3.2: Require development proposals in areas expected or known to contain important plant and animal communities and environmentally sensitive habitat areas, such as but not limited to marine refuge areas, riparian areas, wildlife movement corridors, wetlands, and significant tree stands, to include biological assessments and identify affected habitats. (Coastal Act/30230, 30240)"

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23. Page 9/Policy 3.4 - Rewrite this Policy to read as follows:

"Policy 3.4: Restrict ~~Ensure~~ urban use of open space lands that have conservation or open space easements is limited to only those uses expressly allowed by the easements. Document those easements to ensure Staff is aware increase knowledge of their existence. (Coastal Act/30240)"

24. Page 9/Policy 3.5 - Rewrite this Policy to read as follows:

"Policy 3.5: Prohibit detrimental ~~Ensure~~ that public access to the shore of the marine life refuge is not detrimental to the resources of the refuge, at the base of the Dana Point Headlands. (Coastal Act/30230)"

25. Page 9 - Add a new Policy 3.6 to read as follows:

"Policy 3.6: The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall only be permitted in accordance with Section 30233 of the Coastal Act. (Coastal Act/30233)"

26. Page 9 - Add a new Policy 3.7 to read as follows:

"Policy 3.7: Environmentally sensitive habitat areas (ESHA) shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. (Coastal Act/30240)"

27. Page 9 - Add a new Policy 3.8 to read as follows:

"Policy 3.8: Development in areas adjacent to parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas through, among other methods, creative site planning and minimizing visual impacts, and shall be compatible with the continuance of those parks and recreation areas. (Coastal Act 30240)"

28. Page 9 - Add a new Policy 3.9 to read as follows:

"Policy 3.9: Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes. (Coastal Act 30230)"

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29. Page 9 - Add a new Policy 3.10 to read as follows:

"Policy 3.10: Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible."

30. Page 11/Policy 6.1 - Rewrite this Policy to read as follows:

"Policy 6.1: Mitigate the impacts of development on sensitive lands such as, but not limited to, steep slopes, wetlands, cultural resources, and environmentally sensitive habitats areas through the development review process. (Coastal Act/30233, 30240, 30244, 30253)"

31. Page 11/Policy 6.1 - Rewrite this Policy to read as follows:

"Policy 6.4: Preserve and protect the scenic and visual quality of the coastal areas as a resource of public importance as depicted in Figure COS-5, "Scenic Overlooks from Public Lands", of this Element. Permitted development shall be sited and designed to protect public views from identified scenic overlooks on public lands to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. (Coastal Act/30251)"

32. Page 11/Policy 6.5 - Rewrite this Policy to read as follows:

"Policy 6.5: ~~Encourage retention of~~ Preserve and protect permanent open space, steep slopes, cultural resources, and environmentally sensitive habitat areas through open space deed restrictions, dedication, or other similar means as a part of the development subdivision/review development and subdivision review process. (Coastal Act/30250)"

33. Page 13/Policy 8.2 - Rewrite this Policy to read as follows:

"Policy 8.2: Retain and protect ~~significant area of~~ resources of significant historical, archaeological, or paleontological value for education, visitor-serving, and scientific purposes. (Coastal Act/30213, 30244, 30250, 30253)"

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E. MAP/DIAGRAM CHANGES

1. Coastal Zone Boundary

The coastal zone boundary shall be noted on the Land Use Policy Diagram, both the full-scale version and the reduced version as shown in Figure LU-4 on Page 35 of the Land Use Element.

2. General Table/Figure Notes

All figures, maps and tables in the Coastal Element shall have a note stating the following:

This Figure has been effectively certified by the Coastal Commission as part of the Certified Land Use Plan. For purposes of development within the coastal zone, use of certified figures shall be in a manner which, on balance, is the most protective of significant coastal resources. This Figure is only a general representation of the coastal resources depicted herein. Site-specific studies shall be conducted as part of individual coastal development permit applications to confirm the extent to which, if at all, the coastal resources depicted in this Figure exist on a particular site.

3. Land Use Designation Changes

The parcel at 33542 Ritz Carlton Drive shall be redesignated from Professional/Administrative to Visitor/Recreation Commercial.

4. Figures UD-2 and COS-4 (Relating to Access)

- a. The legends for the Figures UD-2 and COS-4 (located on Page 26 of the Urban Design Element and Page 34 of the Conservation/Open Space Element, respectively), shall be clarified so that it is clear which of the walkway/bikeway/trails, public view overlooks, and coastal accessways are existing versus proposed.
- b. Further, any walkways/bikeways/trails, public view overlooks, and coastal accessways (including accessways for which offers-to-dedicate are outstanding) which currently exist but which are not shown on Figures UD-2 and COS-4 shall be added to these figures.

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- c. In addition, Pacific Coast Highway (State Route One), Crown Valley Parkway, and Niguel Road shall be designated on Figures UD-2 and COS-4 as "Primary Coastal Access" roads.

5. Figure PS-6 (Relating to Geologic Hazard Abatement)

Figure PS-6 as shown on Page 31 of the General Plan Public Safety Element shall be replicated in the Conservation/Open Space Element and then modified according to the following:

a. Revised Note

On this new diagram, the note at the bottom of diagram shall be modified as shown below (added text depicted in underline):

"NOTE: *These recommendations are generalized and are shown for information purposes only. Site specific investigations by a State-licensed geologist are required prior to issuance of any coastal development permit. These investigations may result in geologic hazard abatement recommendations different from those shown above. Any approved abatement measures, protective devices, or mitigative alternatives shall be the least environmentally damaging feasible alternative and shall have appropriate mitigation measures.*"

b. Geologically Sensitive Areas

Areas of documented or potential geologic instability, or geologically sensitive areas, shall be mapped on this new COS diagram.

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F. MISCELLANEOUS

Local Coastal Program Reference Matrices

All Local Coastal Program Reference matrices throughout the entire General Plan shall be deleted, except for those within the Land Use, Urban Design, and Conservation/Open Space Elements. The LCP Reference matrices within the Land Use, Urban Design, and Conservation/Open Space Elements shall be replaced with new matrices which accurately reflect the Chapter 3 Coastal Act policies represented in those elements.

Coastal Policy Parenthetical Citations

For all General Plan policies in the Circulation, Public Safety, Housing, Noise, Public Facilities/Growth Management, and Economic Development elements which have a parenthetical citation to a Coastal Act policy, the citation shall be deleted.

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ORDINANCE NO. 97-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENT ZTA97-02, ZONE CHANGE ZC97-02 AND LOCAL COASTAL PROGRAM AMENDMENT LCPA97-02 TO AMEND THE TEXT AND MAPS OF THE DANA POINT ZONING CODE IN ACCORDANCE WITH THE ACTION OF THE CALIFORNIA COASTAL COMMISSION CERTIFYING THE CITY'S LOCAL COASTAL PROGRAM FOR THE SOUTH LAGUNA AND LAGUNA NIGUEL SEGMENTS OF THE DANA POINT COASTAL ZONE

Applicant: City of Dana Point

File Number: FF# 0630-30/ZTA97-02/ZC97-02/LCPA97-02

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

WHEREAS, the applicant has made an application to amend the text and maps of the City of Dana Point Zoning Code in accordance with the action of the California Coastal Commission (CCC) to certify the South Laguna and Laguna Niguel segments of the City's Coastal Zone as detailed in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, said verified application constitutes a request as provided by Title 9 of the Dana Point Municipal Code; and

WHEREAS, the Planning Commission did, on the 16th day of July, 1997, 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 relating to Zone Text Amendment ZTA97-02, Zone Change ZC97-02 and Local Coastal Program Amendment LCPA97-02.

WHEREAS, the City Council did, on the 26th day of August, 1997, 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 Council considered all factors relating to Zone Text Amendment ZTA97-02, Zone Change ZC97-02 and Local Coastal Program Amendment LCPA97-02.

*Dana Point LCP 1-96
E.D. Check-off*

COASTAL COMMISSION

*Ordinance 97-05 (for the
Implementation
portion of the LCP)*

EXHIBIT # 2

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**CALIFORNIA
COASTAL COMMISSION**

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

- A) The above recitations are true and correct.
- B) Based on the evidence presented at the public hearing, the City Council adopts the following findings and approves Zone Text Amendment ZTA97-02, Zone Change ZC97-02 and Local Coastal Program Amendment LCPA97-02:

Findings:

- 1) That the proposed project is consistent with the Dana Point General Plan in that the proposed change promote greater consistency with the California Coastal Act.
- 2) That the proposed project complies with all applicable provisions of the South Laguna Specific Plan Local Coastal Program in the proposed changes promote greater consistency with the California Coastal Act.
- 3) That the proposed project complies with all applicable provisions of the Dana Point Zoning Code.
- 4) That the proposed project complies with all other applicable requirements of state law and local ordinances.
- 5) That the proposed project qualifies as a Statutory Exemption (Section 15265) from the provisions set forth in the California Environmental Quality Act (CEQA), in that this project involves the certification of a Local Coastal Program.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, is for any reasons held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

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PASSED, APPROVED, AND ADOPTED this 9th day of September, 1997.



WILLIAM OSSENMACHER, MAYOR

ATTEST:



KATHIE M. MENDOZA
CITY CLERK

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COASTAL COMMISSION
E.D. Check-off

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

I, KATHIE M. MENDOZA, City Clerk of the City of Dana Point, California, do hereby certify that the foregoing Ordinance No. 97- was duly introduced at a regular meeting of the City Council on the 26th day of August, 1997, and was duly adopted and passed at a regular meeting of the City Council on the 9th day of September 1997, by the following vote, to wit:

AYES:	COUNCIL MEMBERS KAUFMAN, LLOREDA, NETZLEY, MAYOR PRO TEM GALLAGHER AND MAYOR OSSENMACHER
NOES:	NONE
ABSTAIN:	NONE
ABSENT:	NONE


KATHIE M. MENDOZA, CITY CLERK

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

AFFIDAVIT OF POSTING
AND PUBLISHING

KATHIE M. MENDOZA, 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. 97-05, being:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENT ZTA97-02, ZONE CHANGE ZC97-02 AND LOCAL COASTAL PROGRAM AMENDMENT LCPA97-02 TO AMEND THE TEXT AND MAPS OF THE DANA POINT ZONING CODE IN ACCORDANCE WITH THE ACTION OF THE CALIFORNIA COASTAL COMMISSION CERTIFYING THE CITY'S LOCAL COASTAL PROGRAM FOR THE SOUTH LAGUNA AND LAGUNA NIGUEL SEGMENTS OF THE DANA POINT COASTAL ZONE

was published in summary in the Dana Point News newspaper on the 11th day of September, 1997, and the 18th day of September, 1997, and, in further compliance with City Resolution No. 91-10-08-1, on the 12th day of September, 1997, and the 19th day of September, 1997, was caused to be posted in four (4) public places in the City of Dana Point, to wit:

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

Dana Point LCP 1-96
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Kathie M. Mendoza
KATHIE M. MENDOZA
CITY CLERK
Dana Point, California

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EXHIBIT #2.....

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Exhibit "A"
City Council Ordinance 97- 05
Zone Text Amendment ZTA97-02/
Zone Change ZC97-02/Local Coastal Program Amendment LCPA97-02

Chapter 9.01/General Provisions:

1. Page 9.01-4/Section 9.01.050 - Relationship to the California Coastal Act - Rewrite this Section to read as follows:

"The provisions of this Code are intended to address the requirements of Articles 1 and 2 of Chapter 6 of the California Coastal Act (commencing with Section 30500), ~~as set forth in relevant state law and Chapter 8 of Title 14 of the California Code of Regulations (commencing with Section 13500) administrative regulations.~~ The provisions of this Code are to be a the Implementation part of the City's Local Coastal Program."

2. Page 9.01-5/Section 9.01.080(a):

All proposed references to the Dana Point Specific Plan/Local Coastal Program and the Capistrano Beach Specific Plan/Local Coastal Program shall be deleted from the "Relationship to Existing Plan Regulations" Table in Section 9.01.080(a). Instead, a note shall be added to the bottom of the Table indicating that both the Dana Point Specific Plan/Local Coastal Program and the Capistrano Beach Specific Plan/Local Coastal Program remain in effect for the purpose of issuing coastal development permits.

Chapter 9.03/Establishment of Zoning Districts - No changes noted

Chapter 9.05/General Development Standards:

1. Page 9.05-24/Section 9.05.150 Wetland Buffer: Rewrite this Section to read as follows:

"To protect and maintain the City's wetlands resources, a 100-foot buffer area around all identified wetlands located outside the coastal zone shall be provided, unless consultation with the California Department of Fish and Game and the U.S. Fish and Wildlife Service indicates that a lesser buffer will provided adequate protection. The standards for wetland buffers around wetlands within the coastal zone are contained in Section 9.27.030(b)(3)."

Chapter 9.07/Special Use Standards - No changes noted

(Implementation)

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E.D. Check-off

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Chapter 9.09/Residential Districts:

1. Page 9.09-24/Section 9.09.040(a) Special Development Standards: Add a new subsection (4) to read as follows:

"(4) Notwithstanding other standards of the Local Coastal Program, the only coastal development standards applicable to the RBR12 and RBR18 Zoning Districts are those set forth in the Capistrano Beach Specific Plan/Local Coastal Program."

Chapter 9.11/Commercial Districts:

1. Pages 9.11-4 and 5/Section 9.11.020(b): Revise the table so that:

The following uses shall be deleted as "permitted uses" in the Table of Uses for the Visitor/Recreation Commercial (V/RC) District and instead shall be designated as "conditional uses":

"Administrative Office Uses," "Furniture Store," and "Membership organizations" are "Conditional Uses", not permitted uses.

2. Page 9.11-6/Section 9.11020(b): Revise the table to read as follows:

Professional Office Use

- On the second floor or above, or below street level
- Street Level

Permitted
Conditional

Chapter 9.13/Mixed Use Districts - No changes noted.

Chapter 9.15/Professional/Administrative Districts - No changes noted.

Chapter 9.17/Industrial/Business District - No changes noted.

Chapter 9.19/Community Facilities District - No changes noted.

Chapter 9.21/Recreation, Open Space And Conservation Districts:

1. Page 9.21-1/Section 9.21.010(c)/Intent and Purpose: Revise Subsection (c) to read as follows:

(c) Conservation District

"The Conservation (CONS) district is intended for those lands that should remain in a natural state. Some minor intrusions from passive recreational uses may be appropriate if the primary goal of conservation and protection is achieved and there is a demonstrated need for such recreational uses. For areas within the coastal zone designated as the CONS district, "passive recreational uses" shall be limited to hiking, viewing of scenic areas, limited picnicking, and nature study."

2. Page 9.21-3/Section 9.21.020(b)

To better reflect the definitions of "open space" and "open space uses" as proposed in Chapter 9.75, and to ensure the greatest protection of natural resources, the classification of the uses for the Conservation (CONS) District listed below which appear in the Table of permitted uses for Chapter 9.21 as shall be modified according to the following:

USE	CHANGE FROM	CHANGE TO
Cultural Uses	Conditional	Prohibited
Equestrian Facility	Conditional	Prohibited
Open Space	Permitted	Conditional
Open Space Uses	Conditional	Permitted
Park, Public	Permitted	Conditional
Public Land Uses	Permitted	Conditional

Chapter 9.23/Transportation Corridor District - No changes noted.

Chapter 9.25/Harbor District - No changes noted.

Chapter 9.27/Coastal Overlay District:

1. Page 9.27-1/Section 9.27.010 Intent and Purpose: Revise this Section to read as follows:

"The Coastal Overlay (CO) District preserves and protects the coastal resources within Dana Point, and implements the California Coastal Act (Division 20 of the Public Resources Code) and the General Plan coastal policies which constitute the Land Use Plan portion of the certified Local Coastal Program for the City of Dana Point. The CO District is an overlay district which ~~may~~ shall be combined with any other zoning district that lies within the Coastal Zone of the City of Dana Point. ~~Development permitted by right in the underlying district may require a Coastal Development Permit~~ A Coastal Development Permit, subject to the standards of the specific zoning designation is required for all "development", as defined in Section 9.75.040. Procedures and regulations in Chapter 9.61 "Administration of Zoning", Chapter 9.69 "Coastal Development Permit" and this Chapter constitute additional minimum standards for all development within the Coastal Zone. In the Coastal Overlay District, the standards in this Chapter shall take precedence over other standards in the Zoning Code. The standards in this Chapter shall be applied in a manner which is most protective of coastal resources and public access."

2. Page 9.27-1/Section 9.27.020/Permitted, Accessory and Conditional Uses: Revise this Section to read as follows:

(a) {no modifications}

(b) ~~Wetland areas are limited to nature study projects, wetland restoration projects, aquaculture, and similar resource dependent uses. The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted where there is no feasible less environmentally damaging alternative and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:~~

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

- (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.
- (3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411 of the California Coastal Act as amended, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing spaces, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.
- (4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.
- (5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.
- (6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive habitat areas.
- (7) Restoration purposes.
- (8) nature study, aquaculture, or similar resource dependent activities.
- (c) {no modifications}
- (d) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

~~(d)(e)~~ Any use ~~or development~~ in conflict with the General Plan coastal policies shall not be allowed. ~~California Coastal Act requirements.~~

(f) Public Recreation

Salt Creek County Beach Park shall be a public park which is primarily geared towards passive recreational use. Limited active recreational use or educational use may be permitted provided the use is temporary, as defined in Coastal Commission guidelines for temporary events:

3. Page 9.27-2/Section 9.27.030/Development Standards: Revise this Section to read as follows:

In addition to the development standards for the base zoning districts described in Chapters 9.09-9.25, the following standards apply to all applicable projects within the CO District.

(a) Coastal Access

{delete the existing subsection (a) as submitted and replace with the following}

- (1) The purpose of this section is to achieve the basic state goals of maximizing public access to the coast and public recreational opportunities, as set forth in the California Coastal Act; to implement the public access and recreation policies of Chapter 3 of the Coastal Act; and to implement the certified land use plan of the Local Coastal Program which is required by Section 30500(a) of the Coastal Act to include a specific public access component. In achieving these purposes, the provisions of this subsection shall be given the most liberal construction possible so that public access to the navigable waters shall always be provided and protected consistent with the goals, objectives and policies of the California Coastal Act and Article X, Section 4, of the California Constitution.

(2) Definitions

(A) New Development

For purposes of implementing the public access requirements of Public Resources Code Section 30212, the City of Dana Point certified land use plan, including Land Use Element Policy 3.12, and of this ordinance, "new development" includes "development" as defined in Section 9.75.040 of this zoning code except the following:

1. Structures destroyed by natural disaster

The replacement of any structure, other than a public works facility, destroyed by a disaster; provided that the replacement structure conforms to applicable existing zoning requirements, is for the same use as the destroyed structure, does not exceed either the floor area, height, or bulk of the destroyed structure by more than 10%, and is sited in the same location on the affected property as the destroyed structure. As used in this section, "disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of the owners.

2. Demolition and Reconstruction

The demolition and reconstruction of a single-family residence; provided that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.

3. Improvements

Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height or bulk of the structure by more than 10 percent, which do not block or impede access, and which do not result in a seaward encroachment by the structure.

4. Repair and Maintenance

Repair or maintenance activity which, pursuant to Public Resources Code Section 30610, requires no permit unless the activity will have an adverse impact on lateral public access along the beach.

5. Reconstruction and Repair

The reconstruction or repair of any seawall: provided that the reconstructed or repaired seawall is not seaward of the location of the former structure. As used in this section, "reconstruction or repair" of a seawall shall not include replacement by a different type of structure or other modification in design or construction which results in different or greater impacts to shoreline resources than those of the existing structure.

- (B) The five (5) types of coastal public access (lateral, bluff top, vertical, trail, and recreational) are defined in Section 9.75.030 of this Zoning Code.

(C) Character of Accessway Use

1. Pass and repass

Refers to the right of the public to walk and run along an accessway. Because this use limitation can substantially restrict the public's ability to enjoy adjacent publicly owned tidelands by restricting the potential use of lateral accessways, it will be applied only in connection with vertical access or other types of access where the findings required by Sections 9.27.030(a)(5) and 9.27.030(a)(5)(D) establish that the limitation is necessary to protect natural habitat values, topographic features (such as eroding bluffs), or privacy of the landowner.

2. Passive recreational use

As used in this section, "passive recreational use" refers to the right of the public to conduct activities normally associated with beach use, such as walking, swimming, jogging, sunbathing, fishing, surfing, picnicking, but not including organized sports, campfires, or vehicular access other than for emergencies or maintenance.

3. Active recreational use

As used in this section, "active recreational use" refers to the right of the public to conduct the full range of beach-oriented activities, not including horseback riding and use of motorized vehicles unless specifically authorized.

(3) Applicability

(A) Access Required

As a condition of approval and prior to issuance of a permit or other authorization for any class of new development as identified in Sections 9.27.030(a)(3)(A)1. through 9.27.030(a)(3)(A)4. below, except as provided in Section 9.27.030(a)(3)(B), an offer to dedicate an easement (or other legal mechanism pursuant to Section 9.27.030(a)(4)(J)2. for one or more of the types of access identified in Sections 9.27.030(a)(2)(D)1. through 9.27.030(a)(2)(D)5. shall be required and shall be supported by findings required by Sections 9.27.030(a)(5)(A) through 9.27.030(a)(5)(C); provided that no such condition of approval for coastal access shall be imposed if the analysis required by Sections 9.27.030(a)(5)(A)1. through 9.27.030(a)(5)(A)4. establishes that the development will not adversely affect, either individually or cumulatively, the ability of the public to reach and use public tidelands and coastal resources or that the access dedication requirement will not alleviate the access burdens identified.

1. New development on any parcel or location specifically identified in the certified land use plan or in the LCP zoning districts.
2. New development between the nearest public roadway and the sea.
3. New development on any site where there is substantial evidence of a public right of access to the sea acquired through use or a public right of access through legislative authorization.

4. New development on any site where trail, blufftop access or other recreational access is necessary to mitigate impacts of the development on public access.

(B) Exceptions

Section 9.27.030(a)(3)(A) above shall apply to all new development except in the following instances:

1. Projects excepted from the definition of "new development" in Section 9.27.020(a)(2).
2. Where findings required by Sections 9.27.030(a)(5)(A) and 9.27.030(a)(5)(B) establish any of the following:
 - a. Public access is inconsistent with the public safety, military security needs, or protection of fragile coastal resources; or
 - b. Adequate access exists nearby.

(C) Exceptions identified in Section 9.27.030(a)(3)(B) shall be supported by written findings required by Section 9.27.030(a)(5)(C) of this Chapter.

(4) Standards For Application Of Access Conditions

The public access required pursuant to Section 9.27.030(a)(3)(A) shall conform to the standards and requirements set forth in Section 9.27.030(a)(4) herein.

(A) Lateral Public Access (Minimum Requirements)

1. A condition to require lateral access as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section 9.27.030(a)(3)(A) shall provide the public with the permanent right of lateral public access and passive recreational use along the shoreline (or public recreational area, bikeway, or blufftop area, as applicable); provided that in some cases controls on the time, place and manner of uses may be justified by site characteristics including sensitive habitat values or fragile topographic features, or by the need to protect the privacy of residential development located immediately adjacent to the accessway.
2. Active recreational use may be appropriate in many cases where the development is determined to be especially burdensome on public access. Examples include cases where the burdens of the proposed project would severely impact public recreational use of the shoreline, where the proposed development is not one of the priority uses specified in Public Resources Code Section 30222 and the policies of the certified land use plan, where active recreational uses reflect the historic public use of the site, where active recreational uses would be consistent with the use of the proposed project, and where such uses would not significantly interfere with the privacy of the landowner. In determining the appropriate character of public use, findings shall be made on the specific factors enumerated in Section 9.27.030(a)(5)(B). Lateral access shall be legally described as required in Section 9.27.030(a)(4)(G).

(B) Vertical Public Access (Minimum Requirements)

1. A condition to require vertical public access as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section 9.27.030(a)(3)(A) shall provide the public with the permanent right of access, either (1) located in specific locations identified in the certified Local Coastal Program for future vertical access, or (2) located in a site for which the City of Dana Point has reviewed an application for a development permit and has determined a vertical accessway is required pursuant to the access and recreation policies of the Coastal Act or the applicable provisions of the Local Coastal Program.
2. A condition to require vertical access as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section 9.27.030(a)(3)(A) shall provide the public with the permanent right of vertical access and be limited to the public right of passive recreational use unless another character of use is specified as a condition of the development. In determining whether another character of use is appropriate, findings shall be made on the specific factors identified in Section 9.27.030(a)(5)(B).
3. Each vertical accessway shall extend from the road to the shoreline (or bluff edge) and shall be legally described as required in Section 9.27.030(a)(4)(G). The access easement shall be a minimum of 10 feet wide. If a residential structure is proposed, the accessway should not be sited closer than 10 feet (or another distance if specified in the certified land use plan) to the structure.

(C) Bluff Top Access (Minimum Requirements)

1. A condition to require public access along a bluff top as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section 9.27.030(a)(3)(A) shall provide the public with the permanent right of scenic and visual access from the bluff top to the public tidelands; provided that in some cases controls on the time, place and manner of uses may be justified by site characteristics including sensitive habitat values or fragile topographic features, or by the need to protect the privacy of residential development located immediately adjacent to the accessway.
2. The bluff top access shall be limited to passive recreational use and coastal viewing purposes unless another character of use is specified as a condition of development. In determining the appropriate character of use findings shall be made on the specific factors identified in Section 9.27.030(a)(5)(B).
3. Each bluff top accessway shall be described in the conditions of approval of the coastal development permit as an area beginning at the current bluff edge extending 25 feet inland, or an area which allows for 50 years of bluff erosion, or another standard determined to be necessary for public safety and/or geologic stability, whichever results in the greatest width of the bluff top accessway. However, the accessway shall not extend any closer than 10 feet from an occupied residential structure. Due to the potential for erosion of the bluff edge, the condition shall include a mechanism that will cause the accessway to be adjusted inland as the

edge recedes. Any permanent improvements should be set back from the accessway by a distance derived by multiplying the annual rate of blufftop retreat by the life expectancy in years of the permanent improvements.

4. The accessway shall be legally described as required in Section 9.27.030(a)(4)(G), with the furthest inland extent of the area possible referenced as a distance from a fixed monument in the following manner:

"Such easement shall be [insert appropriate distance as described in Section 9.27.030(a)(4)(C)3. above] feet wide located along the bluff top as measured inland from the daily bluff edge. As the daily bluff top edge may vary and move inland, the location of this right of way will change over time with the then current bluff edge, but in no case shall it extend any closer than [specify distance] feet from [specify a fixed inland point, such as for example the centerline of the nearest public road]."

(D) Trail Access (Minimum Requirements)

A condition to require public access as a condition of approval of a coastal development permit (or other authorization to proceed with development) required pursuant to Section 9.27.030(a)(3)(A) shall provide the public with the permanent right of access and active recreational use, either (1) along a designated alignment of a coastal recreational path or trail in specific locations including those identified in the certified LCP for implementation of trail access, or (2) in locations where it has been determined that a trail access is required to link recreational areas to the shoreline or provide alternative recreation and access opportunities pursuant to the access

and recreation policies of the LCP and Coastal Act, consistent with other provisions of this chapter; provided that in some cases controls on the time, place and manner of uses may be justified by site characteristics including sensitive habitat values or fragile topographic features, or by the need to protect the privacy of residential development located immediately adjacent to the accessway. In determining if another character of use is appropriate, findings shall be made on the specific factors enumerated in Section 9.27.030(a)(5)(B). The trail access shall be legally described as required by Section 9.27.030(a)(4)(G).

(E) Recreational Access (Minimum Requirements)

A condition to require public recreational access as a condition of approval of a coastal development permit required pursuant to Section 9.27.030(a)(3)(A) shall provide the public with the permanent right of access and use within a designated recreational access area. Conditions required pursuant to this section shall specify the location and extent of the public access area. The form and content should take the form of requirements in Sections 9.27.030(a)(4)(A), 9.27.030(a)(4)(B), 9.27.030(a)(4)(C), and 9.27.030(a)(4)(D) as applicable. The accessway shall be legally described as required in Section 9.27.030(a)(4)(G).

(F) Protection of Historic Public Use

1. Substantial Evidence Determination

Substantial evidence that the area used by the public has been impliedly dedicated shall be determined based on evidence of all of the following:

- a. The public must have used the land for a period of five years or more as if it were public land.
- b. Without asking for or receiving permission from the owner.
- c. With the actual or presumed knowledge of the owner.
- d. Without significant objection or bona fide attempts by the owner to prevent or halt the use, and
- e. The use must be substantial, rather than minimal, and
- f. The applicant must not have demonstrated that the law has prevented the property from being impliedly dedicated.

2. Siting and Design Requirements.

Development shall be sited and designed in a manner which does not interfere with or diminish any public right of access which may have been established based on historic public use. Only when site constraints are so severe that siting of the accessway or recreational use area in its historic location would significantly impair the proposed development and alternative development siting is not feasible, development may be sited in the area of public right of access based on historic use provided that the applicant provides an equivalent area of public access or recreation to and along the same destination and including the same type and intensity of public use as previously existed on the

site. Mechanisms for guaranteeing the continued public use of the area or equivalent area shall be required in accordance with Sections 9.27.030(a)(4)(A) through 9.27.030(a)(4)(E) above.

3. Minimum Requirements.

An access condition shall not serve to extinguish or waive public prescriptive rights. In permits where evidence shows the possibility of such prescriptive rights, the following language shall be added to the access condition:

"Nothing in this condition shall be construed to constitute a waiver of any prescriptive rights which may exist on the parcel itself or on the designated easement."

(G) Legal Description of an Accessway (Recordation)

1. An access dedication required pursuant to Section 9.27.030(a)(3)(A) shall be described in the condition of approval of the permit in a manner that provides the public, the property owner, and the accepting agency with the maximum amount of certainty as to the location of the accessway. As part of the condition of approval, easements shall be described as follows:

a. for lateral access: along the entire width of the property from the mean high tide line to (as applicable); the toe of the bluff, the toe of the seawall, or other appropriate boundary such as stringline or dripline.

- b. for blufftop access or trail access: extending inland from the bluff edge or along the alignment of a recreational trail.
 - c. for vertical access: extending from the road to the shoreline (or bluff edge). A privacy buffer provided pursuant to Section 9.27.030(a)(4)(I) shall be described, as applicable.
2. Prior to the issuance of the coastal development permit, the landowner shall execute and record a document in a form and content acceptable to the Director of Community Development, consistent with provisions of Section 9.27.030(a)(6), irrevocably offering to dedicate to a public agency, non-profit organization, or private association approved by the Coastal Commission an easement for a specific type of access as described in Section 9.27.030(a)(2)(D) and a specific character of use as described in Section 9.27.030(a)(2)(E), as applicable to the particular condition.
3. The recorded document shall provide that the offer to dedicate shall not be used or construed to allow anyone, prior to acceptance of the dedication, to interfere with any rights of public access acquired through use which may exist on the property.
4. The recorded document shall include legal descriptions of both the applicant's entire parcel and the easement area and a map to scale. The offer shall be recorded free of prior liens and any other encumbrances which the Coastal Commission or local agency authorized by the Commission determines may affect the interest being conveyed. The offer to dedicate shall run with the land in

favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

(H) Management Plan (Minimum Requirements)

A management plan may be required in conjunction with a dedication of public access in any case where there is substantial evidence of potential conflicts between public access use and other uses on or immediately adjacent to the site. Examples include access in areas of sensitive habitats, agricultural resources, or significant hazards, or adjoining residential neighborhoods or military security areas. The plan shall be prepared by the accepting agency and approved by the City of Dana Point prior to the opening of the access to public use. Where applicable, the plan should specify management controls on time and intensity of use, standards for privacy buffers, and requirements for maintenance of aesthetic values through such measures as litter control.

(I) Privacy Buffers (Minimum Requirements)

Separation between a public accessway and adjacent residential use may be provided when necessary to protect the landowner's privacy or security as well as the public's right to use of the accessway. Any such buffer shall be provided within the development area. Access should not be sited closer to any residential structure than the distance specified in the certified LUP amendment, or where there is no distance specified, no closer than 10 feet. The buffer can be reduced where separation is achieved through landscaping, fences or grade separation.

(J) Implementation

1. A dedicated accessway shall not be required to be opened to public use until a public agency, non-profit organization, or private association approved in accordance with Section 9.27.030(a)(4)(G) agrees to accept responsibility for maintenance and liability of the access, except in cases where immediate public access is implemented through a deed restriction.
2. In any case where the size and character of a development would impose very substantial burdens on public access, such as a large resort development on the shoreline, and where the applicant has the capacity to operate and maintain the accessway or recreation area, a deed restriction may be required instead of an offer to dedicate in order to assure immediate public use of the area and maintenance of the area by the applicant and successors in interest. In any such case, all other applicable provisions of this ordinance shall apply.
3. Access facilities constructed on access easements (e.g., walkways, paved paths, boardwalks, etc.) should be no wider than necessary to accommodate the numbers and types of users that can reasonably be expected. Width of facilities can vary for ramps or paved walkways, depending on site factors such as the need for privacy buffers, public safety needs, and the need to protect natural resource areas from overuse.

(K) Title Information

As a requirement for any public access condition, prior to the issuance of the permit or other authorization for

development, the applicant shall be required to furnish a title report and all necessary subordination agreements. Title insurance may also be required where easements are being granted. The amount of insurance shall reflect the estimated cost to acquire an equivalent accessway or recreational use elsewhere in the vicinity. All offers shall be made free of all encumbrances which the approving authority pursuant to Section 9.27.030(a)(4)(G) determines may affect the interest being conveyed. If any such interest exists which could erase the access easement, it must be subordinated through a written and recorded agreement.

(5) Required Findings And Supporting Analysis For Public Access Dedications

(A) Required Overall Findings

Written findings of fact, analysis and conclusions addressing public access must be included in support of all approvals, denials or conditional approvals of projects between the first public road and the sea (whether development or new development) and of all approvals or conditional approvals of projects (whether development or new development) where an access dedication is included in the project proposal or required as a condition of approval. Such findings shall address the applicable factors identified by Section 9.27.030(a)(5)(B) and 9.27.030(a)(5)(C) and shall reflect the specific level of detail specified, as applicable. Findings supporting all such decisions shall include:

1. A statement of the individual and cumulative burdens imposed on public access and recreation opportunities based on applicable factors identified pursuant to Section 9.27.030(a)(5)(B). The type of affected public access and recreation opportunities shall be clearly described.

2. An analysis based on applicable factors identified in Section 9.27.030(a)(5)(B) and 9.27.030(a)(5)(C) of the necessity for requiring public access conditions to find the project consistent with the public access provisions of the Coastal Act.
3. A description of the legitimate governmental interest furthered by any access condition required.
4. An explanation of how imposition of a public access dedication requirement alleviates the access burdens identified and is reasonably related to those burdens in both nature and extent.

(B) Required Project-Specific Findings

In determining any requirement for public access, including the type of access and character of use, the City of Dana Point shall evaluate and document in written findings the factors identified in Sections 9.27.030(a)(5)(B)1. through 9.27.030(a)(5)(B)4. below, to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the City of Dana Point and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the dedication will alleviate or mitigate the adverse effects which have been identified and is reasonably related to those adverse effects in both nature and extent. As used in this section, "cumulative effect" means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning. The following factors shall be analyzed:

1. Project Effects On Demand For Access And Recreation:

- a. Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development.
- b. Analysis of the project's effects upon existing public access and recreation opportunities.
- c. Analysis of the project's cumulative effects upon the use and capacity of the identified public access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative buildout.
- d. Projection of the anticipated demand and need for increased coastal access and recreation opportunities for the public.
- e. Analysis of the contribution of the project's cumulative effects to any such projected increase.
- f. Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas.
- g. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or

enhancing public access to tidelands or
public recreation opportunities.

2. Shoreline Processes (for accessways on sites subject
to wave action, such as beachfront and coastal
blufftop accessways):

- a. Description of the existing shoreline
conditions, including beach profile,
accessibility and usability of the beach,
history of erosion or accretion, character
and sources of sand, wave and sand
movement, presence of shoreline protective
structures, location of the line of mean high
tide during the season when the beach is at
its narrowest (generally during the late
winter) and the proximity of that line to
existing structures, and any other factors
which substantially characterize or affect the
shoreline processes at the site.
- b. Identification of anticipated changes to
shoreline processes and beach profile
unrelated to the proposed development.
- c. Description and analysis of any reasonably
likely changes, attributable to the primary
and cumulative effects of the project, to
wave and sand movement affecting beaches
in the vicinity of the project; the profile of
the beach; the character, extent, accessibility
and usability of the beach; and any other
factors which characterize or affect beaches
in the vicinity.

d. Analysis of the effect of any identified changes of the project - alone or in combination with other anticipated changes - will have upon the ability of the public to use public tidelands and shoreline recreation areas.

e. The rate of blufftop erosion due to wave action as the base of the bluff.

4. Physical Obstructions:

Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline.

5. Other Adverse Impacts On Access And Recreation:

a. Description of the development's physical proximity and relationship to the shoreline and any public recreation area.

b. Analysis of the extent to which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of tidelands or lands committed to public recreation.

c. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.

(C) Findings for Projects Involving Historic Public Use/Prescriptive Rights:

1. Where an issue as to the existence of public prescriptive rights has been raised during the course of reviewing a coastal development permit application, one of the following findings shall be made:
 - a. Substantial evidence does not warrant the conclusion that public prescriptive rights exist;
 - b. Substantial evidence of public prescriptive rights exist, but development will not interfere with those rights;
 - c. There is an unresolved controversy as to the existence of public prescriptive rights which requires denial of a coastal development permit because of interference with those rights.
 - d. There is an unresolved controversy as to the existence of public prescriptive rights, but the applicant's dedication of a public access protects the rights of the public and allows an agreement to accept the actual dedication in exchange for giving up the contested claim of implied dedication.
2. In determining any requirement for public access based on historic public use/prescriptive rights, including the type of access and character of use, the City of Dana Point shall evaluate and document in written findings the factors identified in Sections 9.27.030(a)(5)(C)2.a. through 9.27.030(a)(5)(C)2.e. below, to the extent applicable. The findings shall

explain the basis for the conclusions and decisions of the City of Dana Point and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the dedication will alleviate or mitigate the adverse effects which have been identified and is reasonably related to those adverse effects in both nature and extent. As used in this section, "cumulative effect" means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning. The following factors shall be analyzed:

- a. Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal).
- b. Evidence of the type and character of use made by the public (vertical, lateral, blufftop, etc. and for passive and/or active recreational use, etc.).
- c. Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and improvements made.
- d. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts.

- e. Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use).

(D) Required Findings For Public Access Exceptions

Any determination that one of the exceptions of Section 9.27.030(a)(3)(B) applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:

1. The type of public access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected or the public safety concern which is the basis for the exception, as applicable.
2. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that fragile coastal resources or public safety, as applicable, are protected.
3. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an accessway on the subject land.

(E) Findings For Management Plan Conditions

Written findings in support of a condition requiring a management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:

1. Identification and protection of specific habitat values including the reasons supporting the conclusion that such values must be protected by limiting the hours, seasons, or character of public use.
 2. Topographic constraints of the development site.
 3. Recreational needs of the public.
 4. Rights of privacy of the landowner which could not be mitigated by setting the project back from the accessway or otherwise conditioning the development.
 5. The requirements of the possible accepting agency, if an offer of dedication is the mechanism for securing public access.
 6. Feasibility of adequate setbacks, fencing, landscaping, and other methods as part of a management plan to regulate public use.
- (6) Section 9.69.080(b) contains standards for the review of recorded documents for access.
- (7) Public Access in Private Development
- The hotel originally known as the Ritz Carlton Laguna Niguel at the time it opened for business, located on the promontory situated above Salt Creek County Beach Park, shall be operated as a hotel facility open to the general public and shall not be converted to a private resort facility. Existing public access through the hotel site, and signage visible to the public acknowledging the public access, shall be preserved and maintained.

(b) Wetland Buffer Resources

To protect and maintain the City's coastal wetland resources, a minimum 100-foot buffer area around all identified wetlands shall be provided as part of all allowable development within or adjacent to wetlands, unless both the California Department of Fish and Game and the U.S. Fish and Wildlife Service provide a written determination that a lesser buffer will provide adequate protection.

(1) To minimize the disturbance to a wetland from adjacent development, the following minimum requirements shall be incorporated into the design of a buffer area:

- (A) Fences and/or natural barriers shall be provided to control the entry of humans and non-wetlands animal species into the wetland. The buffer shall also provide for visual screening in those cases where resident or migratory wetland species are particularly sensitive to human impacts. Development adjacent to wetlands shall be sited and designed to avoid excessive light or noise, where feasible. The use of walls, berms and other barriers shall be considered where excessive artificial light or noise is unavoidable.
- (B) Buffers shall be designed, where necessary, to help minimize the effects of erosion, sedimentation, and pollution arising from urban and industrial activities. Any pollution control devices within the buffer area shall be maintained.
- (C) Buffers shall provide habitat for species residing in the transitional zone between wetlands and uplands. The design of buffers should consider the movement of food and energy between habitats as well as the life cycles of organisms that feed or reproduce in the wetland but generally reside outside the wetland. Any revegetation work in the buffer area shall use native species from local sources.

(2) Uses within Buffer Areas

Necessary pollution control devices and passive recreational uses shall be allowed within buffer areas but only if it can be shown that these uses will not have significant adverse impacts on the wetland ecosystem or the buffer's function as described in the above criteria. These uses shall be limited to bird watching, walking, jogging, and bike riding, and may include the construction of paths and interpretive signs and display. Any paths constructed shall minimize adverse impacts to plants and animals in the buffer area.

(c) Development Adjacent to Coastal Bluffs

Development adjacent to coastal bluffs shall minimize hazards to owners, occupants, property, and the general public; and be environmentally sensitive to the natural coastal bluffs; and protect the bluffs as a scenic visual resource. The minimum setback from the bluff edge of a coastal bluff shall be established by the underlying zoning district. However, in no case shall the minimum setback be less than 25 feet or one which provides for 50 years of erosion, whichever is most restrictive, should the geotechnical report indicate bluff stabilization {insert paragraph break}

However, In addition, should the geotechnical report indicate bluff stabilization is required to ensure proposed development is safe from a threat of erosion and bluff failure for fifty years, additional setbacks and slope stabilization measures will be required. Any approved slope stabilization measures shall be the least environmentally damaging feasible alternative and shall be designed to minimize alteration of the bluffs and be subordinate to the natural character of the bluffs.

Development setbacks from coastal bluff edges may not be the same due to varying geologic conditions and environmental conditions. The following provisions detail the items required for filing, the means by which coastal bluff edges are measured, criteria for review, development standards, and the potential development that may be permitted within the coastal bluff setback area.

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(1) Coastal Bluff Edge Measurement

- (A) The applicant shall provide an aerial photograph and contour map of the site clearly delineating the current coastal bluff edge, existing topography and the outline of the development proposed.
- (B) The applicant shall provide a geotechnical report, prepared within one year of the date of the application submittal, which specifically addresses the coastal bluff edge and delineates the bluff edge on a graphic exhibit on both the grading plan and site plan. The report shall specifically address the methodology used to support the conclusions of the report.

4. Page 9.27-5/Section 9.27.030(c)(2)(B)2. through 4., 6., 8. and 9. - Make the following revisions as indicated:

2. Historic, current, and foreseeable bluff erosion. A minimum of Fifty (50) years of historic erosion and fifty (50) years of future erosion should be analyzed.
3. Geologic conditions including, but not limited to, soils, sediment, bedrock, drainage patterns, etc. and structural features such as fault lines and joints. Soils borings to bedrock and the limits and depth of alluvial removal shall be addressed to the satisfaction of the Director of Public Works.
4. Evidence of past and potential landslides and the implication of such decisions conditions on the structural integrity of the proposed development as well as for the proposed development's potential effect of this development on landslide activity.

6. Ground and surface water conditions or variations caused by the development, such as the alteration in surface/subsurface drainage, irrigation systems, and proposed drains and subdrains.
 8. Any other facts that might affect slope stability, including but not limited to the effects of marine erosion on coastal bluffs, and related mitigation measures for potential impacts.
 9. Any proposed development, either main structures or minor development, shall be addressed in the report. Said structures and development shall be evaluated with respect to impact on the stability of the bluff to ensure that structures and development are reasonably safe from failure and erosion given a minimum 50-year physical life.
5. Page 9.27-7/Section 9.27.030(c)(2)(B)11. - Add a new provisions to read as follows:
11. A bibliography of all information sources, including, but not limited to, dates of site visits.
6. Page 9.27-7/Section 9.27.030(c)(3) - Make the following revisions as indicated:
- (3) Development Standards
 - (A) Drainage

All surface and subsurface run-off shall be directed to a public street or an approved drainage facility to the satisfaction of the Director of Public Works. Transportation of said run-off may require area drains, roof drains, reductions in grading, appropriate pumping mechanisms, and other similar measures. Where feasible, said run-off shall be directed to sewer systems rather than storm drains which lead directly to the ocean.

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(B) Landscaping

(existing text to remain unchanged)

(C) Requirements for Setback Deviation

Should an analysis of the geotechnical report conclude that a greater or lesser setback may be necessary than that required by this Code, the Planning Commission can make a finding that it is in the interest of the public safety to approve an additional or lesser setback as recommended. However, in no case shall a setback of less than 25 feet; ~~and~~ or less than 50 years of bluff erosion, whichever is most restrictive, be permitted.

7. Page 9.27-8/Section 9.27.030(c)(5) - Make the following revisions as indicated:

(5) Permitted Development within the Coastal Bluff Edge Setback

~~Precautions are required when placing structures close to the bluff edge to ensure that the integrity of the bluff is not threatened. Development within the coastal blufftop setback area shall minimize landform alteration, be subordinate to the natural character of the bluff, and is limited to structures that may include retaining and non-retaining walls, fences, and drought-tolerant landscaping which conform to the setback requirements of this Chapter. Swimming pools and sunken spas are prohibited within the setback area. Minor developments and improvements may be permitted within the designated bluff edge setback area, but must be a minimum of five (5) feet from the designated bluff edge, or a minimum of fifteen (15) feet from the bluff edge when an irrevocable offer to dedicate a ten (10) foot wide lateral access easement is required. Additional setbacks shall be required if recommended in a geotechnical report submitted for the minor development.~~

8. Page 9.27-9/Section 9.27.030(c)(6) - Make the following revisions as indicated:

(6) Development at the Base of Coastal Bluffs

Development proposed at the base of coastal bluffs shall be required to submit appropriate geotechnical reports which provide a detailed assessment of the ultimate stability of the bluffs above the subject site. The report(s) shall document the ultimate-profile (section) of the bluff face, delineate the buildable portion of the site and shall include recommendations for adequate protective structures for the project as well as recommendations for alternatives which do not require landform alteration of the bluff face nor bluff stabilization. The report(s) shall address all topics relevant to the geologic condition of the subject site and adjacent bluffs and shall be prepared to the satisfaction of the Director of Public Works. Proposals for shoreline protective devices at the base of coastal bluffs shall be consistent with the requirements of Section 9.27.030(f) below.

9. Page 9.27-10/Section 9.27.030(c)(7) - Add a new section to read as follows:

(7) Development on the face of Coastal Bluffs

New private staircases, the replacement of fifty percent (50%) or more of existing private staircases, or additions to/expansion of existing private staircases, which descend down bluff faces shall be prohibited. Public staircases down bluff faces shall only be permitted if geologic instability would not result, if landform alteration would be minimized, and the staircase would be visually subordinate to the natural character of the bluff face.

10. Page 9.27-10/Section 9.27.030(d) - Add a new Section to read as follows:

(d) Environmentally Sensitive Habitat Areas

- (1) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

- (2) Development adjacent to an environmentally sensitive habitat area (ESHA) shall be required to submit a biological assessment which shall include, at a minimum, a survey of the types and quantities of sensitive species present in the ESHA, the impacts of the development on the ESHA, alternatives to the development, and mitigation measures for unavoidable impacts on the ESHA resulting from the development. Evaluations of the development's impact to the ESHA shall be sought from appropriate state and federal resources agencies.

11. Page 9.27-10/Section 9.27.030(e) - Add a new Section to read as follows:

(e) Grading

Grading activity shall be conducted in a manner that minimizes landform alteration and erosion and ensures geologic stability and structural integrity.

(1) Landform Alteration

(A) Man-made slopes shall be designed so that they can be conveniently maintained so as to minimize erosion, slope failure and unsightly conditions.

(B) Man-made slopes shall be designed to resemble natural terrain where feasible, with a minimum of long, flat, inclined plane surfaces and acute angles.

(C) Man-made slopes shall be no steeper than two (2) feet horizontal to one (1) foot vertical.

(2) Erosion Control

Appropriate mitigation measures shall be employed, including but not limited to prompt revegetation of graded areas with similar types of vegetation which previously existed on-site prior to the commencement of grading activities, and avoiding grading during the rainy season from October 15 through April 15.

Each building pad at or above street level shall drain directly to the street. Where any lot is designed in such a manner that it will not drain with a minimum one percent (1%) grade directly to a street or common drainage facility, it shall be designed in a manner that will conform to the following criteria:

(A) Lots shall be designed in such a manner that man-made slopes are not subject to sheet flow or concentrated runoff from either the same or an adjacent lot. All slopes shall be protected from surface runoff by berms, interceptor ditches, or similar measures.

(B) All water flowing off man-made slopes shall be constrained within an approved drainage device.

12. Page 9.27-10/Section 9.27.030(f) - Add a new Section to read as follows:

(f) Shoreline Protective Devices

Seawalls, revetments, and other such shoreline protective devices or construction that alters natural shoreline processes shall be permitted only if non-structural alternatives are found to be infeasible, and when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures or shoreline protective devices causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible. Any shoreline protective device which may be permitted shall be placed so that no part of a new shoreline protective device is built further onto the beach than a line drawn between the nearest adjacent corners of the nearest adjacent shoreline protective devices.

13. Page 9.27-10/Section 9.27.030(g) - Add a new Section to read as follows:

(g) Water Quality

All drainage facilities shall be designed to carry surface runoff to the nearest practical street or storm drain approved by the City and/or other appropriate governmental agency as the proper place to deposit such waters. Where feasible, structural and non-structural Best Management Practices including, but are not limited to, first flush diversion, detention/retention basins, infiltration

trenches/basins, porous pavement, oil/grease separators, street sweeping, and grass swales, and other measures as may be required by State water quality agencies, shall be implemented. All drainage improvements intended or required to convey storm runoff shall be designed and installed or constructed in accordance with the applicable National Pollutant Discharge Elimination System requirements.

14. Page 9.27-10/Section 9.27.030(h) - Add a new Section to read as follows:

(h) Fire Hazards

Fuel modification within environmentally sensitive habitat areas shall be minimized to the extent feasible. Fuel modification plans shall, where feasible, employ selective thinning by hand rather than mass clear-cutting within environmentally sensitive habitat areas.

Chapter 9.29/Planned Residential District - No changes noted.

Chapter 9.31/Floodplain Overlay District:

1. Page 9.31-6/Section 9.31.040(d)(3)/Prohibited Uses and Structures: Revise this Section to read as follows:
 - (3) Seawalls, ~~and~~ or revetments, and shoreline ocean protective devices or construction that alters natural shoreline processes, unless required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and only when positioned, designed and constructed to eliminate adverse impacts on local shoreline sand supply as provided for in Section 9.27.030(f) of this Zoning Code. Seawalls, ~~and~~ or revetments, and other shoreline protective devices or construction that alters natural shoreline processes shall only be permitted as a last resort protective device for coastal areas. Shoreline protective devices need not be subject to the elevation requirements of the FP-3 district.
2. Page 9.31-10/Section 9.31.050(c)/Administration: Add a new Subsection (3) to read as follows:
 - (3) Notwithstanding other standards of the Local Coastal Program, the Floodplain Overlay District regulations for non-conforming structures set forth in the Capistrano Beach Specific Plan/Local Coastal Program and Dana Point Specific Plan/Local Coastal Program remain in effect.

3. Page 9.31-16/Section 9.31.060(f)(11)/Provisions for Flood Hazard Reduction: Revise this Section to read as follows:

(f) Coastal High Hazard Areas

- (11) The standards for seawalls, revetments, and other shoreline protective devices or construction that alters natural shoreline processes are Seawalls, except as provided, contained in Section 9.31.040(d)(3) and in Section 9.27.030(f)

Chapter 9.33/Specific Plan District - No changes noted

Chapter 9.35/Access, Parking and Loading - No changes noted

Chapter 9.37/Sign Regulations - No changes noted

Chapter 9.39/Temporary Uses and Structures - No changes noted

Chapter 9.41/Hazardous Waste Facilities - No changes noted

Chapter 9.43/Transportation Demand Management - No changes noted

Chapter 9.45/Covenants for Easements - No changes noted

Chapter 9.55/Landscape Standards and Requirements - No changes noted

Chapter 9.61 - Administration Of Zoning

1. Page 9.61-1/Section 9.61.010/Intent and Purpose: Add a new last sentence as follows:
"Where the standards in this Chapter and Chapter 9.69 "Coastal Development Permit" differ, the standards of Chapter 9.69 shall be used for purposes of processing coastal development permits."
2. Page 9.61-4/Section 9.61.040(d) and (f)/Procedures for Applications Requiring Discretionary Action: Revise this Section to read as follows:

(d) Conflicts with Other Provisions

When the time limits established by other provisions of this Code (except for Chapter 9.69 "Coastal Development Permit" are in conflict with the time limits established by this Section, the provision with the shorter duration shall apply.

(f) Procedure for Applications Made Prior to Code Amendment

When an application is filed, and deemed complete, prior to the adoption of an amendment to the Code (or prior to effective certification of the Code amendment by the Coastal Commission for development in the Coastal Zone), processing of the application may continue exempt from the provisions of the pending amendment. Applications filed or deemed complete after a code amendment is adopted (or after effective certification of the Code amendment by the Coastal Commission for development in the Coastal Zone), shall proceed pursuant to the applicable provisions of the amended Code.

3. Page 9.61-11/Section 9.61.050(a) - Notice and Conduct of Public Hearing: Revise this Section to read as follows:

(a) Notice of Hearings for Review of Applications

No less than ten (10) calendar days prior to the date of a public hearing on development applications, the Director of Community Development shall give notice including the time, and the place at which the application will be heard, the identity of the hearing body or officer, nature of the application (including but not limited to the date of filing of the application, the name of the applicant, the file number assigned to the application, and a description of the development), a brief description of the general procedure of the City of Dana Point concerning the conduct of hearing and local actions, and the general location of the property under consideration. If the application is for a coastal development permit which is appealable to the Coastal Commission, the notice shall indicate this fact and shall describe the process for local and Coastal Commission appeals, including any local fees required. (14 Cal. Code of Regulations/13565, 13568). The Director shall observe the following notice requirements:

4. Page 9.61-12/Section 9.61.050(a)(3) - Revise this Section to read as follows:

- (3) The notice shall be mailed via first class mail to the applicant(s); ~~to the applicant;~~ to the property owner(s) or the property owner's agent(s); to all persons listed as owners of property within five hundred (500) feet of the exterior boundary of the subject property on the notification list required in Section 9.61.040, and if the subject property is located in the Coastal Zone, to the office of the Coastal Commission having jurisdiction over the City of Dana Point and to all persons listed as occupants of dwelling units within one hundred (100) feet of the exterior boundary of the subject property on the notification list required in Section 9.61.040.

Notice shall also be provided to anyone filing a written request and paying the cost for notification and to such other persons whose property might, in the Director's judgment, be affected by the proposed application. For coastal development permit applications, the Director shall also provide notice by first class mail free of charge to all persons who have requested to be on the mailing list for that development project or the mailing list for all coastal decisions within the City of Dana Point.

5. Page 9.61-12/Section 9.61.050(a)(5) - Revise this Section to read as follows:
 - (5) When the proposed entitlement affects more than 1,000 (one thousand) property owners, the required notice may be provided by placing a 1/8 page display advertisement in a newspaper circulated within the City of Dana Point. Such notice shall be considered an acceptable substitute for the published notice required in subsection (2) and the mailed notice required in subsection (3). However, in the case of coastal development permit applications, newspaper notice shall not substitute for the mailed notice required in subsection (3) above.
6. Page 9.61-16/Section 9.61.070 Procedure for Withdrawal of an Application: *{add a last sentence, as described below, to the end of the existing text}*

"The Director of Community Development shall provide to the Coastal Commission written notice of the withdrawal of a coastal development permit application."
7. Page 9.61-16/Section 9.61.080(a), Amendments - Revise this Section to read as follows:
 - (a) Scope of Amendments

Amendments may be proposed to change zoning districts, modify district boundaries or to revise the provisions of Title 9 to add, remove, or modify regulations pursuant to the provisions of the Government Code. Amendments may be filed to add, remove, or modify the goals and policies of the General Plan or to change the land use designations therein. Amendments to Title 9 and to the Land Use Element, Urban Design Element, and Conservation/Open Space Element of the General Plan shall not be effective unless and until effectively certified by the Coastal Commission as an amendment to the Local Coastal Program. The Local Coastal Program may also be amended as necessary to reflect changes in the General Plan or Zoning Code or to modify other regulations or procedures. An amendment to the Local Coastal Program shall be processed pursuant to the provisions of Section 9.61.080(e) below.

8. Page 9.61-19/Section 9.61.080(e) - Revise this Section to read as follows:

- (e) Local Coastal Program Amendments: Revise this Section to read as follows:

A Local Coastal Program Amendment (LCPA) is required for ~~may entail~~ modifications to the ~~policies-text, figures, tables, charts, and graphs, or~~ land use designations, or land use and development standards contained in the ~~portions of the General Plan Land Use Element, Land Use Map, Zoning Code or the Zoning Map~~ effectively certified by the Coastal Commission as the LCP. ~~for any property in the Coastal Zone.~~ Amendments to the existing certified Capistrano Beach and Dana Point Specific Plans/Local Coastal Programs shall be processed in accordance with the procedures contained in those LCPs. Otherwise, Local Coastal Program Amendments shall be processed in accordance with the following provisions:

9. Page 9.61-19/Section 9.61.080(e)(1) through (4) - Revise these Sections to read as follows:

- (1) Frequency of Submittals of LCP Amendments to the Coastal Commission

No more than three (3) submittals of "major" LCPAs to the Coastal Commission are permitted per calendar year, although there is no limit to the number of changes which can be included in each amendment submittal. There is also no limit on the number of submittals of "minor" LCPAs which may be submitted to the Coastal Commission. Coastal Act/30514(b))

- (2) Types of Amendments

- (A) "Major Amendments"

A major amendment is any amendment which does not meet the criteria for a "minor" or a "de minimis" amendment as listed below.

- (B) "Minor Amendments"

A "minor" amendment to an LCP includes but is not limited to the following:

The California Coastal Commission regulations provide several examples of "minor" LCPA's:

- (A)1. Amendments to address the certification of zoning ordinances, zoning district maps or other implementing actions for newly-annexed or detached territory, when either of the following occur:
- a. the certified land use plan and zoning designations of the City of Dana Point and the previous or new jurisdiction(s) of the geographic area are equivalent, or;
 - b. the Coastal Commission has certified proposed pre-annexation zoning for the City of Dana Point.
- (B)2. Wording changes in the implementation program which make a use as designated in the zoning ordinances, zoning district maps or other implementing actions which provide more specific guidance without changing the type, location, or intensity of use and which are found by the Executive Director of the Coastal Commission or the Coastal Commission to be consistent with the land use plan as certified by the Coastal Commission.
- (C)3. Changes in the type, kinds, location, intensity or density of uses covering areas specifically certified by the Coastal Commission as acceptable alternative land uses that become effective upon occurrence of specified events (such as the availability of sewer service) as authorized in the Land Use Plan.
- (D)4. For the Land Use Plan only:
- a. The correction, reorganization, revisions, or deletion of certified language which when taken together does not change the kind, location, intensity or density of use or modify the resource protection measures for any area or property.
 - b. Additions or revisions to certified policies which impose further conditions, restrictions or limitations on any use which might adversely affect the resources of the coastal zone, if those amendments do not conflict with any policy of Chapter Three of the Coastal Act or with any other certified land use plan policy.

~~(E)5.~~ Change in the notification and hearing procedures that is consistent with the requirements of the Coastal Act. (Coastal Act/30501, 30514(c); 14 Cal. Code of Regulations/13554, 13555)

~~In general, any other proposed change in the type of use would be reviewed as a major LCPA.~~

(C) "De Minimis Amendments"

1. The Executive Director of the Coastal Commission may determine that a proposed local coastal program amendment is de minimis if the Executive Director determines that a proposed amendment would have no impact, either individually or cumulatively, on coastal resources, is consistent with the policies of Chapter 3 of the Coastal Act (commencing with Section 30200), and meets the following criteria:

a. The City of Dana Point, at least twenty-one (21) days prior to the date of submitting the proposed amendment to the Executive Director, has provided public notice, and provided a copy to the Coastal Commission, which specifies the dates and places where comments will be accepted on the proposed amendment, contains a brief description of the proposed amendment, and states the address where copies of the proposed amendment are available for public review, by one of the following procedures:

i. Publication, not fewer times than required by Section 6061 of the Government Code, in a newspaper of general circulation in the area affected by the proposed amendment. If more than one area will be affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas.

ii. Posting of the notice by the local government both onsite and offsite in the area affected by the proposed amendment.

- iii. Direct mailing to the owners and occupants of contiguous property shown on the latest equalized assessment roll.
 - b. The proposed amendment does not propose any change in land use or water uses or any change in the allowable use of property.
2. At the time that the City of Dana Point submits the proposed amendment to the Executive Director, the City of Dana Point shall also submit to the Executive Director any public comments that were received during the comment period provided pursuant to subparagraph a. of paragraph 1. above.
3. Determination of De Minimis
 - a. The Executive Director shall make a determination as to whether the proposed amendment is de minimis within 10 working days of the date of submittal by the City of Dana Point. If the proposed amendment is determined to be de minimis, the proposed amendment shall be noticed in the agenda of the next regularly scheduled meeting of the Coastal Commission, in accordance with Section 11125 of the Government Code, and any public comments forwarded by the City of Dana Point shall be made available to the members of the Coastal Commission.
 - b. If three members of the Coastal Commission object to the Executive Director's determination that the proposed amendment is de minimis, the proposed amendment shall be set for public hearing in accordance with the procedures for either a major or minor amendment, as determined by the Executive Director, or, at the request of the City of Dana Point, returned to the City. If set for public hearing as a major amendment, the time requirements set by Sections 30512 and 30513 of the Coastal Act shall commence from the date on which the objection to the de minimis designation was made.

- c. If three or more members of the Coastal Commission do not object to the de minimis determination, the de minimis local coastal program amendment shall become part of the City's certified local coastal program 10 days after the date of the Coastal Commission meeting. (Coastal Act/30514(d))

(3) Required Findings for submittal of LCPAs to the Coastal Commission:

- (A) That the public and affected agencies have had ample opportunity to participate in the LCPA process.
- (B) That all policies, objectives, and standards of the LCPA conform to the requirements of the Coastal Act, including that the land use plan as amended is in conformance with and adequate to carry out the Chapter Three policies of the Coastal Act.
- (C) That Coastal Act policies concerning specific coastal resources, hazard areas, coastal access concerns, and land use priorities have been applied to determine the kind locations, and intensity of land and water uses.
- (D) That the level and pattern of development proposed is reflected in the Land Use Plan, Zoning Code, and Zoning Map.
- (E) That a procedure has been established to ensure adequate notice of interested persons and agencies of impending development proposed after certification of the LCPA.
- (F) That zoning measures are in place (prior to or concurrent with the LCPA) which are in conformance with and adequate to carry out the amendment to the coastal policies of the Land Use Plan.

(4) Notice/Public Participation Standards

In addition to Notice standards contained in Section 9.61.050, the following notice provisions shall apply (except for De Minimis LCP amendments in which case the notice provisions provided for in Section 9.61.080(e)(2)(C) above shall apply):

- (A) Notice of hearings on LCP documents shall be given general publication and shall be transmitted not less than ten (10) working days before the hearing. Notice of availability of public review drafts of LCPA materials

and transmittal of said documents shall be made as soon as public drafts are available, but at a minimum at least six (6) weeks prior to any final action on the documents by the City. Public review drafts shall also be made readily available for perusal in local libraries, at the offices of the Community Development Department and/or other appropriate location at City Hall, and at the Coastal Commission district office having jurisdiction over the City of Dana Point.

(B) At a minimum, notices of public hearings, public review sessions, availability of public review drafts, studies, or other relevant documents or actions pertaining to the preparation and approval for of LCPAs must be mailed free of charge by first class mail to:

(A)1. Members of the public requesting such notices, including those on a list for all coastal decisions in the City;

(B)2. Contiguous and affected local governments and special districts;

(C)3. State and Federal agencies specified by in Appendix A of Local Coastal Program Manual of the California Coastal Commission policies or other regional, state and federal agencies that may have an interest in or be affected by the LCPA, including the Coastal Commission itself; and

(D)4. Local libraries and media. (14 Cal. Code of Regulations/13515)

10. Page 9.61-21/Section 9.61.080(e)(6): Revise this Section to read as follows:

(6) City Council Resolution

(A) One public hearing is required. The LCPA shall be submitted to the California Coastal Commission, after public hearing, pursuant to a Resolution adopted by the City Council which shall certify that the local coastal program is intended to be carried out in a manner fully in conformity with Division 26 of the Public Resources Code as amended, the California Coastal Act of 1976. (Coastal Act/30510, 30605; 14 Cal. Code of Regulations/13551(a))

(B) The resolution shall include an exact description of the nature of the amendment, including but not limited to whether the amendment is to the land use plan, Implementation Plan amendment, or both, and the nature of the proposed changes. Resolutions for amendments involving changes

to the land use plan shall certify that the City has found that the land use plan as amended is in conformity with and adequate to carry out the Chapter Three policies of the Coastal Act. Resolutions for amendments involving changes to the Implementation Plan amendment shall certify that the City has found that the Implementation Plan amendment as amended is in conformity with and adequate to carry out the provisions of the certified land use plan. The resolution shall include the numbers of the General Plan, Zone Text, Zone Change, or other amendment(s) being submitted to the Coastal Commission to amend the certified local coastal program. The resolution shall certify that the amendment will be submitted to the Coastal Commission for review and approval.

(C) The City Council resolution may provide that the amendment will take effect automatically upon Coastal Commission approval, or as an amendment that will require formal approval by resolution of the City Council after approval by the Coastal Commission. (Coastal Act/30501, 30512, 30513, 30519, 30605; 14 Cal. Code of Regulations/13551(b))

(D) Under either alternative in subsection 9.61.080(e)(6)(C) above, the requirements of Section 13544 or 13544.5 of the California Code of Regulations as amended must be fulfilled following Coastal Commission approval of the amendment, including that the City Council acknowledges receipt of the Coastal Commission's certification of the amendment including any terms or modifications which may have been suggested for final certification and agrees to such terms or modifications. (Coastal Act/30501, 30605; 14 Cal. Code of Regulations/13551(b))

11. Page 9.61-21/Section 9.61.080(e)(7) - Add a new Section to read as follows:

(7) Contents of an LCPA Submittal to the Coastal Commission

At a minimum, the following shall be included in an LCPA submittal:

(A) A summary of the measures taken to provide the public and affected agencies and districts maximum opportunity to participate in the LCP amendment process; a listing of members of the public, organizations, and agencies appearing at any hearing or contacted for comment on the LCP amendment; and copies or summaries of significant comments received and of the City's response to the comments.

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- (B) All policies, plans, standards, objectives, diagrams, drawings, maps, photographs, and supplementary data, related to the amendment in sufficient detail to allow review for conformity with the requirements of the Coastal Act. Written documents should be readily reproducible. An amendment to the "land use plan" portion of the LCP shall include, where applicable, a readily identifiable public access component.
 - (C) A discussion of the LCPA's relationship to and effect on the other sections of the certified LCP.
 - (D) An analysis that meets the requirements of Section 13511 or alternatively Section 13514 of the California Code of Regulations as amended. As part of the analysis, the Chapter Three policies of the Coastal Act shall be applied to determine the kind, location and intensity of land and water uses that would be in conformity with the Chapter Three policies.
 - (E) Any environmental review documents, pursuant to the California Environmental Quality Act, required for all or any portion of the LCPA.
 - (F) An indication of the zoning measures that will be used to carry out the amendment to the land use plan (unless submitted at the same time as the amendment to the land use plan). (Coastal Act/30501; 14 Cal. Code of Regulations/13552)
12. Page 9.61-25/Section 9.61.090(d)(2), Administrative Modification of Standards - Add a new subsection (D) to read as follows:
- (D) For development within the coastal zone, that the administrative modification would not result in significant adverse impacts either individually or cumulatively to coastal access/recreation opportunities or coastal resources, and the development would be consistent with the policies of the Local Coastal Program certified land use plan.
13. Page 9.61-28/Section 9.61.110(d), Appeal Procedures - {Replace the existing text of Section 9.61.100(d) with the following}
- (d) Appeals of Coastal Development Permit
- After the exhaustion of the appeal procedures described in Section 9.61.100(a) through (c) above, except as provided for in Section 9.69.090(a)(1) of this Zoning Code, the City's final action on a coastal development permit for development that is appealable, as described in Section 9.69.090, may be

appealed to the Coastal Commission in accordance with the procedures specified in Section 9.69.090.

Chapter 9.67/Variances:

1. Page 9.67-3/Section 9.67.050(a), Basis for Approval, Conditional Approval, or Denial of a Variance - Add a new subsection (9) to read as follows:

(9) That granting of the Variance would not result in adverse impacts, either individually or cumulatively, to coastal access, public recreation opportunities, or coastal resources, and the development would be consistent with the policies of the Local Coastal Program certified land use plan.

Chapter 9.69/Coastal Development Permit:

1. Page 9.69-1/Section 9.69.010, Intent and Purpose - Revise this Section to read as follows:

The intent and purpose of this Chapter is to establish a procedures for the processing of Coastal Development Permits within the City's Coastal Zone, consistent with the City's certified Local Coastal Program and pursuant to Division 20 of the Public Resources Code and Division 5.5 of Title 14 of the California Administrative Code of Regulations (commencing with Section 13001).

The procedures established by this Chapter shall govern the issuance of coastal development permits by the City of Dana Point pursuant to Section 30600 of the Coastal Act.

The procedures described in this Chapter shall take precedence over other Chapters of the Zoning Code in the coastal zone, except in those areas regulated by the Dana Point Specific Plan/Local Coastal Program and Capistrano Beach Specific Plan/Local Coastal Program. The procedures in this Chapter shall be applied in a manner which is most protective of coastal resources and public access.

2. Page 9.69-1/Section 9.69.020, Coastal Development Permit Required - Revise this Section to read as follows:

A Coastal Development Permit shall be required for all proposed development, as defined in Section 9.75.040, located within the Coastal Overlay District, except for development specifically exempted pursuant to Section 9.69.040. Coastal Development Permits may be required for development which does not require any other approvals, discretionary or otherwise, from the City. A Coastal Development Permit shall also be required for

any proposed development in the area of "Coastal Commission Permit Jurisdiction" as delineated on the Dana Point Local Coastal Program Post Certification Permit and Appeal Jurisdiction Map, filed with the City, or as subsequently amended, in which case the coastal development permit shall be obtained directly from the California Coastal Commission.

3. Page 9.69-2/Section 9.69.030, Authority To Grant Permit - Revise this Section to read as follows:

All development undertaken after November 8, 1972, within the coastal zone as defined in the Coastal Initiative of 1972, or after January 1, 1977, within the coastal zone as defined by the Coastal Act of 1976, shall have a valid coastal development permit issued by the California Coastal Commission or by the City pursuant to provisions of the certified Local Coastal Program. (Coastal Act/30600(a))

- (a) The Director of Community Development shall have the authority to approve, conditionally approve, or deny coastal development permits without a public hearing for the following types of administrative coastal development permit applications not located in uncertified areas or in the "Coastal Commission Permit Jurisdiction" area (pursuant to Section 30519 of the Coastal Act and Section 9.69.030(c) of this Zoning Code):

4. Page 9.69-2/Section 9.69.030(a)(2), (3) and (4) - Revise these Sections to read as follows:

- (2) Applications or a modification to an application for improvements to existing structures ~~non-residential structures of less than 10,000 square feet of building area~~ which are not located within the appeals areas of the Coastal Overlay District.

- (3) Applications for any development, not located within the appeals area of the Coastal Overlay District, which is not a division of land and is specifically authorized as a principal permitted use in the certified local coastal program and does not require a conditional use permit, site development permit, variance, or any other discretionary permit ~~temporary uses and structures described in Section 9.39 of this Code.~~

- (4) Applications for any other development not in excess of one hundred thousand dollars (\$100,000) improvements to create new, or enhance existing, parking facilities and landscaping on existing legal lots in urbanized areas. ~~Such improvements shall include, but not be limited to, expansion, repaving, resurfacing and/or providing new or improved landscaping or irrigation.~~

5. Page 9.69-2/Section 9.69.030(a), Authority to Grant Permit - Add a new subsection to read as follows:

(5) Notwithstanding the specific uses listed in Sections 9.69.030(a)(1) through 9.69.030(a)(4) above, administrative coastal development permits shall not be processed for any of the following types of development, which shall instead be processed through the regular coastal development permit process as specified in this Chapter:

- (A) Any division of land, including but not limited to subdivision pursuant to the Subdivision Map Act, lots splits and lot-line adjustments.
- (B) Any development involving a structure or similar integrated physical construction which lies partly inside and partly outside the Coastal Commission's appeal area.
- (C) Any development involving a structure or similar integrated physical construction which lies partly inside and partly outside the Coastal Commission's area of retained permit jurisdiction.

The Director of Community Development shall process applications for administrative coastal development permits in accordance with the procedures set forth in Section 9.69.110 of this Zoning Code. If the Director of Community Development receives an application for an administrative coastal development permit, and if the Director of Community Development finds that the application does not qualify as such within the criteria established in Sections 9.69.030(a)(1) through 9.69.030(a)(4) above, she or he shall notify the applicant that the permit application cannot be processed administratively and must comply with the procedures for regular coastal development permits provided in this Chapter. The Director of Community Development, with the concurrence of the applicant, may accept the application for filing as a regular coastal development permit and shall adjust the application fees accordingly.

6. Page 9.69-2/Section 9.69.030(b) - Revise this Section to read as follows:

- (b) The Planning Commission shall have the authority to approve, conditionally approve, or deny Coastal Development Permits for the following types of coastal development permit applications not located in uncertified areas or in the "Coastal Commission Permit Jurisdiction" area.

7. Page 9.69-3/Section 9.69.030(b)(3) - Revise this Section to read as follows:

- (3) Applications or a modification to an application for non-residential structures exceeding 10,000 square feet located within the Coastal Overlay District which do not fall into one of the classes of development specified in Sections 9.69.030(a)(1) through 9.69.030(a)(4) above.

8. Page 9.69-3/Section 9.69.030(c) - Revise this Section to read as follows:

- (c) The Coastal Commission ~~shall have~~ retains the authority to approve, conditionally approve, or deny Coastal Development Permits for development proposed in uncertified areas of the City of Dana Point, and in the "Coastal Commission Permit Jurisdiction" area delineated on the Dana Point Local Coastal Program Post Certification Permit and Appeal Jurisdiction Map prepared by the Coastal Commission and a copy of which is filed with the City, or as subsequently amended. The areas of Coastal Commission Permit Jurisdiction includes all tidelands, submerged lands, and public trust lands, whether filled or unfilled within the coastal zone. (Coastal Act/30519(b))

However, coastal development permit authority has been delegated to the City for certain public trust lands that have been determined by the Coastal Commission to be filled and developed and which are located within an area which is committed to urban uses. Coastal development permits issued by the City in these areas are appealable to the Coastal Commission. (Coastal Act/30613(a))

- (1) Where a proposed development lies partially within the area of "Coastal Commission Permit Jurisdiction" and partially within the Coastal Overlay District, and the development is physically integrated, the Coastal Commission shall be the responsible agency for the issuance of any Coastal Development Permit for the entire development. That portion of the development that lies within the Coastal Overlay District shall be deemed to be within an area of deferred certification and the Commission shall approve a coastal development permit if the entire development is consistent with the policies of Chapter 3 of the Coastal Act. In addition, the Coastal Commission has the authority to approve, conditionally approve, or deny coastal development permits for developments approved by the City but which have been appealed to the Coastal Commission consistent with the requirements of this Zoning Code. Where an appealed development is a physically integrated development that lies both within and without the appeals area shown on the Post Certification Permit and Appeal Jurisdiction Map, the Coastal Commission shall have

the authority to act on the entire development on appeal. (Coastal Act/30519, 30603)

- (2) The following shall apply to all proposed development in the uncertified Laguna Niguel/Monarch Beach segment of the City of Dana Point for which approval of a coastal development permit application is pending at the time of certification of this Local Coastal Program:

(A) Applications Pending before the California Coastal Commission

1. Any coastal development permit application for development in an uncertified area that was submitted to the Coastal Commission prior to effective certification of a Local Coastal Program and is not filed complete as of the date of effective certification shall be withdrawn and resubmitted to the City. The standard of review for such application shall be the requirements of the certified Local Coastal Program and, for development between the sea and the first public road paralleling the sea, the Chapter 3 public access and recreation policies of the Coastal Act. Any application fee paid to the Coastal Commission shall be refunded to the applicant.
2. Any coastal development permit application for proposed development within the currently uncertified areas of the City which the City preliminarily approved before effective certification of the Local Coastal Program and for which an application has been filed complete with the Coastal Commission may, at the option of the applicant, remain with the Coastal Commission for completion of review and action. Coastal Commission review of any such application shall be based solely upon the requirements of this certified Local Coastal Program and, for development between the sea and the first public road paralleling the sea, the Chapter 3 public access and recreation policies of the Coastal Act. Alternatively, the applicant may resubmit the proposal to the City through an application for a coastal development permit pursuant to the requirements of this certified Local Coastal Program. The standard of review for such application shall be the requirements of this certified Local Coastal Program and, for development between the sea and the

first public road paralleling the sea, the Chapter 3 public access and recreation policies of the Coastal Act. Under this option, any application fee paid to the Coastal Commission shall be refunded to the applicant. (Coastal Act/30501, (14 Cal. Code of Regulations/13546)

(B) Applications Pending before the City of Dana Point

The standard of review for any coastal development permit application pending before the City of Dana Point for proposed development located within the certified areas of the City shall be the requirements of the certified Local Coastal Program. The requirements contained in an amendment to the certified Local Coastal Program shall not be effective in the certified area until the amendment has been effectively certified by the Coastal Commission.

(3) Prior Coastal Commission Approval

(A) In the case of a coastal development permit which was approved by the Coastal Commission, whether or not it has been vested prior to the date of effective certification of the Local Coastal Program, a separate coastal development permit from the City for the same development shall not be required except that:

1. No material change may be made in any such development previously approved by the Coastal Commission without Coastal Commission approval of an amendment to the Coastal Commission's coastal development permit; and,
2. If the coastal development permit approved by the Coastal Commission expires, a new coastal development permit for the same development shall be obtained from the City.

(B) Development authorized by a coastal development permit issued by the Coastal Commission either prior to effective certification of a Local Coastal Program or on appeal after certification remains under the jurisdiction of the Coastal Commission for the purposes of condition compliance, amendment, extension, reconsideration and revocation.

(C) Ritz Cove

- The Coastal Commission approved Coastal Development Permit 5-85-94 for the subdivision of 101 residential lots, and the construction of a home on each of those lots, provided the homes are constructed in accordance with the adopted codes, covenants, and restrictions. Therefore, separate coastal development permits are not required for the construction of each of the individual 101 homes, since the construction of the homes is already approved under Coastal Development Permit 5-85-94.

(D) Coastal Development Permit P-79-5539

Development authorized by Coastal Development Permit P-79-5539, including both development approved on condition that an additional coastal development permit be obtained, and development approved on condition of the submission of additional plans for the review and approval of the Executive Director of the Coastal Commission, remains under the jurisdiction of the Coastal Commission for purposes of condition compliance and amendment. Condition compliance includes both obtaining a coastal development permit from the Coastal Commission for development that was approved on condition that a separate coastal development permit be approved, and obtaining approval from the Executive Director of the Coastal Commission for plans for development that was approved on condition of the submission of final plans. Coastal development permits, or approval of plans by the Executive Director of the Coastal Commission, for development authorized by Coastal Development Permit P-79-5539 shall be obtained from the California Coastal Commission.

9. Page 9.69-3/Section 9.69.040, Exemptions - Revise this Section to read as follows:

The types of development listed below ~~Development projects listed in this section~~ are exempt from the requirement to ~~have an approved obtain a~~ Coastal Development Permit, ~~from the City of Dana Point.~~ A current record of all projects which are ~~categorically~~ exempt from Coastal Development Permits shall be available for review by the public and ~~shall be sent to~~ the Coastal Commission and shall include the following information: name of applicant, location of the project, and brief description of the project.

- (a) Development projects included in any categorical exclusion list adopted pursuant to ~~the certified Local Coastal Program and to~~ Sections 30610(e) and 30610.5 of the Public Resources Code and Subchapter 5 of Title 14 of the California Code of Regulations (Sections 13240 et. seq.) after certification of the Local Coastal Program.
- (b) Improvements to an existing structure which do not changed the use of the structure are exempt, except the following types of improvements listed below, which are not exempt:

For purposes of this subsection, structures on the property normally associated with a single-family residence, such as garages, swimming pools, fences, and storage sheds, but not including guest houses or self-contained residential units, shall be considered part of an existing single-family residence. Further, for purposes of this subsection, landscaping on the lot, and all structures directly attached to the structure being subjected to improvements, shall be considered part of the subject structure, whether the existing structure is residential or not.

- (1) Improvements to any structure located on a beach, wetland, or seaward of the mean high tide line or where the dwelling structure or proposed improvement would encroach within fifty (50) feet of the edge of a coastal bluff as described in Chapters 9.27 and 9.75.
- (2) Improvements ~~on~~ any structure located between the sea and the first public road paralleling the sea or within three hundred (300) feet of the inland extent of a beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, or within significant scenic resources areas as designated by the certified Local Coastal Program or the Coastal Commission when such improvements would constitute or result in any of the following:
- (A) An increase of ten percent (10%) or more of the internal floor area of the structure ~~the existing structures on the building site~~;
- (B) An increase in the floor area in any amount when improvements to the structure have ~~has~~ previously been improved ~~exempted~~ in compliance with ~~these exemptions~~ this subsection;
- (C) The construction of an additional story or a loft or any increase in height of more than ten (10) percent of the existing height of the structure (for single-family residential improvements, increases in the height of significant non-attached structures such

as garages, fences, shoreline protective devices or docks are subject to this provision also); or

(D) The construction, placement, or establishment of any detached structure; or-

(E) The demolition of more than 50 percent of the exterior walls of an existing structure.

(3) Any significant alteration of land forms, ~~or including removal or placement of vegetation in the following areas:~~ on a beach, wetland, or sand dune; ~~in an area of natural vegetation designated by the City of Dana Point by resolution as significant natural habitat;~~ within one hundred (100) feet or, for a single family dwelling, within fifty (50) feet of the edge of a coastal bluff, as described in Chapter 9.27; ~~or in an area of natural vegetation designated by the Coastal Commission as significant natural habitat or, for structures other than single-family residences, within one hundred (100) feet of streams.~~

10. Page 9.69-4/Section 9.69.040(b)(5) through (9) - Revise these Sections to read as follows:

(5) Improvements in an area which the Coastal Commission has determined to have critically short water supply that must be maintained for the protection of coastal resources or public recreational use, when such improvement would be a major water ~~use~~ using development (not essential to residential use ~~if for a single-family or multiple-family residence~~) including, but not limited to, swimming pools ~~and or the construction or extension of landscape irrigation systems.~~

(6) Any improvement when the Coastal Development Permit issued for the original structure indicated that future additions/improvements would require a Coastal Development Permit.

(7) Improvements to any structure or change in occupancy which would result in ~~an~~ a change increase in the intensity of the uses on the building site.

(8) Improvements pursuant to a conversion of existing structures (other than single-family residences and their associated structures) from a multiple unit rental use or visitor serving commercial use to a condominium, stock cooperative, or time share project.

- (9) Improvements made to a public works facility. (Coastal Act/30333, 30610(a) and 30610(b); 14 Cal. Code of Regulations/13250 and 13253)

The improvements listed above which are not exempt require a the coastal development permit in accordance with the requirements of this Chapter.

11. Page 9.69-5/Section 9.69.040(c) - Revise this Section to read as follows:

- (c) Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the Coastal Zone, pursuant to a permit from the United States Army Corps of Engineers, or to a disposal facility, area or site within the Coastal Zone for which an approved coastal development permit has been issued or for which a federal consistency determination has been approved by the Coastal Commission. However, Section 9.69.040(d)(2) of this Zoning Code below specifies certain types of dredging which are not exempt. (Coastal Act/30333; 30610(c))

12. Page 9.69-5/Section 9.69.040(d) - Revise this Section to read as follows:

- (d) Repair of maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of such repair or maintenance activities, except the following types of development which are not exempt:
- (1) Repair or maintenance of a ~~sea-wall~~ seawall, revetment, bluff retaining wall, breakwater, groin, culvert, outfall or similar shoreline work which involves one or more of the following:

13. Page 9.69-6/Section 9.69.040(d)(4) - Revise this Section to read as follows:

- (4) The presence, ~~whether temporary or permanent,~~ of permanent-mechanized construction equipment or construction materials on any sand area or bluff or within twenty (20) feet of coastal waters or streams.

14. Page 9.69-6/Section 9.69.040(d)(5)(B) and (C) - Revise these Section to read as follows:

- (5) Any method of routine maintenance dredging that involves:

- (B) The placement of dredged spoils of any quantity on any sand area, within fifty (50) feet of the edge of a coastal bluff as described in Chapter 9.27, ~~or within an~~ environmentally sensitive habitat area, or within twenty (20) feet of coastal waters or streams;

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(C) {no modifications} (Coastal Act/30610(d): 14 Cal. Code of Regulations/13252(a)(2))

15. Page 9.69-6/Section 9.69.040(d)(6) - Revise this Section to read as follows:

- (6) Any repair or maintenance to facilities or structures or work located in any sand area, within fifty (50) feet of the edge of a coastal bluff as described in Chapter 9.27, within fifty (50) feet of or in an environmentally sensitive habitat area; or within twenty (20) feet of any coastal waters or streams that include:

16. Page 9.69-6/Section 9.69.040(d)(6)(b) - Revise this Section to read as follows:

- (B) The presence, whether temporary or permanent, of permanent mechanized construction equipment or construction materials on any sandy area.

17. Page 9.69-7/Section 9.69.040(d) - Add a new subsection to read as follows:

- (7) Unless destroyed by natural disaster, the replacement of fifty (50) percent or more of a seawall, revetment, bluff retaining wall, breakwater, groin or similar protective work under one ownership is not repair and maintenance according to this subsection but instead constitutes a replacement structure requiring a coastal development permit. (Coastal Act/30610(d): 14 Cal. Code of Regulations/13252)

18. Page 9.69-7/Section 9.69.040(e) - Revise this Section to read as follows:

- (e) The installation, testing, and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to this Chapter. (Coastal Act/30610(f))

19. Page 9.69-7/Section 9.69.040(f): Add "As used in this subsection:

- (1) "Disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.
- (2) "Bulk" means total interior cubic volume as measured from the exterior surface of the structure.
- (3) "Structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster. (Coastal Act/30610(g))"

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20. Page 9.69-7/Section 9.69.040: {delete the existing text for subsections (g) and (h) and replace with the language from existing subsections (i) and (j), respectively, as modified below}

~~(g)~~ (i) Notwithstanding the above provisions, the Director of Community Development shall have the discretion to exempt the ongoing routine repair and maintenance activities of local governments, state agencies, and public utilities (such as railroads) involving shoreline works protecting transportation roadways, as well as the activities described in the "Repair, Maintenance, and Utility Hook-Up Exclusion from Permit Requirements" adopted by the Coastal Commission on September 5, 1978. (Coastal Act/30610(d): 14 Cal. Code of Regulations/13252(c))

~~(h)~~ (j) Minor improvements to an existing structure including:

~~(1)~~ (1) Patios, patio covers, decks, windcreens, spas, seating, barbecues or exterior stairways located within the applicable setbacks. Caisson supported decks shall require a Site Development Permit application for properties in Flood Plain Zones as part of the building permit plan check.

~~(2)~~ (h) Interior modifications to an existing structure that do not result in the enlargement or expansion of the cubic area of the structure, except that a change in the intensity or density of use of the structure, or the reconstruction of fifty (50) percent or more of the exterior walls of the existing structure, is not exempt. Such modifications shall comply with the applicable sections of Chapter 8.06 of the Zoning Code and of this Chapter 9.69.

~~(3)~~ (3) Garages and carports.

~~(k)~~ (k) The presence of temporary mechanized construction equipment or construction materials on any sand area or bluff or within twenty (20) feet of coastal waters or streams.

21. Page 9.69-8/Section 9.69.040(i) - Add a new subsection to read as follows:

(i) Notwithstanding the provisions of Chapter 9.39 "Temporary Uses," temporary events consistent with guidelines adopted by the Coastal Commission may be exempt from coastal development permit requirements.

22. Page 9.69-8/Section 9.69.050, Application for Coastal Development Permit - Revise this Section to read as follows:

For all development proposed to be located within the Coastal Zone or Coastal Overlay District, an application Application for a Coastal Development Permit shall be made to the Director of Community Development in accordance with the following procedures, except in those areas designated as "Coastal Commission Permit Jurisdiction" in which case an application shall be made to the California Coastal Commission or its successor agency.

- (a) The application shall be made by the property owner of record, or the owner's authorized agent, or any person with a legal right, interest or other entitlement to use the property for the proposed development or said person's authorized agent. A signed affidavit from the property owner of record may serve as proof of the legal right to use property for a proposed development. Prior to the issuance of a building permit, the applicant shall demonstrate the legal ability to comply with all conditions of approval of the coastal development permit. (Coastal Act/30601.5)
- (b) Application for a Coastal Development Permit shall be made on forms provided by the Community Development Department, and shall include, at a minimum, the following information:

23. Page 9.69-9/Section 9.69.050(b)(4) - Revise this Section to read as follows, and add new subsections (5) - (10) to read as follows:

- (4) Where the application includes proposed demolition, the application shall also include the submittal of the following:
- (A) A description of the existing structure(s), including but not limited to building height, enclosed and non-enclosed floor area, number of stories, and number of parking spaces.
- (B) Building plans of the existing structure(s), if available.
- (5) A dated signature by or on behalf of each of the applicants, attesting to the truth, completeness and accuracy of the contents of the application and, if the signer of the application is not the applicant, written evidence that the signer is authorized to act as the applicant's representative and to bind the applicant in all matters concerning the application.

- (6) A declaration signed by the applicant certifying that the applicant has posted a notice of the coastal development permit application in accordance with Section 9.69.090(a), and that the applicant will make a good faith effort to maintain, and replace if necessary, the posting until the application has been acted on by the City.
- (7) The following additional, current information (which may be in both written and graphic form), specific to the subject site, shall be required if applicable. In addition, plans to mitigate adverse impacts, plans to monitor the mitigation, and an alternatives analysis shall be required where applicable.
- (A) For sites adjacent to, containing, or potentially containing wetland resources and/or environmentally sensitive habitat areas, a wetlands determination, biological assessment shall be required. Evaluations of the proposed development's impact on the wetland resources shall be sought from appropriate state and federal resources agencies, including but not limited to the California Department of Fish and Game, the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service.
- (B) For sites adjacent to, containing or potentially containing cultural resources, an archaeological and/or paleontological survey prepared by a licensed archaeologist/paleontologist shall be required.
- (C) For sites adjacent to, containing or potentially containing areas of geologic instability, a geotechnical report prepared by a licensed geologic engineer shall be required.
- (D) For proposed shoreline protective devices, a study on the effects to shoreline sand supply resulting from the device, impacts to public access/recreation and sensitive habitat, effects on adjacent properties, and justification of the necessity for the proposed device, monitoring plans, and the factors described in Section 9.27.030(a)(5)(B)2. of this Zoning Code, prepared by a licensed coastal engineer shall be required.
- (E) For proposed development which would provide less parking than required in Chapter 9.35 of this Zoning Code, either a joint use parking plan prepared pursuant to Section 9.35.060(c)(3) or a shared parking program prepared pursuant to Section 9.35.060(c)(4) of this Zoning Code.
- (F) For proposed development which would result in significant adverse impacts to public views, a visual impact study prepared pursuant to the requirements of the Urban Design Element of the General Plan.

- (G) For proposed development which would result in water quality impacts, a plan shall be submitted to meet state and federal requirements regarding water quality. Such a plan should include, at a minimum, the following: structural and non-structural "best management practices", stormwater pollution prevention plans, drainage plans, and direction of runoff to the sewer system where possible rather than into storm drains which ultimately empty into rivers or the ocean.
- (H) A plan to mitigate any unavoidable significant adverse impacts to any of the above coastal resources which reasonably would be known to result from the proposed development shall be submitted.
- (8) A written description of the proposed development including any feasible alternatives or any feasible mitigation measures available which would substantially lessen any significant adverse impact which the development may have on the environment. Any approved documents prepared pursuant to the California Environmental Quality Act (commencing with Section 21000 of the Public Resources Code as amended) shall be submitted. Additional environmental impact analysis may be required to make the necessary findings required by the certified Local Coastal Program. For purposes of this subsection, the term "significant adverse impact on the environment" shall be defined as contained in the California Environmental Quality Act and the Guidelines adopted pursuant thereto.
- (4)(9) Any additional information determined by the Director of Community Development to be necessary for evaluation of the proposed development.
- (10) The application form shall also provide notice to applicants that failure to provide truthful and accurate information necessary to review the permit application or to provide public notice as required by these regulations may result in a delay in processing the application or may constitute grounds for revocation of the coastal development permit. (Coastal Act/30333; 14 Cal. Code of Regulations/13053.5, 13054(b))

24. Page 9.69-10/Section 9.69.050 - Add a new subsection to read as follows:

(d) Determination of Class of Development/Appeal Jurisdiction

- (1) At the time an application for a proposed development in the coastal zone is submitted, the Director of Community Development (or his/her designee) shall determine and inform the applicant that the proposed development is one of the following:

- (A) Within the area of "Coastal Commission Permit Jurisdiction" and thus the applicant must obtain a coastal development permit directly from the Coastal Commission;
 - (B) Appealable to the Coastal Commission pursuant to Section 9.61.100(d)(2) and requires a coastal development permit from the City;
 - (C) Not appealable to the Coastal Commission pursuant to Section 9.61.100(d)(2) and requires a coastal development permit from the City;
 - (D) Exempt or categorically excluded and does not require a coastal development permit pursuant to Section 9.69.040 of this Zoning Code.
- (2) The determination that a proposed development is exempt, categorically excluded, non-appealable or appealable shall be based on the certified Local Coastal Program, including any maps, categorical exclusions, land use designations, and zoning ordinances which are adopted as part of the certified Local Coastal Program.
- (3) Where an applicant, interested person, or the City of Dana Point has a question as to the appropriate designation for the development, the following procedures shall establish whether a development is exempt, categorically excluded, non-appealable, or appealable:
- (A) The Director of Community Development shall make the determination as to what type of development is being proposed (i.e. exempt, categorically excluded, non-appealable, or appealable) and shall inform the applicant of the notice and hearing requirements for that particular development.
 - (B) If the determination of the Director of Community Development is challenged by the applicant or an interested person, or if the City of Dana Point wishes to have a Coastal Commission determination as to the appropriate designation, the City shall notify the Coastal Commission by telephone of the dispute/question and shall request an Executive Director's opinion;
 - (C) The Executive Director shall, within two (2) working days of receipt of the City's request (or upon completion of a site inspection where such inspection is warranted), transmit his or

her determination as to whether the development is categorically excluded, non-appealable or appealable:

- (D) If the Executive Director's determination is not in accordance with the determination of the Director of Community Development, the Coastal Commission shall hold a hearing for purposes of determining the appropriate designation for the development. The Coastal Commission shall schedule the hearing on the determination for the next Coastal Commission meeting in Southern California following the Executive Director's determination. (Coastal Act/30333, 30620; 14 Cal. Code of Regulations/13569)

25. Pages 9.69-10 and 11/Sections 9.69.060 and 9.69.070: *{Switch the order of, renumber, and revise Sections 9.69.060 and 9.69.070 to read as follows}*

9.69.070 9.69.060 Notice and Public Hearing

For all project applications coastal development permit applications requiring a public hearing, the Planning Commission, City Council on appeal, other approving body as may be specified pursuant to Section 9.69.030, or Director of Community Development shall conduct a noticed public hearing in accordance with the provisions of Section 9.61.050. If any of the notice and public hearing requirements of Section 9.69.060 conflict with the requirements of Section 9.61.050, the requirements of Section 9.69.060 shall take precedence for purposes of coastal development permit applications.

(a) Posting of Site

At the time the application is submitted for filing, the applicant must post, at a conspicuous place, easily read by the public and as close as possible to the site of the proposed development, notice that an application for a permit for the proposed development has been submitted to the City of Dana Point. Such notice shall contain a general description of the nature of the proposed development. The City shall furnish the applicant with a standardized form to be used for such posting. If the applicant fails to submit a signed declaration of posting as required by Section 9.69.050(6), the City shall refuse to file the application.

(b) Conduct of Public Hearing

Public hearings on coastal development permits shall be conducted in accordance with the provisions of Section 9.61.050; provided that interested persons are given a reasonable opportunity to appear before and present their viewpoints to the approving

authority holding the public hearing, either orally or in writing. (Coastal Act/30333, 30620; 14 Cal. Code of Regulations/13566)

(c) Notice of City Action when Hearing Continued

If a decision on a development permit is continued by the local government to a time which is neither previously stated in the notice provided pursuant to Section 9.61.050 of this Zoning Code, nor announced at the public hearing as being continued to a time certain, the City of Dana Point shall provide notice of the further hearings (or action on the proposed development) in the same manner, and within the same time limits, as established within Section 9.61.050 of this Zoning Code. (Coastal Act/30333, 30620; 14 Cal. Code of Regulations/13567)

(d) A public hearing is not required for the coastal development permits issued by the Director of Community Development pursuant to Section 9.69.030(a).

(e) Waiver of Public Hearing Requirements

(1) The requirement for a public hearing on a coastal development permit application for "minor development" as defined in Section 9.69.060(e)(2) below, may be waived only if both of the following occur:

(A) A Notice of intent to waive the public hearing requirement containing the information identified below in Section 9.69.060(e)(3) is provided to all persons who would otherwise be required to be notified of a public hearing pursuant to Section 9.61.50 and 9.69.060 of this Zoning Code as well as any other persons known to be interested in receiving such notice. For purposes of this section only, "any person" means anyone, whether a neighbor ; not.

(B) No written request for a public hearing on the coastal development permit application in question is received by the Director of Community Development within fifteen (15) working days from the date of sending the notice pursuant to Section 9.69.060(e)(1)(A) above.

(2) For purposes of this section only, "minor development" means a development which both meets the definition of "development" as defined in Section 9.75.040 of this Zoning Code and which the Director of Community Development determines satisfies all of the following requirements:

(A) Is consistent with the certified local coastal program as defined in Chapter 9.75 of this Zoning Code, including but not limited to the land

use designation for the site and all applicable land use plan resource protection policies and related implementing Zoning Code provisions and standards:

- (B) Requires no discretionary approvals other than a coastal development permit; and
- (C) Has no adverse effect either individually or cumulatively (as "cumulatively" is defined in Section 9.75.030 of this Zoning Code) on coastal resources or public access to the shoreline or along the coast.

(3) Content of Notice for Waiver of Public Hearing Requirements

The notice of intent to waive public hearing requirements for a coastal development permit pursuant to this section shall include, at a minimum, the following:

- (A) The date of the notice.
- (B) An indication that the coastal development permit either is or is not appealable to the Coastal Commission pursuant to Section 9.69.090 of this Zoning Code.
- (C) The last date, which shall be no less than fifteen (15) working days from the date of the notice, to submit a written request for a public hearing.
- (D) The date the coastal development permit may be granted after the fifteen (15) working day notice period, if a public hearing is not requested in writing within the fifteen (15) working day notice period.
- (E) The last date to submit written comments other than a request for a public hearing.
- (F) A statement that failure by a person to request a public hearing may result in the loss of that person's ability to appeal to the Coastal Commission any action taken by the Planning Commission on a coastal development permit application which is appealable to the Coastal Commission.
- (G) All other information required in a hearing notice pursuant to Section 9.61.050 of this Zoning Code.

- (4) If a written request for a public hearing on the subject coastal development permit application is received during the fifteen (15) working day notice period, a noticed public hearing pursuant to Chapters 9.61 and 9.69 of this Zoning Code shall be conducted.
- (5) All findings required pursuant to Section 9.69.050 of this Zoning Code shall be made for any coastal development permit application approved through Section 9.69.060(e).
- (6) A Notice of Final Action pursuant to Section 9.69.100 of this Zoning Code shall be distributed for any coastal development permit application approved through Section 9.69.060(d). (Coastal Act/30624.9)

9.69.060 9.69.070 Basis For Action on Coastal Development Permit Applications

Approval, conditional approval, or denial of any Coastal Development Permit by the City of Dana Point or the Coastal Commission on appeal shall be based upon compliance with the provisions of the Dana Point Zoning Code, Dana Point General Plan, certified Dana Point Local Coastal Plan Program and, for development between the sea and the first public road paralleling the sea, the public access and recreation policies of Chapter 3 of the Coastal Act, and the Public Resources Code Section 30600.

(a) Approvals of Coastal Development Permits

In order for a Coastal Development Permit to be approved, all the following findings must be made, in writing, in addition to the findings required to approve other applications being considered concurrently:

{Delete the existing text of Sections (a) through (f). Replace with new language as shown below}

- (1) That the proposed development is in conformity with the certified Local Coastal Program as defined in Chapter 9.75 of this Zoning Code. (Coastal Act/30333, 30604(b); 14 Cal. Code of Regulations/13096)
- (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 Three of the Coastal Act. (Coastal Act/30333, 30604(c); 14 Cal. Code of Regulations/13096)

- (3) That the proposed development conforms with Public Resources Code Section 21000 and following and that there are no feasible mitigation measures or feasible alternatives available which would substantially lessen any significant adverse impact that the activity may have on the environment. (Coastal Act/30333; 14 Cal. Code of Regulations/13096)

(b) Denials of Coastal Development Permits

In order for a Coastal Development Permit to be denied, all the following findings must be made, in writing, in addition to the findings required to deny other applications being considered concurrently:

- (1) That the proposed development is not in conformity with the certified Local Coastal Program as defined in Chapter 9.75 of this Zoning Code. (Coastal Act/30333, 30604(b); 14 Cal. Code of Regulations/13096)
- (2) That the proposed development, if located between the nearest public roadway and the sea or shoreline of any body of water, is not in conformity with the public access and public recreation policies of Chapter Three of the Coastal Act. (Coastal Act/30333, 30604(c); 14 Cal. Code of Regulations/13096)

- (c) Additional findings for public access are found in Section 9.27.030(a) of the Zoning Code.

26. Page 9.69-11/Section 9.69.080, Decision by the Director of Community Development or Planning Commission - Revise this Section to read as follows:

- (a) A copy of the notice of decision shall be filed with the City Clerk, and mailed within five (5) working days. If the decision on a coastal development permit application by the Director of Community Development is not appealed to the Planning Commission, or the decision of the Planning Commission on a coastal development permit application is not appealed to the City Council, in accordance with the appeal provisions of Section 9.61.100(a), then a Notice of Final Action shall be sent to the Executive Director of the Coastal Commission and any person requesting such notice in accordance with the provisions of Section 9.69.100 of this Chapter.
- (b) In approving an application for a Coastal Development Permit or other authorization for development, the Director of Community Development or Planning Commission (or City Council on appeal) may impose any conditions necessary to enable the required findings of fact to be fairly made and/or to be

sustained in their validity. Such conditions may include, but need not be limited to, provision for public access and open space or conservation easements and the relocation and/or redesign of proposed site improvements. When conditions requiring the recordation of legal documents pertaining to public access and/or open space or conservation easements are imposed, notification of such action shall be submitted to the Executive Director of the Coastal Commission in accordance with the following:

- (1) A copy of the coastal development permit conditions, findings of approval, and drafts of any legal documents used in complying with proposed to implement the required conditions pertaining to public access and open space or conservation easements shall be forwarded to the Executive Director of the Coastal Commission for review and approval of the format of such legal documents prior to the issuance of the Coastal Development Permit.

The Executive Director shall have fifteen (15) working days from the receipt of the documents to review:

- (A) the legal adequacy of the document(s) to carry out the purposes of the permit conditions or certified land use plan;
 - (B) the uniform application of the document(s) with other documents required throughout the coastal zone; and
 - (C) the document's consistency with the requirements of potential participating agencies.
- (2) The Coastal Development Permit shall be issued fifteen (15) working days after mailing the date of receipt of such documents to by the Executive Director of the Coastal Commission, unless the Executive Director has notified the Director of Community Development within the fifteen (15) working days that any such legal documents are inadequate.
 - (3) If the Executive Director has recommended revisions to the format of notified the Director of Community Development that the legal documents are inadequate, the Coastal Development Permit shall not be issued until the Director of Community Development has been notified by the Executive Director in writing that the inadequacies deficiencies have been resolved to the satisfaction of the Executive Director.

(4) ~~Documents for the recording of any easements shall also be submitted to the Executive Director for review and approval as to the format of such documents, and the~~ The Coastal Development Permit shall not be issued to the applicant until the easements required documents have been recorded and verification of such recordation has been sent to, and receipt acknowledged by, the Executive Director.

(5) Alternatively, only in the case of public access dedications/easements or dedications/easements for open space/conservation areas, the Director of Community Development may request that the Coastal Commission delegate, to the Director of Community Development, the authority to process the recordation of the necessary legal documents, subject to the following:

(A) The Director of Community Development identifies the City department, other public agency, or private or non-profit association that has the resources and authorization to accept, open, operate, and maintain the public accessways and/or open space/conservation areas required as a condition of approval of coastal development permits; and

(B) Upon completion of the recordation of the documents, the Director of Community Development shall forward a copy of the coastal development permit conditions and findings of approval and copies of the legal documents pertaining to the public access and open space/conservation conditions to the Executive Director of the Coastal Commission. (Coastal Act/30333, 30620; 14 Cal. Code of Regulations/13574)

27. Page 9.69-12/Section 9.69.090 Appeals to the Coastal Commission - *{delete the existing text of Section 9.69.090 and replace with the following}*...

The final action by the City, as described in Section 9.69.100(a), on a coastal development permit which is appealable to the Commission as described in Section 9.69.090(b), may be appealed in accordance with the procedures described in this Section.

(a) Exhaustion of Local Appeals

An appellant shall be deemed to have exhausted local appeals where the appellant has pursued his or her appeal to the Planning Commission and/or City Council, as described in the City of Dana Point appeal procedures in Sections 9.61.100(a)

through (c) of this Zoning Code: except that exhaustion of all local appeals shall not be required if any of the following occur:

- (1) The City of Dana Point requires 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 Chapter.
 - (4) The City of Dana Point charges an appeal fee for the filing or processing of appeals. (Coastal Act/30333, 30620; 14 Cal. Code of Regulations/13111)
- (b) A final action taken by the City of Dana Point on a coastal development permit application may be appealed to the Coastal Commission for only the types of development defined in Section 9.75.010 of the Zoning Code under "Appealable Development, Coastal". (Coastal Act/30603(a))
- (c) Grounds for appeal to the Coastal Commission
- (1) The grounds for an appeal of a coastal development permit approved by the City of Dana Point for a development listed in Section 9.69.090(b) above 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 Chapter Three of the Coastal Act. (Coastal Act/30603(b)(1))
 - (2) The grounds for any appeal of a coastal development permit denied by the City of Dana Point for a major public works facility or a major energy facility, as such facilities are defined in Section 9.75.130 of the Zoning Code, shall be limited to the allegation that the development conforms to the standards set forth in the certified local coastal program and the public access policies set forth in Chapter Three of the Coastal Act. (Coastal Act/30603(b)(2))

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(d) Filing of an Appeal to the Coastal Commission

- (1) An appellant may contact the Coastal Commission for the appropriate forms and instructions to file an appeal. An appeal must contain the following information:
 - (A) the name and address of the permit applicant and appellant;
 - (B) the date of the local government action;
 - (C) a description of the development;
 - (D) the name of the governing body having jurisdiction over the project area;
 - (E) the names and addresses of all persons who submitted written comments or who spoke and left his or her name at any public hearing on the project, where such information is available;
 - (F) the names and address of all other persons known by the appellant to have an interest in the matter on appeal;
 - (G) the specific grounds for appeal which shall be limited to those stated in Section 9.69.090(c);
 - (H) a statement of facts on which the appeal is based;
 - (I) a summary of the significant question raised by the appeal.
- (2) The appeal must be received in the Coastal Commission district office with jurisdiction over the City of Dana Point before the close of business on the tenth (10th) working day after receipt of the Notice of Final Action (as described in Section 9.69.100 of this Chapter) by the Coastal Commission.
- (3) The appellant shall notify the applicant, any persons known to be interested in the application, and the City of Dana Point of the filing of the appeal. Notification shall be by delivering a copy of the completed Notice of Appeal to the domicile(s), office(s), or mailing address(es) of said parties. In any event, such notification shall be by such means as may reasonably advise said parties of the pendency of the appeal. Unwarranted failure to perform such notification may be grounds for

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dismissal of the appeal by the Coastal Commission. (Coastal Act/30333/30620.6; 14 Cal. Code of Regulations/13111)

- (e) Any final action by the City on a coastal development permit for development identified in Section 9.69.090(b) above shall become effective at the close of business on the tenth working day from the date of receipt by the Coastal Commission of the Notice of Final Action required in Section 9.69.100 of this Chapter below, unless an appeal is filed within that time, pursuant to Section 9.69.090(d)(2). (Coastal Act/30603(c))
- (f) If an appeal of a final action on an appealable development is filed with the Coastal Commission, the operation and effect of that action shall be stayed pending a decision by the Coastal Commission on the appeal. (Coastal Act/30623)
- (g) Persons Who May Appeal

A decision of the Director of Community Development, Planning Commission or City Council on a Coastal Development Permit for development which is appealable to the Coastal Commission pursuant to Section 9.69.090(b) above, may be appealed to the Coastal Commission, after the exhaustion of all local appeals as provided for in Section 9.69.090(a) above, by the following persons:

- (1) The applicant.
- (2) Any "aggrieved person" as defined in Section 9.75.010 of this Zoning Code.
- (3) Any two members of the Coastal Commission.

Where a project is appealed by any two (2) members of the Coastal Commission, there shall be no requirement of exhaustion of appeals to the Planning Commission or the City Council. In the event that the local appeal process was not exhausted, the Planning Commission or City Council, whichever would have been the next higher appellate body for the project in question, may adopt and transmit to the Coastal Commission a resolution requesting that it receive a copy of the Coastal Commissioner appeals. The Coastal Commissioners' appeal may be suspended pending a decision on the merits of the project by the appropriate appellate body. If the decision of the subject appellate body modifies or reverses the decision of the lower approving authority, the Coastal Commissioners shall be required to file a new appeal from the decision of the Planning Commission or City Council. (Coastal Act 30333/30620; 14 Cal. Code of Regulations/13573)

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28. Page 9.69-13/Section 9.69.100, Notice of Final Action To Coastal Commission - Revise this Section to read as follows:

(a) The City's decision on the Coastal Development Permit application shall be considered final when both 1) all required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in conformity with the certified local coastal program and, where applicable, with the public access and recreation policies of Chapter Three of the Coastal Act; and 2) all rights to appeals before the Planning Commission and City Council, as described in Section 9.61.100 of the Zoning Code, have been exhausted, or the fifteen (15) calendar day appeals period to the Planning Commission and City Council, as described in Section 9.61.100(b) of the Zoning Code, expires without an appeal being filed. (Coastal Act/30333, 30620; 14 Cal Code of Regulations/13570.

(b) Notice of Final City Action

Within seven (7) five (5) working calendar days of the final City action decision as described in Section 9.69.100(a) of this Section above, a notice of the final City action shall be sent by first class mail free of charge to the Coastal Commission office having jurisdiction over the City of Dana Point and to any person or group requesting notice of such action. The notice shall contain the date on which the appeal period from the approving authority to the next local appellate body expired. The notice shall include all conditions of approval and written findings as described in Section 9.69.100(a) of this Section above. For decisions on developments which are appealable to the Coastal Commission, the notice shall indicate that the City's final action is appealable to the Coastal Commission and shall include attached the procedures described in Section 9.69.090 for appeal of the City decision on the coastal development permit to the Coastal Commission. (Coastal Act/30333, 30620; 14 Cal Code of Regulations/13571(a))

(c) Failure to Act-Notice

A coastal development permit application is deemed approved by operation of law under Government Code Sections 65950 through 65957. The Director of Community Development shall, within seven (7) calendar days of such determination, notify the Coastal Commission and any persons or group entitled to receive notice pursuant to Section 9.61.050(a)(3) of this Zoning Code that the application has been approved by operation of law pursuant to Government Code Sections 65950-65957.1 and, if applicable, that the application may be appealed to the Coastal Commission pursuant to Section 9.69.090 of this Chapter. This section shall apply equally to a determination by the City that the development

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~~has been approved by operation of law and to a judicial determination that the development has been approved by operation of law. (Coastal Act/30333; 30620; 14 Cal Code of Regulations/13571(b)(2)) If it is determined by the Director of Community Development or through a judicial action that the time limits established pursuant to Government Code Section 65950 through 65957.1 have expired within five (5) working days of such determination any person or group entitled to receive notice shall be notified that the application has been approved by operation of law and the application may be appealed to the Coastal Commission. This provision shall apply only to City decisions which are appealable to the Coastal Commission.~~

(d) Effective Date of City Action

The City's final action as described in Section 9.69.100(a) above shall not become effective if either of the following occur during the appeal period described in Section 9.69.090(e):

- (1) An appeal is filed in accordance with Section 9.69.090 of this Zoning Code; or
- (2) The notice of final City action does not meet the requirements of Section 9.69.100(b) above.

When either of the circumstances in Sections 9.69.100(d)(1) or 9.69.100(d)(2) above occur, the Executive Director of the Coastal Commission shall, within five (5) calendar days of receiving the notice of final local government action, notify the City that the operation and effect of the final City action has been stayed. (Coastal Act/30333; 30620; 14 Cal. Code of Regulations/13572)

29. Page 9.69-14/Section 9.69.110, Administrative Coastal Development Permit Determination of Appeal Jurisdiction - {delete existing proposed text regarding "Determination of Appeal Jurisdiction" and replace with new text regarding "Administrative Coastal Development Permit" procedures} {Determination of Appeal Jurisdiction moved to new Section 9.69.050(d)}

- (a) The Director of Community Development may, without a public hearing, process as an administrative permit any coastal development permit application for the classes of development identified in Section 9.69.030(a)(1) of this Chapter according to the procedures set forth in this section below.

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(b) Content of Application

The application requirements for an administrative coastal development permit are those set forth in Section 9.69.050 of this Chapter.

(c) Notice

(1) Notice shall be posted at the site of the proposed development in accordance with the procedures set forth in Section 9.69.060(a) of this Chapter. The City shall revoke the administrative coastal development permit pursuant to the procedures set forth in Section 9.69.160 of this Chapter if it determines that the administrative coastal development permit was granted without proper notice having been given, and that proper notice would have had the potential of altering the decision of the Director of Community Development to act differently in issuing said permit.

(2) Notice of administrative coastal development permits shall also be mailed by first class mail to the Coastal Commission and to persons known to be interested in the proposed development in accordance with the procedures set forth in Section 9.61.050 of this Zoning Code.

(d) Action of Administrative Coastal Development Permits

The Director of Community Development may deny, approve, or conditionally approve applications for administrative coastal development permits on the same grounds as contained in Section 9.69.070 of this Chapter for a regular coastal development permit application and may include reasonable terms and conditions necessary to bring the project into consistency with the certified local coastal program. Administrative coastal development permits issued shall be governed by the procedures used in approving regular coastal development permits pursuant to the provisions of this chapter relative to format, receipt, and acknowledgment of permit.

(e) Effective Date of Administrative Permit

(1) Any administrative coastal development permit issued by the Director of Community Development shall be reported in writing to the Planning Commission at their first regularly scheduled meeting after the permit is approved. The Director of Community Development shall prepare a report in writing with sufficient description of the work authorized by the administrative coastal development permit to allow the Planning Commission to understand the development to be undertaken. Such

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report shall be available at the meeting and mailed free of charge to all persons wishing to receive such notification at the time of the regular mailing of notice for the Planning Commission meeting and any person who requested to be on the mailing list for the project as described in Section 9.69.110(d) above.

(2) If one-third or more of the full membership of the Planning Commission so request, the issuance of an administrative coastal development permit shall not become effective, but shall, if the applicant wishes to pursue the application, be treated as a regular coastal development permit application subject to all provisions of this Chapter.

(3) A decision on an administrative coastal development permit shall not be deemed final and effective until all the following have occurred:

(A) The Director of Community Development has made a decision on the application;

(B) The Planning Commission review of the administrative coastal development permit is complete, and the Planning Commission did not object, as provided for in Section 9.69.110(f)(2) above, to the decision of the Director of Community Development;

(C) All required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in conformity with the certified LCP; and

(D) When all rights of appeal under City ordinances, including Section 9.69.090 of this Chapter and Section 9.61.100 of this Zoning Code, have been exhausted.

(f) Amendment to Administrative Coastal Development Permits

(1) Amendments to administrative coastal development permits may be approved by the Director of Community Development upon the same criteria and subject to the same reporting requirements and procedures, including public notice and appeals, as provided for the issuance of administrative coastal development permits in Sections 9.69.110(a) through 9.69.110(f) inclusive.

(2) If any amendment would, in the opinion of the Director of Community Development, change the nature of the approved project, or change or

delete a previously imposed condition of approval, so that it no longer meets the criteria established for treating the application as an administrative coastal development permit pursuant to Section 9.69.030(a), then the application shall thereafter be treated in the manner prescribed in Section 9.69.130 of this Chapter dealing with amendments to permits other than administrative coastal development permits. (Coastal Act/30624; 14 Cal. Code of Regulations/13165)

30. Page 9.69-14/Section 9.69.120, Expiration of Coastal Development Permits - Revise this Section to read as follows:

Any Coastal Development Permit granted herein shall be conditioned upon the privileges being exercised within 24 months after the effective date thereof, except as otherwise provided within a phasing program contained in: 1) a development agreement entered into between the City and the owners of the subject property; 2) a specific plan applicable to the subject property; or 3) as otherwise provided by resolution approved by the City Council upon recommendation of the Planning Commission. Failure to exercise such permit within such period will automatically cause the coastal development permit to expire, void same, unless an extension of time has been granted as set forth in Section 9.69.140. De Minimis Waivers issued pursuant to Section 9.69.200 of this Chapter have no expiration date, since they are not permits.

Construction must actually be commenced within the stated period and must be diligently pursued to completion.

31. Page 9.69-14/Section 9.69.130, Amendments to Coastal Development Permits - Revise this Section to read as follows:

- (a) The Director of Community Development or the Planning Commission (or City Council on appeal), may grant an amendment to a valid Coastal Development Permit issued by the City if, after considering facts presented in the application, by interested parties, and at the hearing (if a hearing is held), the Director or Commission makes all the findings set forth in Section 9.69.070060.
- (b) An application for an amendment to a Coastal Development Permit shall be in writing and shall include an adequate description of the proposed amendment, including but not limited to maps or drawings where appropriate. The amendment application shall be filed by the owner of record of the property covered by the permit, the owner's agent, any person with a legal right, interest, or other entitlement to use the property covered by the permit for the proposed development, or said person's authorized agent, in accordance with the provisions of Section 9.69.050(a) of this Chapter. The application shall be filed

with the Director of Community Development, ~~who may require a public hearing on such application if there is indication of sufficient public interest.~~

- (c) An application for an amendment shall be rejected if, in the opinion of the Director of Community Development, the proposed amendment would lessen or avoid the intended effect of a partially approved or conditioned coastal development permit unless the applicant presents newly discovered material information which could not, with reasonable diligence, have been discovered and produced before the permit was granted.
- (d) In the case of all amendments, the noticing and public hearing requirements of Section 9.69.060 9.61.050 shall apply. The decision of the Director of Community Development or Planning Commission shall contain the findings required in Section 9.69.070 of this Zoning Code relied upon in reaching made to support that decision.
- (e)(e) The decision of the Director of Community Development or Planning Commission may be appealed pursuant to the procedures specified in Section 2.04.100 et seq 9.69.090 of this Chapter and Section 9.61.100 of this Zoning Code. (Coastal Act/30333; 14 Cal. Code of Regulations/13166)

32. Page 9.69-15/Section 9.69.140, Extension of Time - Revise this Section to read as follows:

- (a) The Director of Community Development of the Planning Commission may grant one or more extensions of time, with no single extension to exceed twelve (12) months, for a valid Coastal Development Permit issued by the City if the Director of Commission finds that there has been no material change of circumstances which may affect the approved project's consistency with the certified Local Coastal Program since the original granting of the permit issued by the City.
- (b) An application for an extension of time shall be in writing and shall be filed, prior to the expiration date of the permit, by the record owner or by any other person(s) who can demonstrate a legal right, interest, or other entitlement to use the property covered by the permit. The request shall be filed with the Director of Community Development, who may require a public hearing on such application if there is indication of sufficient public interest. The Director shall hold a public hearing, in accordance with the provisions of Section 9.61.050 of this Zoning Code, if the Director determines that there has been a material change of circumstances which may affect the approved project's consistency with the certified Local Coastal Program since the original granting of the

permit. In the case of all extensions, the noticing and public hearing requirements of Section 9.69.060 9.69.070 shall apply. If one-third or more of the full membership of the Planning Commission objects to the granting of the permit extension on the grounds that the proposed development may not be consistent with the certified Local Coastal Program, the application shall be set for a new hearing of the Planning Commission as though it were a new coastal development permit application, in accordance with the provisions of this Chapter. The decision of the Director of Community Development or the Planning Commission shall contain the findings of fact relied upon in reaching the decision.

- (c) The decision of the Director of Community Development or Planning Commission may be appealed pursuant to the procedures specified in Section 2.04.100 et. see 9.61.100(d) of this Zoning Code. (Coastal Act/30333; 14 Cal. Code of Regulations/13169)

33. Page 9.69-15/Section 9.69.150, Emergency Coastal Development Permits - Revise this Section and add new subsections (e), (f) and (g) to read as follows:

- (a) This subsection shall govern procedures for processing an Emergency Coastal Development Permit to perform work to resolve problems resulting from an emergency situation as defined in Section 9.75.050 of this Zoning Code. In the event of a verified emergency, temporary emergency coastal development permit authorization to proceed with remedial measures may be given by the Director of Community Development or his/her designee until such time as a regular coastal development permit application is filed pursuant to Section 9.69.050 of this Zoning Code. Applications for an Emergency Coastal Development Permit shall be made by letter to the Director of Community Development, or in person; or by telephone if time constraints do not allow either of these- the first two alternatives to be used. (Coastal Act/30333, 30624; 14 Cal. Code of Regulations/13136, 13138)
- (b) The following information, to be reported at the time of the emergency (if it is possible to do so), or no later than within three days after the emergency, shall be included in the request application to the Director of Community Development:
- (1) Nature of emergency;
 - (2) Cause of emergency, insofar as this can be established;
 - (3) Location of emergency;

- (4) Remedial, protective, or preventative work required to deal with the emergency; and
- (5) Circumstances during the emergency that appeared to justify the course(s) of action taken or to be taken, including probable consequences of failing to take emergency action. (Coastal Act/30333, 30624; 14 Cal. Code of Regulations/13139)

(c) Verification

The Director of Community Development shall verify the facts, including the existence and nature of the emergency action, insofar as time allows. (Coastal Act/30333, 30624; 14 Cal. Code of Regulations/13140)

(d) Granting an Emergency Coastal Development Permit

- (1) The Director of Community Development shall grant the emergency coastal development permit with reasonable terms and conditions, including an expiration date and the necessity for a regular permit application later, where the Director finds that:
 - (A) An emergency exists that requires action more quickly than would be permitted by the normal procedures for acquiring a Coastal Development Permit pursuant to this Chapter, and the development can and will be completed within 30 days unless otherwise specified by the terms of the emergency coastal development permit.
 - (B) Public comment on the proposed emergency action has been solicited and reviewed to the extent feasible.
 - (C) The proposed emergency work would be consistent with the certified Local Coastal Program.
- (2) The Director of Community Development shall provide public notice of the emergency work, with the extent and type of notice determined by the nature and time constraints of the emergency. If the nature of the emergency does not allow sufficient time for public notice to be given before the emergency work begins, the Director of Community Development shall provide public notice of the action taken, or being taken, as soon as is practical. Public notice of the nature of the emergency and the remedial actions to be taken shall be mailed by first

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class mail to the Coastal Commission and to all persons whom the Director of Community Development has reason to know would be interested in such action. (Coastal Act/30333, 30624; 14 Cal. Code of Regulations/13142)

(e) Expiration

An emergency coastal development permit shall be valid for sixty (60) days from the date of issuance by the Director of Community Development. Prior to expiration of the emergency coastal development permit, the permittee shall submit an application for a regular coastal development permit, pursuant to Section 9.69.050 of this Chapter, for the emergency development performed. If the emergency development performed is to be temporary and to be removed after the emergency has passed, the removal of the emergency development shall be included as part of the regular coastal development permit application.

(f) Report to Planning Commission and Coastal Commission

The Director of Community Development shall report in writing the granting of the emergency coastal development permit to the Planning Commission at its next scheduled meeting, and to the Coastal Commission. The report shall include a description of the nature of the emergency, the development involved, and the person or entity undertaking the development. Copies of the report shall be available at the meeting and shall be mailed to the Coastal Commission and to all persons requesting notification of coastal development permit decisions.

(g) Limitations

(1) The Director of Community Development shall not grant an emergency coastal development permit for any development that falls within either the area of "Coastal Commission Permit Jurisdiction" or the Appeals Area, as shown generally on the Post-Certification Jurisdiction Map. In such areas and for such development, a request for an emergency authorization must be made to the Coastal Commission. Further, a waiver from coastal development permit requirements may also be obtained directly from the Executive Director of the Coastal Commission for development in the Appeals Area that is required to protect life or public property in accordance with Section 30611 of the Coastal Act.

34. Page 9.69-17/Section 9.69.160, De Minimis Project Waivers From Coastal Development Permit Requirements: Prior Coastal Commission Approval - {Delete existing proposed text regarding "Prior Coastal Commission Approval" and replace with new text regarding

"De Minimis Project Waivers From Coastal Development Permit Requirements" ("Prior Coastal Commission Approval" moved to new Section 9.69.030(d)(3))

A coastal development permit application is required for all development as defined in Section 9.75.040 of this Zoning Code, including any development for which a "de minimis" permit waiver is requested even if no other local discretionary approvals are required. For a proposed development that is de minimis as defined in Section 9.69.160(a)(2) below and Section 30624.7 of the Coastal Act, the Director of Community Development may issue a waiver from the coastal development permit requirements of this Chapter subject to all of the provisions of this section.

(a) Limit of Applicability

- (1) A proposed development is de minimis only if the Director of Community Development determines that it involves no potential for any adverse effects either individually or cumulatively, on coastal resources and public access and that it will be consistent with the certified local coastal program and the public access policies of Chapter Three of the California Coastal Act. The determination shall be made in writing and based upon factual evidence.
- (2) A Waiver for a De Minimis Development shall be granted only for development that:
 - (A) Does not fall in a class of development set forth in Section 9.69.090:
 - (B) Is not located adjacent to a public accessway, public recreation areas, or sensitive coastal resource areas;
 - (C) Does not fall within an area in which the Coastal Commission retains direct permit review under Section 9.69.030(c) of this Chapter, or for any work that is appealable to the Coastal Commission under Section 9.69.090 of this Chapter; nor
 - (D) Involves a structure or similar integrated physical construction which lies partly in and partly outside the appeal area.
- (3) A De Minimis Waiver application may be combined with other local discretionary actions. Since a waiver is not an actual coastal development permit, however, conditions of approval cannot be imposed on the waiver.

(b) Notice

- (1) The applicant shall post at the site in compliance with Section 9.69.060(a) of this Chapter.
- (2) Within ten (10) calendar days of accepting an application for a De Minimis waiver or at least seven (7) calendar days prior to the decision on the application, the Director of Community Development shall provide notice, by first class mail, of the pending waiver of permit requirements. This notice shall be provided to all persons who have requested to be on the mailing list for that development project or site or for coastal decisions within the local jurisdiction, to all property owners and residents within one hundred (100) feet of the perimeters of the parcel on which the development is proposed, and to the Coastal Commission.
- (3) The notice shall contain the following information:
 - (A) The information listed in Sections 9.69.060(b)(1) through 9.69.060(b)(4) inclusive of this Chapter;
 - (B) The date of the hearing at which the De Minimis waiver may become effective;
 - (C) The general procedures concerning the submission of public comments either in writing or orally prior to the decision; and
 - (D) A statement that a public comment period of sufficient time to allow for the submission of comments by mail will be held prior to the decision.
 - (E) A note or a numbering system which clearly distinguishes the application as being for a De Minimis Waiver and not a coastal development permit.

(c) Findings

The Director of Community Development may only issue a waiver of coastal development permit requirements only if the following written findings are made:

- (1) That the waiver falls within the criteria of Section 9.69.160(a) above;

- (2) The proposed development has no potential for any adverse impacts, either individually or cumulatively, on public access, public recreation, or coastal resources; and
- (3) The proposed development would be consistent with the certified local coastal program.
- (d) Issuance of Waiver: Effective Date
 - (1) A De Minimis waiver of coastal development permit requirements shall not take effect unless the site has been posted and until the waiver has been reported to the Planning Commission, and the Planning Commission has not objected to the issuance of the De Minimis Waiver. If one-third or more of the full membership of the Planning Commission request that the waiver not be effective, the applicant shall be advised that a coastal development permit is required, subject to the provisions for regular coastal development permits of Chapter 9.69 of this Zoning Code, if the applicant wishes to proceed with the development.
 - (2) A decision on De Minimis waivers shall not be deemed final and effective until all required findings described in Section 9.69.160(c) above have been adopted.
- (e) Compliance
 - (1) Any deviation from the application and plans on file in the Department of Community Development shall constitute grounds for the City of Dana Point to revoke the De Minimis waiver authorization and to require a coastal development permit for the entire project as well as possible enforcement action and penalties subject to Section 9.69.210 of the Zoning Code.
 - (2) Within seven (7) calendar days of the Planning Commission review of the issuance of a De Minimis waiver, the Director of Community Development shall notify the Coastal Commission and any persons who specifically requested notice of such action by mailing, via first class mail, a Notice of Final Action prepared pursuant to Section 9.69.100 of this Zoning Code describing the issuance and effectiveness of the De minimis waiver.

35. Page 9.69-17/Section 9.69.170, Enforcement - Add a new Section to read as follows:

In addition to the enforcement provisions contained in this Chapter, the provisions of Chapter 9 of Division 20 of the Public Resources Code shall also apply with respect to violations and enforcement.

36. Page 9.69-17/Section 9.69.180, Format and Content of Coastal Development Permits - Add a new Section to read as follows:

- (a) Coastal development permits shall include the following:

- (1) The applicant's name;
- (2) The project location;
- (3) The project description;
- (4) The permit number;
- (5) A statement setting out the reasons for the City's approval of the permit, including the findings required in Section 9.69.070;
- (6) Any other language or drawings, in full or incorporated by reference, that are consistent with the decision to approve the permit, and are required to clarify or facilitate carrying out the intent of the City's action;
- (7) Any conditions approved by the City;
- (8) Such standard provisions as approved by resolution of the City;
- (9) The signature of the Director of Community Development, and
- (10) The time for commencement of the approved development except that where the City on original hearing or on appeal has not imposed any specific time for commencement of construction pursuant to a permit, the time for commencement shall be two years from the date of the final vote by the local body on the coastal development permit application. Each coastal development permit shall contain a statement that any request for an extension of the time of commencement must be applied for prior to expiration of the permit. (Coastal Act/30333; 14 Cal. Code of Regulations/13156)

- (b) Coastal development permits approved by the Planning Commission or City Council may be in the form of a resolution, provided that all the items described in Section 9.69.180(a) above are contained in the resolution.
- (c) Notice of Receipt and Acknowledgment
 - (1) No building permits shall be issued for development approved by a coastal development permit until the City receives a written acknowledgment signed by the authorized permittee(s) or agent(s) stating that they have received a copy of the coastal development permit and understand and accept its contents, including all conditions of approval.
 - (2) The signed acknowledgment should be returned within ten (10) working days following issuance of the coastal development permit but in any case prior to issuance of the building permits.

Chapter 9.71/Site Development Permits:

- 1. Page 9.71-1/Section 9.71.020(J), Site Development Permit Required - Revise this Section to read as follows:
 - (b) Applications for Conditional Use Permits, Variances, Coastal Development Permits and other permits and entitlements of this Code will be reviewed with the same attention to design as Site Developments Permits. All such applications are subject to Site Development Permit requirements, except that all coastal development permit applications shall satisfy all requirements of Chapters 9.27 "Coastal Overlay District" and 9.69 "Coastal Development Permit".

Chapter 9.75/Definitions And Illustration. Of Terms:

- 1. Page 9.75-3/Section 9.75.010 "A" Definitions and Illustrations - Add the following definition:

Aggrieved Person - any person who, in person or through a representative, appeared at a public hearing of the Coastal Commission or City of Dana Point in connection with the decision or action appealed, or who, by other appropriate means prior to a hearing, informed the Coastal Commission or City of Dana Point of the nature of his or her concerns or who for good cause was unable to do either. "Aggrieved person" includes the applicant for a permit and, in the case of an approval of a local coastal program for the City of Dana Point, the City of Dana Point. (Coastal Act/30801)

2. Page 9.75-4/Section 9.75.010 - Revise this definition to read as follows:

Appealable Development, Coastal - The following types of development may be appealed to the Coastal Commission pursuant to procedures described in Section 9.69.090:

- (1) Developments approved by the City of Dana Point 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 City of Dana Point not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, within 300 feet of the top of the seaward face of any coastal bluff.
- (3) Developments approved by City of Dana Point not included within paragraph (1) or (2) that are located in a sensitive coastal resource area.
- (4) Any development which constitutes a major public works project or a major energy facility, as defined in Section 9.75.130 of this Zoning Code. (Coastal Act/30603(a)) ~~any Coastal Development Permit application that may be appealed to the California Coastal Commission pursuant to the Coastal Act of 1976, as amended~~

3. Page 9.75-4/Section 9.75.010 - Add the following definition:

Applicant, Coastal - the person, trust, partnership, corporation, other legal entity, or state or local government agency or special district applying for a coastal development permit. (Coastal)

4. Page 9.75-4/Section 9.75.010 - Revise this definition to read as follows:

Aquaculture - a form of agriculture that is devoted to the controlled growing and harvesting of fish, shellfish, and plants in marine, brackish, and freshwater. (Coastal Act/30100.2)

5. Page 9.75-9/Section 9.75.030 "C" Definitions and Illustrations - Add the following definition:

California Coastal Act (or) Coastal Act - the California Coastal Act of 1976, Division 20 of the Public Resources Code (commencing with Section 30000), as amended.

6. Page 9.75-9/Section 9.75.030 - Revise this definition to read as follows:

Certified Coastal Land Use Plan - a land use plan which has been effectively certified by the Coastal Commission pursuant to Section 30512 of the Coastal Act as amended. (See definition of "Land Use Plan (LUP amendment), Coastal" in Section 9.75.120 of this Zoning Code) a plan for the use of property within the Coastal Zone which has been adopted by the local government and certified by the California Coastal Commission pursuant to the Public Resources Code. (Coastal).

7. Page 9.75-9/Section 9.75.030 - Revise this definition to read as follows:

Certified Local Coastal Program (LCP) - a local coastal program which has been effectively certified by the California Coastal Commission pursuant to Section 30512 and 30513 of the Coastal Act as amended. (See definition of "Local Coastal Program" in Section 9.75.120 of this Zoning Code) a program for the use of property within the Coastal Zone. The Local Coastal Program includes the Land Use Plan and specific regulations, and land use regulation maps, which have been adopted by the local government and certified by the California Coastal Commission pursuant to the Public Resources Code. Local governments with certified LCPs can issue Coastal Development Permits. (Coastal)

8. Page 9.75-9/Section 9.75.030 - Add the following definition:

Chapter Three Policies or Chapter 3 Policies - those policies of the Coastal Act contained in Chapter Three, commencing with Section 30200, which constitute the standards by which the adequacy of local coastal programs and the permissibility of proposed development subject to the provisions of the Coastal Act is determined.

9. Page 9.75-10/Section 9.75.030 - Revise this definition to read as follows:

Coastal Access, Bluff Top - an area dedicated to provides public access for public viewing of the shoreline along a coastal bluff top area, where no beach area exists and a project is proposed on a shorefront bluff top lot.

10. Page 9.75-10/Section 9.75.030 - Revise this definition to read as follows:

Coastal Access, Lateral - an area dedicated to provides public access and use along the shoreline or parallel to the sea.

11. Page 9.75-10/Section 9.75.030 - Add the following definition:

Coastal Access, Recreational - provides public access to coastal recreational resources through means other than those provided by bluff top, lateral, trail and/or vertical coastal access, including but not limited to parking facilities, viewing platforms and bluff top parks.

12. Page 9.75-10/Section 9.75.030 - Add the following definition:

Coastal Access, Trail - provides public access through a coastal recreational path, including to and along lakes, rivers, streams, freshwater marshes, significant habitat and open space areas or similar resource areas, and which also may link inland recreational facilities to the shoreline.

13. Page 9.75-10/Section 9.75.030 - Revise this definition to read as follows:

Coastal Access, Vertical - an area dedicated to provides a public access connection from the first public roadway to the shoreline between the first public road, public use area nearest the sea, or trail and the publicly owned tidelands or established lateral access.

14. Page 9.75-10/Section 9.75.030 - Revise this definition to read as follows:

Coastal Bluff - within the Coastal Zone, an escarpment or steep face of rock, decomposed rock, sediments, or soil resulting from erosion, faulting, folding, or excavation of the land mass. It may be flat, curved, or step like. For the purposes of these regulations, a coastal bluff is limited to those features having vertical relief of ten feet or more. coastal bluffs are: (1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; and (2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified as an Appealable Area. (Coastal Act/30501, 30620.6; 14 Cal. Code of Regulations/13577(h))

15. Page 9.75-11/Section 9.75.030 - Revise this definition to read as follows:

Coastal Bluff Edge - the upper termination of a coastal bluff. When the top edge of the coastal bluff is rounded away from the face of the coastal bluff, the edge shall be defined as that point nearest the coastal bluff beyond which the downward gradient of the land surface increases more or less continuously until it reaches the general gradient of the coastal bluff. In a case where there is a step-like feature at the top of the coastal bluff, the landward edge of the top-most riser shall be considered the bluff edge. The termini of the bluff edge along the seaward face of the bluff shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line

along the inland facing portion of the bluff. (Coastal Act/30501, 30620.6; 14 Cal. Code of Regulations/13577(h))

16. Page 9.75-11/Section 9.75.030 - Add the following definition:

Coastal Commission - the California Coastal Commission or its successor agency as created pursuant to Division 20 of the Public Resources Code as amended. Whenever the term California Coastal Zone Conservation Commission appears in any law, it means the California Coastal Commission. (Coastal)

17. Page 9.75-11/Section 9.75.030 - Add the following definition:

Coastal Commission Permit Jurisdiction Area - all tidelands, submerged lands, and public trust lands (whether filled or unfilled) within the Coastal Zone. (Coastal Act/30519(b))

18. Page 9.75-11/Section 9.75.030 - Add the following definition:

Coastal Dependent Development - any development or use which requires a site on, or adjacent to, the sea to be able to function at all. (Coastal Act/30101)

19. Page 9.75-11/Section 9.75.030 - Add the following definition:

Coastal Dependent Use - Any use which requires a site on, or adjacent to, the sea to be able to function at all. (Coastal Act/30101)

20. Page 9.75-11/Section 9.75.030 - Add the following definition:

Coastal-Related Development - any development or use that is dependent on a coastal-dependent development or use. (Coastal Act/30101.3))

21. Page 9.75-11/Section 9.75.030 - Revise this definition to read as follows:

Coastal Development Permit - any license, certificate, approval, or other entitlement for use granted or denied by any public agency which is subject to the provisions of Division 20 of the Public Resources Code as amended, a permit to perform or undertake any development as defined by the Coastal Act in the Coastal Zone. Coastal Development Permits include discretionary permits, plans and maps required by the applicable subdivision or district regulations and Coastal Development Permits required by an certified Local Coastal Program and by the provisions of the local district. (Coastal Act/30110).

22. Page 9.75-11/Section 9.75.030 - Add the following definition:

Coastal Plan - the California Coastal Zone Conservation Plan prepared and adopted by the California Coastal Zone Conservation Commission and submitted to the Governor and the Legislature on December 1, 1975, pursuant to the California Coastal Zone Conservation Act of 1972 (commencing with Section 27000). (Coastal)

23. Page 9.75-11/Section 9.75.030 - Revise this definition to read as follows:

Coastal Zone - the portion of the City of Dana Point specified on a Coastal Zone map adopted by the State Legislature, as adjusted by the Coastal Commission, pursuant to the requirements of the California Coastal Act, that land and water area of the City of Dana Point, specified on the maps identified and set forth in Section 17 of that chapter of the Statutes of the 1975-76 Regular Session enacting the California Coastal Act of 1976, extending seaward to the state's outer limit of jurisdiction, including all offshore islands, and extending inland generally 1,000 yards from the mean high tide line of the sea. (Coastal Act/30103(a))

24. Page 9.75-13/Section 9.75.030 - Add the following definition:

Cumulative Effect or Cumulatively - the effect of an individual project in combination with the effects of past projects, other current projects, and probable future projects. (Coastal)

25. Page 9.75-15/Section 9.75.040 "D" Definitions and Illustrations - Revise this definition to read as follows:

Development, Coastal - the placement or erection, on land, in or under water, of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto, construction, reconstruction, demolition, or alteration of the size of any structure; including any facility of any private, public, or municipal utility; and the removal of harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provision of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511). As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon,

aqueduct, telephone line, and electrical power transmission and distribution line. (Coastal Act/30106)

26. Page 9.75-17/Section 9.75.050 "E" Definitions and Illustrations - Add the following definition:

Emergency, Coastal - for the purposes of Section 9.69.150 (Emergency Permits) of this Zoning Code, "emergency" shall mean, within the Coastal Zone, a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. (Coastal Act/30333, 30624; 14 Cal. Code of Regulations/13009)

27. Page 9.75-17/Section 9.75.050 - Revise this definition to read as follows:

Environmentally Sensitive Habitat Area - any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem, and which could be easily disturbed or degraded by human activities and development. (Coastal Act/30107.5)

28. Page 9.75-18/Section 9.75.030 - Revise this definition to read as follows:

Estuary - all area within the mean high tide line of any coastal water body, usually semi-enclosed by land, having open, partially obstructed or intermittent exchange with the open sea and in which ocean water is at least occasionally diluted by fresh water runoff from the land. (Coastal Act/30501, 30620.6; 14 Cal. Code of Regulations/13577(c))

29. Page 9.75-19/Section 9.75.060 "F" Definitions and Illustrations - Add the following definition:

Feasible - capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors. (Coastal Act/30108)

30. Page 9.75-19/Section 9.75.060 - Revise this definition to read as follows:

Fill, Coastal - earth or any other substance or material, including pilings placed for purposes of erecting structures thereon, placed in a submerged area, material or substance which is deposited, placed, pushed, dumped, pulled, transported, or moved to a new location and the conditions resulting therefrom. Fill also includes pilings placed for the purpose of erecting structures thereon when located in a submerged area. Examples of fill materials include but are not limited to earth, excavated or dredged materials, sand, gravel, rock, rip-rap, and concrete. (Coastal Act/30108.2))

31. Page 9.75-19/Section 9.75.060 - Revise this definition to read as follows:

First Public Road Paralleling the Sea - the inland right-of-way of that street or highway that road nearest to the sea which is generally parallel to the sea and, as defined in Section 9.75.190, which is: (Coastal Act/30501, 30620.6: 14 Cal. Code of Regulations/13577(i))

32. Page 9.75-20/Section 9.75.060 - Revise this definition to read as follows:

First Public Roadway - the nearest through public access route (open to vehicular traffic) paralleling the ocean shoreline, which forms a continuous linkage from the northernmost to southernmost limits of the City of Dana Point shoreline. (See "First Public Road Paralleling the Sea") (Coastal)

33. Page 9.75-25/Section 9.75.090 - Revise this definition to read as follows:

Inland Extent of the Beach - the inland extent of the beach shall be determined as follows: (1) from a distinct linear feature (e.g. a seawall, road, or bluff, etc.); (2) a back beach or dry beach and all beach area to from the inland edge of the further inland beach berm, to the vegetation line if a beach berm does not exist, or to a linear feature such as a sea wall, a road, or bluff, etc. as determined from historical surveys, aerial photographs, and other records or geological evidence; or (3) where a beach berm does not exist, from the further point separating the dynamic portion of the beach from the inland area as distinguished by vegetation, debris or other geological or historical evidence. (Coastal Act/30501, 30620.6: 14 Cal. Code of Regulations/13577(g)(1), 13577(g)(2))

34. Page 9.75-28/Section 9.75.120 - Revise this definition to read as follows:

Land Use Plan, Coastal - the Land Use Element, Urban Design Element, and Conservation/Open Space Element of the City of Dana Point General Plan. (Coastal Act/30108.5)

35. Page 9.75-28/Section 9.75.120 - Revise this definition to read as follows:

Lateral Access - public access along the shoreline paralleling the water's edge or the coast. (See "Coastal Access, Lateral") (Coastal)

36. Page 9.75-29/Section 9.75.120 - Revise this definition to read as follows:

Local Coastal Program (LCP) - a local government's (a) land use plans, (b) zoning ordinances, (c) zoning district maps, and (d) within sensitive coastal resources areas.

other implementing actions, which, when taken together, meet the requirements of, and implement the provisions and policies of the California Coastal Act of 1976 (as amended) at the local level. The Local Coastal Program for the City of Dana Point is comprised of the Land Use Element, Urban Design Element, and Conservation/Open Space Element of the General Plan, the Zoning Code, the Dana Point Specific Plan/Local Coastal Program, and the Capistrano Beach Specific Plan/Local Coastal Program, a program for the use of property within the Coastal Zone. The Local Coastal Program includes the Land Use Plan and specific regulations, and land use regulation maps, which have been adopted by the local government and certified by the California Coastal Commission pursuant to the Public Resources Code. Local governments with certified LCPs can issue Coastal Development Permits. (Coastal Act/30108.6))

37. Page 9.75-31/Section 9.75.139 - Revise this definition to read as follows:

Major Energy Facility - facilities that cost more than one hundred thousand dollars (\$100,000) with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index, except for those governed by the provisions of Sections 30610, 30610.5, 30611 or 30624 of the California Coastal Act of 1976, any energy facility exceeding \$100,000 or such minimum as may be adopted by the State of California, in actual or estimated cost of construction (Coastal Act/30333; 14 Cal. Code of Regulations/13012(a))

38. Page 9.75-31/Section 9.75.130 - Revise this definition to read as follows:

Major Public Works Project - "major public works facilities" are defined as follows:

- (1) facilities that cost more than one hundred thousand dollars (\$100,000) with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index, except for those governed by the provisions of Sections 30610, 30610.5, 30611 or 30624 of the California Coastal Act of 1976.
- (2) Notwithstanding the criteria in (1) above, "major public works" also means publicly financed recreational facilities that serve, affect, or otherwise impact regional or statewide use of the coast by increasing or decreasing public recreational opportunities or facilities, any public works project exceeding \$100,000 or such other minimum as may be adopted by the State of California, in actual or estimated cost of construction. (Coastal Act/30333; 14 Cal. Code of Regulations/13012)

39. Page 9.75-31/Section 9.75.130 - Add the following definition:

Mean High Tide Line - the mean high tide line shall be defined as the statistical mean of all the high tides over the cyclical period of 18.6 years, and shall be determined by reference to the records and elevations of tidal benchmarks established by the National Ocean Survey. In areas where observations covering a period of 18.6 years are not available, a determination may be made based on observations covering a shorter period, provided they are corrected to a mean value by comparison with observations made at some suitably located control tide station. (Coastal Act 30501, 30620.6; 14 Cal. Code of Regulations/13577(c))

40. Page 9.75-34/Section 9.75.150 - Revise this definition to read as follows:

Overlay Zoning District - a zoning district established by ordinance, which ~~may~~ shall be applied to properties ~~only when combined~~ in combination with ~~a base~~ any other zoning district or specific plan or development plan.

41. Page 9.75-37/Section 9.75.160 - Revise this definition to read as follows:

Public Trust Lands - all lands subject to the Common Law Public Trust for commerce, navigation, fisheries, recreation and other public purposes. Public Trust lands include including tidelands, submerged lands, beds of navigable lakes and rivers, and historic tidelands and submerged lands that are presently filled or reclaimed, and which were subject to the ~~public trust~~ Public Trust at any time. (Coastal Act/30501, 30620.6; 14 Cal. Code of Regulations/13577(f))

42. Page 9.75-37/Section 9.75.160 - Add the following to this definition:

Public Works - (Coastal Act/30114))

43. Page 9.75-42/Section 9.75.190 - Revise this definition to read as follows:

Sea - the Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs, and other areas subject to tidal action through any connection with the Pacific Ocean, excluding ~~non-estuarine~~ nonestuarine rivers, streams, tributaries, creeks, and flood control and drainage channels. (Coastal Act/30115)

44. Page 9.75-42/Section 9.75.190 - Add the following definition:

Sensitive Coastal Resources Area - an identifiable and geographically bounded land and water areas within the coastal zone of vital interest and sensitivity. A sensitive coastal resources area includes the following:

- (a) Special marine and land habitat areas, wetlands, lagoons, and estuaries as mapped generally in the Conservation/Open Space Element Figure COS-1.
- (b) Areas possessing significant recreational value.
- (c) Highly scenic areas.
- (d) Archaeological sites designated by the State Historic Preservation Officer.
- (e) Special communities or neighborhoods which are significant visitor destination areas.
- (f) Areas that provide existing coastal recreational opportunities for low-and moderate-income persons.
- (g) Areas where divisions of land could substantially impair or restrict coastal access. (Coastal Act/30116)

45. Page 9.75-43/Section 9.75.190 - Revise this definition to read as follows:

Shoreline Protective Works - a man-made structure or system of structures, including but not limited to, seawalls, revetments, rip-rap, jetties, groins, breakwaters, cliff retaining walls, or dams or diversion, used to protect the shoreline from damage caused by storms, wave action, erosion, and/or flooding. (Coastal Act/30235)

46. Page 9.75-49/Section 9.75.200 "T" Definitions and Illustrations - revise this definition to read as follows:

Tidelands - lands which are located between the line of mean high tide and mean low tide. (Coastal Act/30501, 30620.6; 14 Cal. Code of Regulations/13577(d))

47. Page 9.75-53/Section 9.75.230 - Revise this definition to read as follows:

Wetlands - any land area which may be covered periodically or permanently with shallow water including, but not limited to, saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps and mudflats. (Coastal Act/30121)

Monarch Beach Resort Specific Plan

A) Title

{All references to the Specific Plan shall be corrected as follows:}

Monarch Bay Beach Resort Specific Plan

Introduction - Chapter 1.0

1.2 Purpose and Intent

The Dana Point General Plan establishes the basic framework for development of the Monarch Beach Resort Specific Plan area, through its goal, policies, plans, and programs. The purpose of the Specific Plan is ~~two~~three-fold: 1) to implement the General Plan policies through more detailed policies that provide the necessary direction; ~~and~~ 2) to establish zoning standards applicable solely to this master-planned resort community; ~~and~~ 3) to serve as the Implementation Portion of the City of Dana Point certified local coastal program for the Specific Plan area by carrying out the Certified Land Use Plan policies contained under Goal 8 of the General Plan Land Use Element.

The Specific Plan is to be adopted by the Dana Point City Council through two legislative actions. Chapters 1.0 and 2.0 provide the policies statement through plans, programs and guidelines for evaluating detailed development plans and will be adopted by resolutions; Chapter 3.0 provides the zoning standards and regulations for the Specific Plan area and will be adopted by ordinance. Amendments to any portion of the Specific Plan shall constitute an amendment to the Implementation Portion of the City of Dana Point Certified Local Coastal Program and shall not become effective until effectively certified by the Coastal Commission.

1.7 Consistency with the General Plan

The Land Use Plan, Statistical Summary and guidelines allow for the following uses and intensity of use:

Other Open Space Features (R/OS), including coastal sage scrub restoration/enhancement; and

1.8 Review and Adoption Procedures

~~At the time of the preparation of this Specific Plan, the City of Dana Point does not have CDP issuance authority for most of the Monarch Beach Specific Plan area because its Local Coastal Program has not been certified by the California Coastal Commission. The Coastal Commission therefore presently retains ultimate discretionary permit authority through its Coastal Development Permit process.~~

COASTAL COMMISSION

Dana Point, LCP 1-46
E.D. Check-off

2

EXHIBIT #

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Upon effective certification of the Local Coastal Program for the Specific Plan area, Coastal Development Permit authority over new development will revert to be delegated to the City of Dana Point. As specified in Section 9.69.030(c)(3)(D) of the Dana Point Zoning Code, the Coastal Commission shall retain permitting authority over development authorized by Coastal Development Permit P-79-5539. Such development includes development that requires an additional coastal development permit and development that requires the Executive Director of the Coastal Commission to approve final plans, as specified in Section 9.69.030(c)(3)(D) of the Dana Point Zoning Code. However, a SDP/CDP approved by the City may be appealed to the Coastal Commission in accordance with the procedures set forth in Section 9.69.090 of the Dana Point Zoning Code by any individual or group.

In the absence of a certified Local Coastal Program For development authorized by coastal development permit P-79-5539 which has not yet been built, the an approval in concept by the City must be obtained before a Coastal Development Permit application may be submitted to the California Coastal Commission.

Upon approval in concept of the SDP by the Planning Commission or subsequent to the expiration of any applicable appeal period, the applicant may thereupon apply to the California Coastal Commission for a CDP. The Coastal Commission may take action on a CDP application for the Specific Plan area for development authorized by permit P-79-5539 which has not yet been built, if it has not certified the City's LCP, inclusive of the Specific Plan area.

Upon receipt of the CDP application for development of the Specific Plan area by the applicant, the Commission staff has up to 30 days to determine adequacy of the permit application. The Coastal Commission typically requires submittal of a Tentative Tract Map and locally certified environmental documentation as part of the application.

Upon determination that a CDP application is adequate, the Commission must schedule the CDP application for Commission public hearing within 49 days of determination of application adequacy and filing. This is the final discretionary permit action in the approval process.

In general, should the Coastal Commission approve The coastal development permit is the final discretionary permit action in the approval process. After approval (whether by the City or Coastal Commission) of the CDP, the applicant is permitted to move forward to procuring other permits (e.g. grading and building permits) from the City of Dana Point. These permits will be issued only after satisfaction of all conditions of approval of the CDP and upon review and acceptance by the City Departments Director of Community Development, the Director of Public Works City Engineer, and others, of the adequacy and correctness of detailed and fully engineered construction documents. The construction documents must comply with the approved SDP, CDP, and the Specific Plan. Should the construction documents not be in conformity with the SDP, CDP, and the Specific Plan, amendments to the SDP, the Specific Plan and/or the CDP would required.

Plans, Policies, Programs, and Guidelines - Chapter 2.0

2.1.2 Visitor Recreation Commercial

Beach House

The beach house concept may be pursued by evaluating new potential locations either in the Specific Plan area or outside of the Specific Plan area. Potential locations for, and design of, the beach house shall take into consideration the need to minimize landform alteration, minimize risks from geologic instability, minimize adverse visual impacts, and maximize public access and lower-cost visitor-serving facilities. The beach house will provide special opportunities for resort visitors and residents as well as the public by offering access to the shoreline, a low-cost limited food and beverage facility, restrooms and storage for beach, such as umbrellas and chairs. (See Exhibit 2.5, following this page.) See Chapter 3.0 for a listing of permitted and conditionally permitted beach house uses.

2.2.2 On-Site Roadways

The on-site roadway circulation system will be privately owned and maintained, however, all on-site roads, except those serving the residential enclaves, can be accessed by guests and residents and shall be open to the public.

Clubhouse Entry Road

The Clubhouse Entry Road will provide access from PCH Niguel Road to the Clubhouse, Village and will be comprised of two lanes into the village and two lanes out onto PCH, as well as The road shall provide public pedestrian and public vehicular access. Temporary Clubhouse entry road(s) shall be built and shall be open to the general public until such time as a permanent Clubhouse Entry Road is constructed and open for use by the public.

2.2.5 Resort Vehicle System

A for-fare public resort vehicle system is planned to link the hotel, golf clubhouse, beach house, and park within the resort community as well as the Salt Creek beach and parking lot. The fare will be modest to encourage public use. The operational plans of the resort vehicle system must be approved by the public agency having jurisdiction over the public trails (including Salt Creek Trail and the Pacific Coast Highway underpasses) which are part of the resort vehicle system's route, the City of Dana Point, and the Executive Director of the Coastal Commission.

It is anticipated that the resort vehicle system will originate at the resort hotel and travel to the clubhouse, beach house, and Salt Creek Beach (by the existing beach access point between the Ritz Carlton hotel and the Ritz Cove residential community), Sea Terrace Community Park, and return to and terminate at the hotel. The resort vehicle system shall pick up and drop off

passengers at the destinations identified above. The vehicle is proposed to utilize the Salt Creek and Beach Trails and the Coastal Highway underpasses. Pathways will be striped, as required by the County of Orange, to insure that pedestrian and bicycle traffic will be separated from the resort vehicle traffic. If a beach house is constructed, it may be served by the resort vehicle system.

Priority may be given to hotel guests. All users of the resort vehicle system, including the general public, shall be allowed to carry with them beach gear. The resort vehicle system shall operate at sufficient intervals to meet demand by the general public. The resort vehicle system shall be operational concurrent with the commencement of operation of the Hotel.

2.2.6 Parking

A residential parking program has been developed for the Specific Plan area. The parking program is being forecast on the type and quality of the project. Residential parking will be provided based on the parking standards established in Chapter 3.0. Residential parking will include double garages for each dwelling unit. In addition, on-street parking, ~~where feasible,~~ and parking in special bays ~~will~~ shall be provided for guests. On-street parking shall be provided within the Specific Plan area for roads greater than 32 feet in width. Roads between 32 feet and 39 feet in width shall have parallel parking on one side. Roads 40 feet and over in width shall have parallel parking on both sides. Where on-street parking is located within 500 feet of a public trail access point, it shall be made available to the public. The final parking program will be defined during the Site Development Permit process and shall be consistent with this policy.

Pursuant to the General Plan, shared parking will be provided to maximize the usage of parking areas between the Golf Course/Clubhouse and the Hotel. There is adequate parking planned for all hotel guests and no hotel guests will be required to use shared parking. All parking spaces for the Hotel, Golf Course and Golf Clubhouse shall be available for use by the general public without obligation to use the Hotel, Golf Course and Golf Clubhouse facilities. The hourly parking fee or total daily fee for general public use shall not be greater than that charged at the nearest State Beach Park parking facility. Validation stamps may be used for the parking facilities.

2.3.1 Grading Guidelines

Grading for ~~the a~~ beach house will be undertaken with due consideration of the geologic stability of the site and protection of shall minimize alteration of the bluff top and bluff face character, and ensure structural integrity.

2.3.5 View Design Guidelines Concepts

~~Beach Golf Zone and Beach House~~

Incorporating varieties of plant materials associated directly with a shoreline environment, the Beach Golf Zone and Beach House will be comprised of primary theme tree with accents of flowering specimens.

2.6 Access Program

An Access Program has been developed to delineate the variety of trails, public recreational facilities, hotel and golf clubhouse common areas, bikeways and resort vehicle system available to residents, resort visitors and the general public.

The Access Program includes an information component. The hotel will contain, in a conspicuous location such as near the bell captain stand, concierge desk, or guest registration desk, a manned visitor information center, designed to orient the general public as well as hotel guests, as to the various uses available for public access and recreational use. Information shall also be made available through the use of brochures, maps and other guides showing the user all the locations, points of interest, and other public access and recreational opportunities within the resort and the surrounding area. The information center shall be fully functional concurrent with the commencement of operation of the Hotel.

The Access Program also includes a circulation system component. This system incorporates public, guest and private off-road circulation and integrates the bikeways, hiking trails, association accessway, paths, resort vehicle system, at least one public access bridge crossing over Salt Creek connecting the Salt Creek Trail with the Golf Clubhouse, and other components of non-vehicular circulation network. Each component is designed to function as a separate and dedicated route for one of the variety of off-road circulation uses.

2.6.2 Public Regional (Salt Creek Corridor) Trail (Types "R-1" & "R-2")

The Salt Creek Trail exists throughout the entire reach between Camino Del Avion and the Salt Creek Beach Park. The plan incorporates resort vehicle uses in portions of the trail (shown as Type "R-2") in the vicinity of Hillside Village South the Golf Club (Site 3) through the Salt Creek underpass (Underpass "U-1") and to the Beach House. Other aspects of the resort vehicle system are outlined below in the section entitled "Resort Vehicle System." Salt Creek Trail, which is located on the westerly side of Salt Creek, shall be connected to the Golf Clubhouse on the easterly side of Salt Creek via a Type "W-2" public off-road walkway, as shown on Exhibit 2.26.

2.6.4 Public Off-Road Walkways (Type "W-2")

Due to physical constraints (e.g. gradient, barriers, etc.) and safety concerns, bicycle use on portions of the public accessways would not be appropriate. Consequently, a separate component of public pedestrians-only paths is provided in the plan. Bicycles, skateboards and other non-pedestrian uses will be prohibited. As with the bikeways, these walkways will be privately

owned as a part of the property and open to the public by easement. At least one of these public walkways shall bridge Salt Creek and provide a safe, public connection between the Salt Creek Trail (Types "R-1" & "R-2") and the Golf Clubhouse.

2.6.10 Service Maintenance Access to Beach House (Type "M-1")

Due to the location of the Beach House and access limitations, the existing HBP driveway below the Salt Creek Beach Park and the Salt Creek trail will be utilized for the purpose of service and emergency access to the Beach House. Due to these limitations, the need for service and emergency access should be reduced as much as possible. The Beach House shall be located at a site where service/maintenance access is safe and convenient and would not adversely impact public access. As outlined above in the case of the resort vehicle, it will be necessary to obtain all rights and approvals from the HBP, the City and Caltrans prior to issuance of permits to construct the Beach House. The City will cooperate and assist the developer in its attempts to obtain these interjurisdictional approvals for the resort vehicle system.

2.6.11 Public Access to Hotel and Golf Clubhouse Complexes

A minimum of fifty percent (50%) of the time slots of the golf course shall be reserved for general fee-paying public use on a daily or hourly basis. If time slots or facilities set aside for non-members are not reserved 24 hours in advance, they may be reserved by members.

General public use (rental) of the banquet/conference center and exhibition hall facilities shall be allowed. The hotel shall not be used for private resort or time-share use. Public access shall be maintained to all common areas, including but not limited to the lobby/entrance areas, restaurants and dining facilities, pool areas, landscaped grounds and walkways.

No gates shall be placed to restrict access to public areas unless it can be demonstrated that the proposed gates serve a public health and safety purpose. Should gates be allowed, signs shall be provided in a conspicuous location, easily read by the public, at each approved gate indicating the hours that the gates are to be unlocked for public access and how to contact the access owner and operator. The placement of fences adjacent to public access areas, exact fence heights, exact location of gates restricting access to public areas, signage, and establishment of hours of operation of the public access areas shall require a coastal development permit. Incorporation into the Specific Plan of standards for the placement of fences and gates across public access areas and hours of operation of public access areas shall be subject to a local coastal program amendment and shall not be effective until effectively certified by the Coastal Commission.

2.7.2 Additional Housing Programs

In addition to providing housing pursuant to the City's growth needs for upper income housing, the Monarch Beach Resort Specific Plan provides for an in-lieu fee program to satisfy the California Coastal Zone affordable housing requirements of the Government Code and a housing

initiatives program designed to maximize employment of the local labor force and to make it easier for employees of the resort to afford housing.

2.7.3 In-Lieu Fee Program

An in-lieu fee of \$540.00 per residential dwelling unit has been established to satisfy the Government Code's requirement of providing moderate income affordable housing within the Coastal Zone. The Housing Initiatives Program discussed in Section 2.7.4 satisfied the low and very low income affordable housing requirements within the Coastal Zone. The in-lieu fee shall be paid for any proposed dwelling units that have not been approved by Coastal Development Permit P-79-5539 or which have not received a City approved affordable housing credit from the previously constructed affordable units in the Laguna Niguel Planned Community within the City of Dana Point. These funds will be used to address the City's needs for affordable housing. Fees will be collected prior to issuance of certificates of occupancy for each residential unit.

2.9 Signage

The purpose of the provisions of the Monarch Beach Resort Sign Program (the "Sign Program") is to provide a comprehensive, fully-designed and controlled system of signage and other graphic communication devices within the Monarch Beach Resort development. A comprehensive sign program will be required in connection with the Coastal Development Permit and Site Development Permit approvals. The intent of the Sign Program is:

To provide information necessary and helpful to residents and guests of Monarch Beach Resort and to inform the general public about the public amenities available in the hotel and golf clubhouse.

2.9.2 Signage Types and Locations

Signs shall be placed which are visible from Pacific Coast Highway and Niguel Road. These signs shall clearly invite and encourage public use of public access and public recreation opportunities at the golf clubhouse and all its related facilities. The signs shall identify, provide information about, and direct the general public to all locations offering public access and recreation. Key locations include, but are not limited to, parking facilities open to the general public, public beach access points, tunnel undercrossings, Sea Terrace Community Park, Salt Creek County Beach Park, resort vehicle system stops, proposed permanent and temporary Golf Clubhouse parking lots, common areas and meeting rooms of the Golf Clubhouse and Hotel, recreation facilities of the Golf Clubhouse and Hotel, and public walkways/bridges which allow a safe crossing of both the golf course and Salt Creek and which connect the golf clubhouse with the existing Salt Creek public trail on the west side of Salt Creek. Signs shall also be posted at all key locations, and said signs shall expressly state that the public access and recreation opportunities available at the key locations are open to the general public.

The types of signage categorized by a hierarchical set of criteria, as are listed below. The following are the guidelines design parameters for the different types of signs. Exhibits 2.27 and 2.28 illustrate signage details and locations.

Facility Identification/Directional Monuments:

Within the Community Signage Monument for the Golf Course and Hillside Village, additional signage will identify and direct the residents, and the public, to the resort, Salt Creek and public trails, park and open space areas, and the northern and southern portions of the Hillside Village residential areas. At the entrance to the road leading to the Golf Clubhouse there will be additional signage which will identify and direct residents, the general public and guests to the Golf Clubhouse, the hotel and the northern residential enclave of the Resort Village. Should the entrance road be relocated or additional entrance roads constructed, the additional signage shall be placed at the relocated or additional road(s). The signage shall inform the general public that the Golf Clubhouse facilities are open to the general public. The signage monuments shall be integrated into the project perimeter/security walls, or into the guardhouse structure set within the entrance roadway median.

Future Facility Signage:

Future Facility signs will be planned at appropriate locations within and surrounding the Specific Plan area. These signs will provide information such as project component identity, expected completion dates, contact and telephone number information for future key components of the resort such as the Resort Hotel, the Golf Clubhouse, the Sea Terrace Park and Beach House, and residential developments, and the availability of public amenities in the future facilities. This signage character, although temporary in nature, will implicitly reflect the quality materials and fine detailing of the permanent signage monuments. No future facility sign shall exceed 96" in vertical dimension, nor 144" horizontally.

All signage shall be reviewed and approved as part of the rinal permitting process by the City of Dana Point for consistency with the Signage Implementation Plan, the special conditions of all valid coastal development permits approved for the Monarch Beach Resort, and the Monarch Beach Specific Plan. Prior to the City of Dana Point's assumption of coastal development permitting authority over the Monarch Beach Resort area, all signage shall be reviewed and approved by the Executive Director of the Coastal Ccmmission.

2.15 Phasing

2.15.1 The Phasing Plan

The General Plan Land Use Element includes ~~a policy of encouraging the Specific Plan implementation to be completed within five years. The General Plan policy further~~ Policy 8.12 which provides for development of the public open space uses and public roads first, then the

hotel complex, and then the residential uses. This policy states that concurrent development is may be permissible only if the primary open space and visitor-serving objectives of this policy is being achieved.

A phasing implementation scheme has been created which would allow most work to proceed concurrently, but which would complete first, the primary object of the development of the public open space and roads; secondly, the resort complex; and lastly, the residential dwellings.

To insure implementation of the General Plan phasing policy, the following provisions will apply:

1. Prior to approval of any Site Development Permits and Coastal Development Permits for residential units, the hotel facilities, golf clubhouse, golf course, and Sea Terrace Park must have obtained Site Development Permit approval and Coastal Development Permit approval.
2. Prior to approval of any Tentative map and coastal development permits for residential units, any required Tentative maps for the hotel facilities, golf clubhouse, golf course and Sea Terrace Park must have obtained all necessary approvals, including coastal development permit approval.
3. Prior to recordation of any final subdivision maps for residential units, ~~recordation of all~~ required final subdivision maps for the hotel facilities, golf clubhouse, golf course and Sea Terrace Park must have been ~~accomplished~~ recorded.

In the event that any unforeseen factors delay the processing of the Site Development Permit application or subdivision map applications for the hotel facilities, golf clubhouse, golf course, or Sea Terrace Park, the City may permit deviations from the three provisions outlined above, provided there are adequate safeguards to insure implementation of the General Plan Phasing Policy.

In addition the developer shall prepare and obtain approval of a Phasing Plan (PP) from the Planning Commission prior to the recordation of any Final Map. A primary objective of the PP is that the development of the public open space and roads occur first, and that the hotel construction precede residential construction and that residential units not be completed or occupied prior to completion of the hotel. The PP shall contain and/or address the following:

1. In accordance with the "Release and agreement regarding additional development of Sea Terrace Community Park" dated 20 June, 1991 between Monarch Bay Resort, Inc. and the Capistrano Bay Parks and Recreation District, the developer shall complete the construction of Sea Terrace Park and the other park described in Section 2.4.1 and open space features on or before the ~~earlier of the opening of a resort hotel on Developer Property and prior to the construction of any residential units, or June 1, 1996.~~

2. Prior to the issuance of coastal development permits and building permits for any residential units, coastal development permits and building permits for the hotel must be issued.
4. The PP may make provision for the construction of model homes and temporary sales facilities for sales purposes. Coastal development permits and Building permits for model homes may not be issued until coastal development permits and building permits for the hotel are issued. Model homes may not be sold, or occupied for purposes other than sales activities, until after the Certificate of Occupancy for the hotel is obtained.
6. If unforeseen circumstances delay compliance with minor aspects of the PP, a provision to insure compliance with these requirements can be facilitated through cash payments or other forms of security acceptable to the City. Prior to or concurrent with acceptance of such cash payments or other forms of security, the City shall develop a program specifically stating how the cash payments or other forms of security will be used to ensure compliance with the PP requirements.
7. The PP will be clearly referenced in each final Map. The PP will be referenced in the title. The PP shall be a condition of approval of all coastal development permits for development proposed in this Specific Plan. Any subsequent developers and/or owners shall submit a letter to the City certifying that they have read the PP and acknowledge and accept all its provisions.

Zoning and Development Standards - Chapter 3.0

- 3.1.1.2. Implement the coastal protection policies contained in the City of Dana Point Certified Land Use Plan in order to applicable policies of the California Coastal Act and preserve, protect and enhance the Coastal Zone resources of particular value to the Dana Point Community, County of Orange, and State of California. The certified Land Use Plan consists of the Land Use, Urban Design, and Conservation/Open Space Elements of the City of Dana Point General Plan.

- 3.1.2.5. The coastal policies and implementing actions as specified in the certified Land Use Plan and Zoning Code shall take precedence over the provisions of this Specific Plan within the Coastal Zone.

3.2 Definitions

Definitions for terms contained in this Specific Plan which are not listed below are found in Chapter 9.75 "Definitions and Illustrations of Terms" in the Zoning Code. Definitions in Chapter 9.75 take precedence over definitions in the Specific Plan. {For those definitions in Chapter 9.75 of the Zoning Code which are duplicated here in the Specific Plan, all suggested

modifications made to definitions in Chapter 9.75 shall also be made to the duplicated Specific Plan definitions}

3.3.0 Except as otherwise provided by the Dana Point Zoning Code or the Coastal Act, any person, partnership, corporation or state or local government agency proposing to undertake any development within the Specific Plan area shall obtain a coastal development permit in compliance with the provisions of the City's Certified Local Coastal Program. Coastal Development Permits shall be required and processed in accordance with the provisions of Chapters 9.27 "Coastal Overlay District", 9.61 "Administration of Zoning" and 9.69 "Coastal Development Permit" of the Dana Point Zoning Code. Approvals for development within the Specific Plan area authorized by Coastal Development Permit P-79-5539 shall be obtained from the Coastal Commission in accordance with the provisions of Section 9.69.030(c)(3)(D) of the Dana Point Zoning Code.

3.3.3 Any amendment to these Development Standards shall also amend Chapter 2.0 of the Specific Plan Land Use Plan, as necessary. Any amendment to the Land Use Plan Chapter 2.0 of the Specific Plan shall also amend the Development Standards, as necessary. All such amendments shall be considered for approval by the Planning Commission and adopted by the City Council, and by, if the amendment affects any portion of the Specific Plan area within the coastal zone, the amendment shall be submitted by resolution of the City Council to the California Coastal Commission for certification, to the extent California Coastal Commission has not assigned, released or otherwise transfer its jurisdiction to City or other agency. Any amendment to the Specific Plan which also constitutes an amendment to the Certified Local Coastal Program shall not be effective unless and until effectively certified by the Coastal Commission. The Specific Plan may shall be amended by procedures described in Section 9.33.070 of the Dana Point Zoning Code. An amendment to the Specific Plan which requires a local coastal program amendment shall be processed according to the procedures set forth in Section 9.61.080(e) of the Dana Point Zoning Code.

3.4.5.1 Site Development Permit(s):

A Site Development Permit is a permit issued by the City of Dana Point which authorized establishment, operation and maintenance of a specific use, structure or activity of any development, as defined in the Municipal Code. A separate Coastal Development Permit is required to be issued by the Coastal Commission prior to certification of the City's Local Coastal Program by the Coastal Commission. Any Site Development permits issued either prior or subsequent to the certification of the Local Coastal Program must be consistent with the Specific Plan and the Coastal Resource Overlay District Regulations (Chapter 9.27) of the Zoning Code. Except as otherwise provided by the Dana Point Zone Code or the Coastal Act, any person, partnership, corporation or state or local government agency proposing to undertake any development in the Specific Plan area shall obtain a Site Development Permit in compliance with the provisions of this Chapter. ~~After certification of the City's Local Coastal Program (LCP),~~

~~Coastal Development Permits shall be processed in accordance with the provisions of the Zoning Code.~~

3.9 Beach Visitor Commercial Development Standards (VRC-BH)

{Delete Section 3.9 in its entirety and replace with the following:} The beach house concept may be pursued by evaluating new potential locations either in the Specific Plan area or outside of the Specific Plan area. Selection of new potential locations and development of a beach house shall ensure that the beach house is in conformance with Chapter 2.0 of the Specific Plan and all other provisions of the certified local coastal program.

3.13.3 Signage Program

The sign program shall be approved by the Planning Commission as part of the Site Development Permit and shall be included in the approval of any coastal development permit. The approved signage program shall be consistent with the signage requirements contained in Section 2.9 of the Specific Plan.

- 3.14.1** Parking shall be provided as required by City of Dana Point regulations except as specifically provided for in this section. The minimum number of parking spaces shall conform to the requirements set forth in Table 3.5. The criteria for the establishment of the parking standards contained in Table 3.5 are those found in the "Parking Demand Study: Monarch Beach Resort" by Linscott, Law and Greenspan dated November 1, 1991. All criteria and assumptions contained in this study shall be implemented through the Site Development Permit and shall be complied with by the resort hotel and golf clubhouse operator. Any substantive changes to the assumptions contained in this study at the Site Development Permit, will necessitate a new parking demand study and a possible amendment to the Specific Plan and Local Coastal Program Amendment. The Site Development Permit will be conditioned to insure compliance with the assumptions in the parking demand study.

In addition, to verify the assumptions in the parking demand study, a Parking Monitoring Program to gather parking and vehicle occupancy data for the Hotel and Golf Clubhouse shall be implemented. The purpose of this monitoring program will be to evaluate the adequacy of the parking provided to satisfy the parking demand of both the Hotel and Golf Clubhouse. Data for the monitoring program shall be collected for two years, will commence when both the Hotel and Golf Clubhouse are operational, and the results shall be reported annually to the City of Dana Point and the Coastal Commission. Should the parking monitoring program confirm that the parking supply is less than parking demand, additional parking shall be provided to make up the parking deficiency. This shall necessitate a Local Coastal Program Amendment to the Monarch Beach Resort Specific Plan.

3.14.4 Shared Parking

Shared parking between the golf clubhouse and the hotel shall be allowed subject to the criteria and assumptions contained in the "Parking Demand Study: Monarch Beach Resort" and as approved in the Site Development Permit. If the assumptions of the parking demand study are found to be incorrect based on the results of the Parking Monitoring Program, the shared parking plan shall be reevaluated.

Graphic Modifications:

Modifications are shown as follows:

- 1.) Added text is shown in underline
- 2.) Deleted text is shown in ~~strikeout~~

Section 9.01.080(a) Table

All proposed references to the Dana Point Specific Plan/Local Coastal Program and the Capistrano Beach Specific Plan/Local Coastal Program shall be deleted from the "Relationship to Existing Plan Regulations" Table in Section 9.01.080(a). Instead, a note shall be added to the bottom of the Table indicating that both the Dana Point Specific Plan/Local Coastal Program and the Capistrano Beach Specific Plan/Local Coastal Program remain in effect for the purpose of issuing coastal development permits.

Monarch Beach Resort Specific Plan Exhibit Changes

Beach House - Delete all references and information in the Specific Plan's tables, figures, charts, and other graphics pertaining to the Beach House.

Exhibit 1.1 - Land Use Plan: Exhibit 1.1 shall be modified to change the Visitor/Recreation/Commercial land use designation for the Beach House site to Recreation/Open Space. The acreage figures contained in the exhibit shall be adjusted to reflect this change in land use designation.

Exhibit 1.4 - City General Plan/Land Use Plan: Exhibit 1.4 shall be modified to change the Visitor/Recreation/Commercial land use designation for the Beach House site to Recreation/Open Space. The acreage figures contained in the exhibit shall be adjusted to reflect this change in land use designation.

Exhibit 2.1 - Land Use Plan: Exhibit 2.1 shall be modified to change the Visitor/Recreation/Commercial land use designation for the Beach House site to Recreation/Open Space. The acreage figures contained in the exhibit shall be adjusted to reflect this change in land use designation.

Table 2.1 - Land Use Plan Statistical Area: Table 2.1 shall be modified to delete the reference to the Beach House and revise the acreage figures to reflect the conversion of the Beach House site from Visitor/Recreation/Commercial to Recreation/Open Space.

Exhibit 2.2 - Village Concept Plan: Exhibit 2.2 shall be modified to delete the Beach House site and change the Visitor/Recreation/Commercial land use designation for the Beach House site to Recreation/Open Space.

Exhibit 2.5 - Beach House Building Envelope: Exhibit 2.5. shall be deleted in its entirety.

Exhibit 2.26 - Access/Trails Plan: Exhibit 2.26 shall be modified to include a map note stating the following:

Roads between 32 feet and 39 feet in width shall have parallel parking on one side. Roads 40 feet and over in width shall have parallel parking on both sides. Where on-street parking is located close to a public trail access point, it shall be made available to the public.

Exhibit 2.27 - Sign Location Plan: Exhibit 2.27 shall be modified to incorporate the changes approved by the Coastal Commission.

Exhibit 3.1 - Zoning Map: Exhibit 3.1 shall be modified to change the VRC/BH land use designation of the specific plan zoning map for the Beach House site to the R/OSF (Recreation/Open Space Feature) land use designation of the specific plan zoning map. Further, the title of the map shall be changed to Specific Plan Land Use/Zoning Designations Map

Exhibit 3.2 Residential Zones: Exhibit 3.2 shall be modified to change the VRC/BH land use designation of the specific plan zoning map for the Beach House site to the R/OSF and use designation of the specific plan zoning map.

Map Changes:

1. Coastal Zone Boundary

The Coastal Zone boundary, as depicted on the Zoning Map as the boundary of the Coastal Overlay District, shall be adjusted to reflect the corrected Coastal Zone boundary as determined by the Coastal Commission. Further, the Coastal Zone boundary shall be depicted on the Monarch Beach Resort Specific Plan maps.

Zoning Changes:

1. The coastal bluff faces in the gated community of Monarch Bay northerly of Salt Creek shall be redesignated from the "Recreation (REC)" district to the "Conservation (CONS)" district.

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2. The parcel of land at 33542 Ritz Carlton Drive shall be redesignated from the "Professional/Administrative (P/A)" district to the "Visitor/Recreation Commercial (V/RC)" district.

Table Of Contents Changes:

The Table of Contents of the Zoning Code shall be amended to add any entirely new sections added to the Zoning Code as a result of Coastal Commission action on this LCP amendment.