

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
Oceangate, Suite 1000  
Beach, CA 90802-4302  
(949) 590-5071



November 18, 1999

**TO:** Commissioners and Interested Persons

**FROM:** Deborah Lee, Deputy Director  
Teresa Henry, South Coast Area Office District Manager  
Steve Rynas, Orange County Area Supervisor  
Karl Schwing, Coastal Program Analyst

**SUBJECT:** Major Amendment Request No. 1-99 to the City of Dana Point Certified Local Coastal Program (For Public Hearing and Commission Action at the December 7-10, 1999 meeting in San Rafael).

**SUMMARY OF LCP AMENDMENT REQUEST NO. 1-99**

The City of Dana Point Local Coastal Program (LCP) was certified by the Coastal Commission on September 13, 1989 and most recently amended by amendment 1-98, which was effectively certified on July 13, 1999. The current proposal is the City's first major LCP amendment request for 1999.

Local Coastal Program Amendment No. 1-99, contained in City Council Ordinance No. 99-07, would amend the allowable uses within the Monarch Beach area and Capistrano Beach area of the City's coastal zone (see Exhibit 1 and 2). The amendment would have no effect upon the Dana Point Specific Plan local coastal program area. The proposed amendment to the LCP Implementing Ordinances (LIP) would allow the development of non-restaurant-related drive through uses within the "Commercial Residential" zoning district in the Capistrano Beach and Monarch Beach areas of the City of Dana Point. Such uses are already allowable within Commercial Residential designations in the Dana Point Specific Plan local coastal program area. The City's proposed changes to the certified LCP have been submitted in order to address an inconsistency between the Dana Point Specific Plan local coastal program area and the Monarch Beach/Capistrano Beach local coastal program area.

**SUMMARY OF STAFF RECOMMENDATION**

Staff is recommending that the Commission, after public hearing, approve LCP Amendment No. 1-99 as submitted. The motions to accomplish this recommendation are on page two. The standard of review for the proposed amendment to the LCP Implementing Ordinances, pursuant to Sections 30513 and 30514 of the Coastal Act, is that the proposed amendment is in conformance with, and adequate to carry out, the provisions of the certified Land Use Plan (LUP).

## **CONTENTS OF LCP AMENDMENT REQUEST**

The proposed Local Coastal Program Amendment request No. 1-99 affects only the implementing ordinances (LIP) portion of the City's certified LCP for the Monarch Beach/Capistrano Beach areas. The proposed changes to the certified LCP are contained in City Council Ordinance No. 99-07 (Exhibit 3). City Council Ordinance No. 99-07 also submits the LCP amendment request for certification by the Commission (Exhibit 3). The City Planning Commission held a public hearing for the proposed LCP amendment on June 16, 1999, and the City Council held a public hearing for the proposed LCP amendment on July 13, 1999. This LCP amendment request is consistent with the submittal requirements of the Coastal Act and the regulations which govern such proposals (Sections 30501, 30510, 30514 and 30605 of the Coastal Act, and Sections 13551, 13552 and 13553 of the California Code of Regulations).

Copies of the staff report are available at the South Coast District office located in the ARCO Center Towers, 200 Oceangate, Suite 1000, Long Beach, 90802. To obtain copies of the staff report by mail, or for additional information, contact Karl Schwing in the Long Beach office at (562) 590-5071.

### **I. STAFF RECOMMENDATION**

Staff recommends adoption of the following motion and resolution:

#### **APPROVE THE AMENDMENT TO THE LCP IMPLEMENTING ACTIONS AS SUBMITTED**

**MOTION:** *"I move that the Commission reject amendment request No. 1-99 to the City of Dana Point LCP Implementing Actions as submitted."*

Staff recommends a **NO** vote which would result in the adoption of the following resolution and findings. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

#### **Resolution to certify the amendment to the LCP Implementing Actions:**

*The Commission hereby certifies amendment request No. 1-99 to the Implementing Actions of the City of Dana Point Local Coastal Program, for the reasons discussed below on the grounds that the amended ordinances, maps, and other implementing actions are consistent with, and adequate to carry out, the provisions of the certified Land Use Plan, as provided in Section 30513 of the Coastal Act. Approval of the Implementing Actions meets the requirements of Section 21080.5(d)(2)(A) of the California Environmental Quality Act in that there are no further feasible alternatives or mitigation measures available which would substantially lessen any significant*

*adverse impact that the approval of the Implementing Actions would have on the environment.*

## **II. FINDINGS**

The following findings support the Commission's approval of the LCP amendment as submitted. The Commission hereby finds and declares as follows:

### **A. Amendment Description and Background**

The proposed Local Coastal Program Amendment 1-99 would change the certified implementation plan (LIP) of the City of Dana Point certified local coastal program for the Monarch Beach and Capistrano Beach areas to allow non-restaurant-related drive through uses within "Commercial Residential" zoning districts (Exhibit 1 and 2). Non-restaurant related drive through uses are already allowed within the "Commercial Residential" zoning district as outlined in the Dana Point Specific Plan/Local Coastal Program document; therefore, the proposed amendment would not result in any change to the Dana Point Specific Plan/Local Coastal Program document. However, under the LIP for the Monarch Beach and Capistrano Beach areas any use not expressly identified as an allowable use is prohibited (Exhibit 4). Non-restaurant-related drive through uses are not listed as allowable uses in "Commercial Residential" zoning districts; therefore, the City is requesting this amendment to make such uses allowable (Exhibit 3).

The LUP has specific designations for "Visitor/Recreation Commercial" and other types of commercial uses such as "Community Commercial" and "Commercial/Residential". The "Commercial Residential" zoning designation implements the "Commercial/Residential" land use plan designation (Exhibit 5). The LIP amendment only changes uses allowed within areas zoned "Commercial Residential." Therefore, the amendment would only affect uses within areas designated "Commercial/Residential" in the land use plan for the Capistrano Beach and Monarch Beach areas of the coastal zone and not other areas such as those designated "Visitor/Recreation Commercial."

The "Commercial Residential" zoning district is a mixed use designation which allows for the development of commercial, office, and residential units in the same building or on the same parcel of land. Development within such districts may be solely commercial/office or may be a mixture of commercial/office and residential. Residential development without an accompanying commercial/office use is not allowed.

Uses within the "Commercial Residential" zoning district are categorized as either permitted without discretionary review or conditionally permitted. Accessory and temporary uses are also allowed consistent with certain criteria (Exhibit 4).

Examples of permitted <sup>uses</sup> ~~uses~~ include administrative office, business service, clinical service, food service, <sup>and</sup> ~~and~~ minor repair service among others. Conditional uses include civic, convalescent, recreational facilities, and residential facilities among others. The proposed non-restaurant-related drive through use would be listed as conditionally permitted, requiring discretionary review and approval. Examples of non-restaurant-related drive through uses would include dry cleaners, banks and pharmacies.

Special use standards for non-restaurant-related drive through uses are included in the proposed LIP amendment. These use standards include restriction of non-restaurant-related drive through uses to sites developed entirely with commercial uses, prohibition of all forms of speaker amplification, limitations on operation hours, and parking requirements.

There is presently one area within the coastal zone of Monarch Beach and Capistrano Beach designated "Commercial Residential." This area is on the inland border of the coastal zone in the Capistrano Beach area, northwest of the intersection of Doheny Park Road and Pacific Coast Highway. This area is at least one-quarter mile from Doheny State Beach and is separated from the beach by a railroad line and a wide, elevated, heavily traveled roadway. The area is not typically used for parking by the public visiting Doheny State Beach.

## **B. Public Access/Parking**

The standard of review for the proposed amendment to the LCP implementing ordinances, pursuant to Sections 30513 and 30514 of the Coastal Act, is that the proposed amendment is in conformance with, and adequate to carry out, the provisions of the certified LUP. The LUP for the Monarch Beach and Capistrano Beach areas of the city consists of the Land Use Element, Urban Design Element, and the Conservation/Open Space Element of the City's General Plan, as certified by the Coastal Commission.

### **1. Parking**

The availability of parking can affect the public's ability to access the coast. The Commission has consistently found that a direct relationship exists between the provision of adequate parking and availability of public access to the coast. In fact, the certified City of Dana Point LUP, as well as Section 30252 of the Coastal Act, both require that new development maintain and enhance public access to the coast by providing adequate parking facilities. Therefore, the proposed amendment to the LCP implementing ordinances must carry out the policies of the certified LUP by ensuring that adequate parking facilities are provided in order to assure continued public access to the coastal zone.

The proposed LIP amendment includes special use standards related to parking for non-restaurant-related drive through uses, which are as follows:

*9.07.240 Drive Through Uses...*

*(c) Development Standards...*

*3) On site parking*

*A) Drive Through uses shall comply with the parking standards of Section 9.35.080(e) for "General Retail".*

*B) The total amount of required off-street parking may be reduced if justified by a parking demand study and an alternative parking design is submitted for review and approval by the Planning Commission to accommodate the total required off-street parking assuming the entire building contains retail uses.*

The Commission must determine whether the proposed parking standards are in conformance with, and adequate to carry out, the provisions of the certified LUP. The following general transportation and access policies are contained in the certified LUP:

*Land Use Element*

*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)*

*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)*

*Conservation/Open Space Element*

*Policy 5.1 Design safe and efficient vehicular access to streets to ensure efficient vehicular ingress and egress. (Coastal Act/30252)*

The certified LUP emphasizes that public access to the City's coastal areas will be maintained and improved by providing adequate parking on-site to support any development proposed. The LIP amendment requires non-restaurant-related drive through uses to either conform with the parking standards established for "General Retail" as outlined within the certified LCP or to conform with the requirements

established within the special use standards for non-restaurant-related drive through uses.

The placement of a drive aisle to accommodate queued vehicles would displace parking stalls. However, the City's staff report prepared for the City Council states that non-restaurant-related drive through uses would tend to demand less parking than a typical retail use. Therefore, the special use standards outlined in the amendment allow a reduction in the number of parking stalls required for a non-restaurant-related drive through use if a parking demand study and alternate parking design document that adequate parking will be provided on-site. The parking study would need to document that the alternate parking design would accommodate the anticipated parking demand of the use on site through the provision of an adequate number of dedicated parking spaces or through shared use of parking spaces. The City's staff report also explains that since future conversion of a non-restaurant-related drive through use to retail use would tend to require more parking, the LIP amendment also requires that any proposed alternative parking be designed so that future reconfiguration could accommodate the additional parking required for a retail use. These provisions are consistent with the certified LUP policies encouraging the use of shared parking mechanisms to provide adequate parking on-site.

## 2. Compatible Land Uses and Pedestrian Access

The certified LUP for the Monarch Beach/Capistrano Beach areas of Dana Point encourages a balance of uses that are visitor serving and resident serving. Visitor serving and resident serving commercial areas are distributed throughout the City's coastal zone to reduce any adverse impacts upon public access that the concentration of any one type of use would cause. In addition, the policies of the LUP encourage the development of pedestrian oriented areas in order to reduce vehicle congestion on arterial roadways as well as to maintain aesthetically appealing commercial areas. The relevant LUP policies are as follows:

### *Land Use Element*

#### *Balanced Development in Dana Point*

*Policy 1.6 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)*

*Compatibility and Enhancement Among Land Uses*

*Policy 2.1 Consider the impacts on surrounding land uses and infrastructure when reviewing proposals for new development. (Coastal Act/30250)*

*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)*

*Directing Growth to Maintain and Improve Quality of Life*

*Policy 3.6 Encourage patterns of development necessary to minimize air pollution and vehicle miles traveled. (Coastal Act/30250)*

*Protection of Resident-Serving Land Uses*

*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)*

*Urban Design Element*

*Doheny Village*

*Policy 6.5 Improve pedestrian opportunities and create an attractive pedestrian environment within Doheny Village. Reserve as an open space corridor for public recreational improvements the top of the east bank of the San Juan Creek Channel.*

*Policy 6.6 Encourage mixed-use development in selected areas of Doheny Village.*

*Conservation/Open Space Element*

*Policy 5.4 Provide commercial areas that are conducive to pedestrian and bicycle circulation.*

A drive through use would tend to be associated with a high intensity use that discourages a pedestrian oriented environment. For instance, a drive through restaurant would tend to attract customers using the facility at a high turn over rate compared with a restaurant that does not offer drive through service. This type of drive through use would attract more vehicles that would arrive and leave at a rapid pace. The arrival and departure of such vehicles would tend to disrupt pedestrian thoroughfares. However, the proposed amendment authorizes only non-restaurant-related drive through service for uses such as banks, dry cleaners, and pharmacies. Banks, dry cleaners, and pharmacies without drive through service are presently allowable uses under the certified LCP in "Commercial Residential" zoning districts. Visits to uses such as banks, dry cleaners, and pharmacies tend to be of short duration regardless of the manner of access to the service. Therefore, the pattern of visitation to a use such as a bank, dry cleaner, or pharmacy would not be substantially changed through the addition of drive through service.

Pedestrian oriented areas are encouraged through specific land use plan designations and implementation plan zoning districts in the certified LCP. For instance, there is a "Community Commercial/Pedestrian" zoning district which is utilized to encourage pedestrian oriented development within areas designated "Community Commercial" in the land use plan. In addition, the LUP identifies certain areas as "Visitor/Recreation Commercial" where pedestrian oriented access would be encouraged. Therefore, allowing non-restaurant-related drive through uses in the "Commercial Residential" zoning designation would not discourage pedestrian oriented development in the City's coastal zone because there are certain areas which have been specifically targeted for pedestrian oriented use. Of course, pedestrian oriented commercial areas should be encouraged throughout the City's coastal zone as a means of reducing traffic and improving access, where possible. Therefore, even if non-restaurant-related drive through uses are made an allowable use within "Commercial Residential" zoning districts, such uses should not be predominate. The proposed amendment provides a method of controlling proliferation of non-restaurant-related drive through service oriented businesses in the "Commercial Residential" zoning district by making the use conditional, subject to discretionary review. Therefore, this proposed LIP amendment would not result in the discouragement of pedestrian oriented development in those areas targeted for such development and would not allow the proliferation of non-restaurant-related drive through uses within "Commercial Residential" zoning districts.

Finally, the proposed amendment includes special use standards which require landscaping to assure the visual compatibility of non-restaurant-related drive through uses with other uses within the development. Any adverse visual impact to the pedestrian oriented commercial character of an area will be avoided through the use of landscaping to obscure views of vehicle queues.



### 3. Conclusions - Access

The proposed LIP amendment ensures that adequate parking is provided on-site by either requiring uses to conform with the parking standards established in the certified LCP or by requiring demonstration through a parking study and alternate parking design that adequate parking will be provided on site. These standards are designed to prevent adverse impacts upon public access by ensuring that a development will not require the use of public parking spaces off-site. In addition, the proposed addition of non-restaurant-related drive through uses to the "Commercial Residential" zoning designation would not conflict with pedestrian oriented uses. Therefore, the proposed LCP amendment is in conformance with, and adequate to carry out, the access related and use compatibility provisions of the certified LUP.

#### C. California Environmental Quality Act (CEQA)

Pursuant to the California Environmental Quality Act (CEQA) and the Coastal Commission's regulations [see California Code of Regulations, Title 14, Sections 13540(f), 13542(a), 13555(b)] the Commission's certification of this Local Coastal Program Amendment must be based in part on a finding that it is consistent with CEQA Section 21080.5(d)(2)(A). That section of the Public Resources Code requires that the Commission not approve or adopt an LCP:

*...if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.*

The Commission finds that for the reasons discussed in this report there are no additional feasible alternatives or feasible mitigation measures available that could substantially reduce any adverse environmental impacts. The Commission further finds that the proposed LCP amendment is consistent with Section 21080.5(d)(2)(A) of the Public Resources Code.

City of Laguna Beach

SECTION 9.01.080(b)

EXISTING SPECIFIC PLANS, PLANNED COMMUNITIES, AND LOCAL COASTAL PROGRAM INDEX MAP

City of Laguna Niguel

Bear Brand Hill Planned Community

Bear Brand Planned Community

City of San Juan Capistrano

Orange County Zoning Code

COASTAL COMMISSION Dana Point LCPA 1-99

EXHIBIT # 1

PAGE 1 OF 2

Replaced by 3 G.P. Elements and Zoning Code as a result of LCP Am. 1-96

South Laguna Specific Plan/LCP

Laguna Niguel Planned Community

Dana Strands Orange County Zoning Code not certified

Not part of this LCP Amendment 1-99


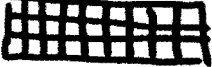

Dana Point Specific Plan/LCP

Dana Point Harbor Planned Community

Capistrano Beach Specific Plan/LCP

Replaced by 3 G.P. Elements + Zoning code AS A RESULT OF LCPA 1-98

Legend:

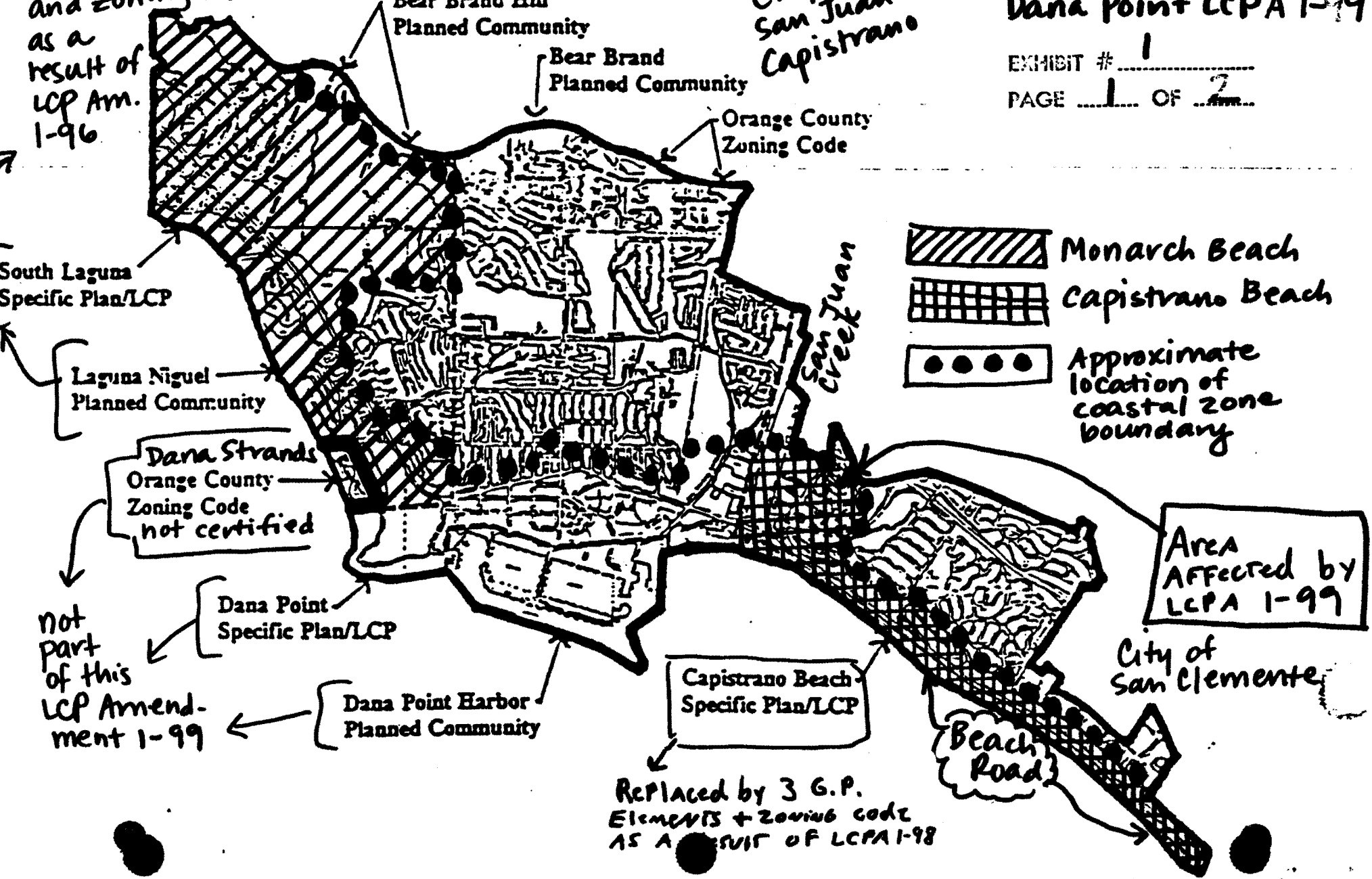
-  Monarch Beach
-  Capistrano Beach
-  Approximate location of coastal zone boundary

Area Affected by LCPA 1-99

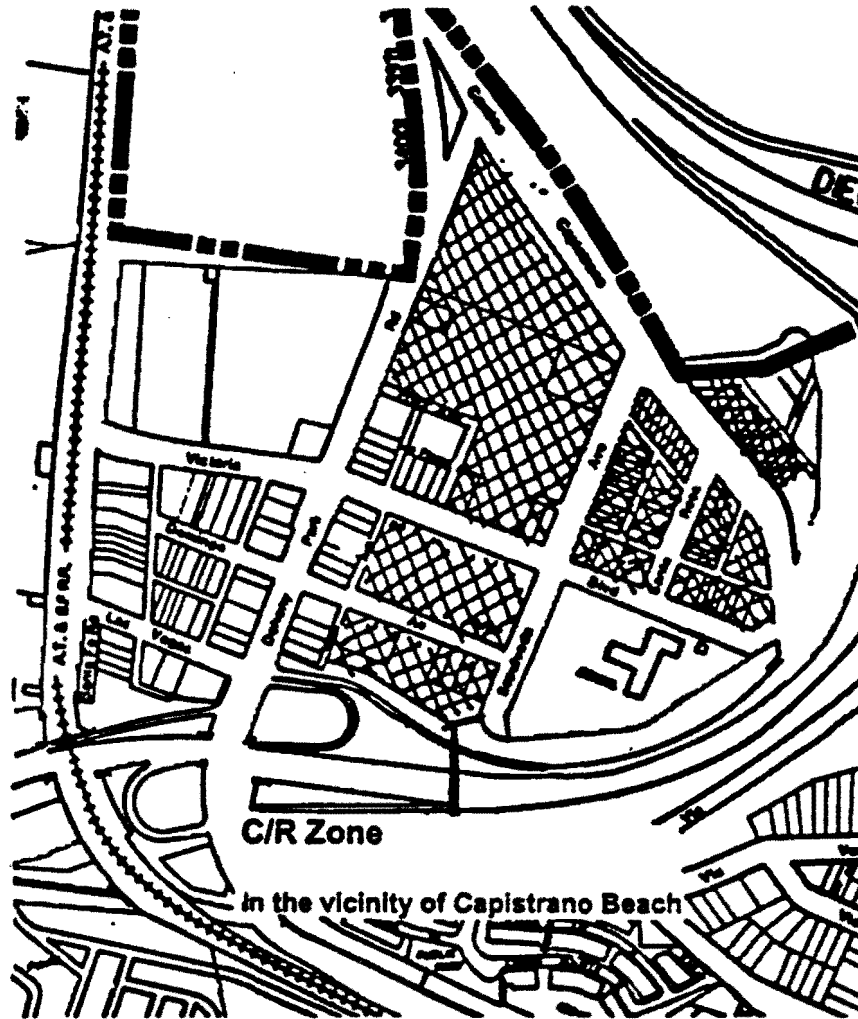
City of San Clemente

Beach Road

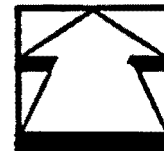
San Juan Creek



# CITY OF DANA POINT CITY COUNCIL



## LOCATION MAP



NORTH

APPLICANT: City of Dana Point

FILE NUMBER: FF# 0610-15/ZTA99-02/LCPA99-03, Citywide

CITY COUNCIL MTG. DATE: 07-13-99

COASTAL COMMISSION  
DANA POINT LCPA 1-99

EXHIBIT # 1

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**ORDINANCE NO. 99-07**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENT ZTA99-02 AND LOCAL COASTAL PROGRAM AMENDMENT LCPA99-03 TO MODIFY THE CITY OF DANA POINT ZONING CODE TO ALLOW NON-RESTAURANT RELATED DRIVE THROUGH USES WITHIN ALL C/R ZONING DISTRICTS CITYWIDE.**

Applicant: City of Dana Point  
File No.: FF# 0610-15/ZTA99-02/LCPA99-03/Citywide

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

WHEREAS, a verified application has been submitted to amend the Zoning Code and such amendment would affect properties citywide; and

WHEREAS, the application is for Zone Text Amendment and Local Coastal Program Amendment to amend the Dana Point Zoning Code by modifying sections of the Dana Point Zoning Code as it applies to allowing non-restaurant related drive through uses within all C/R zoning districts citywide; 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 June, 1999, 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 the Zone Text Amendment ZTA99-02 and Local Coastal Program Amendment LCPA99-03; and

WHEREAS, the City Council did, on the 13th day of July, 1999, 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 City Council considered all factors relating to the Zone Text Amendment ZTA99-02 and Local Coastal Program Amendment LCPA99-03.

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

SECTION 1 That the above recitations are true and correct.

COASTAL COMMISSION  
DPT LCPA 1-99

EXHIBIT # 2  
PAGE 1 OF 7

**SECTION 2** Based on the evidence presented at the public hearing, the City Council adopts the following findings in the approval of Zone Text Amendment ZTA99-02 and Local Coastal Program Amendment LCPA99-03 to allow non-restaurant related drive through uses within the C/R zoning districts citywide.

- FINDINGS:**
- 1) That the proposed project is consistent with the Dana Point General Plan and Local Coastal Program in that the amendment meets the intent of Land Use Element Policy 6.4, *"Through effective design guidelines encourage building designs, intensity and setbacks to be compatible with the desired scale and character of the area"* and Land Use Element Goal 2, *"Achieve compatibility and enhance relationships among land uses in the community."*
  - 2) That the proposed project does not conflict with any applicable provisions of the Dana Point/Local Coastal Program, or the Local Coastal Program covering Capistrano Beach and Monarch Beach.
  - 3) That the City of Dana Point determines that the LCPA meets the intent of a De Minimus amendment to the Local Coastal Program and shall submit the LCPA as a De Minimus amendment to the Executive Director of the California Coastal Commission.
  - 4) The LCPA is initiated to be carried out in a manner fully in conformance with Division 20 of the Public Resources Code as amended, the California Coastal Act of 1976.
  - 5) That the amendment involves changes to the Implementation Program and is in conformity with and adequate to carry out the provisions of the certified land use plan.
  - 6) That the proposed project complies with all applicable provisions of the Dana Point Zoning Code.
  - 7) That the proposed project complies with all other applicable requirements of state law and local ordinances.
  - 8) That a Negative Declaration was prepared for the project for the Council's review and consideration.

**SECTION 3** That the Dana Point Zoning Code shall be modified as shown in Exhibit A attached hereto and incorporated herein by this reference.

**SECTION 4** This ordinance shall take effect and be in force thirty (30) days after its passage.

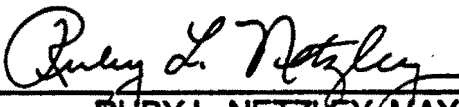
**COASTAL COMMISSION**  
**DPT LCPA 1-99**

EXHIBIT # 2

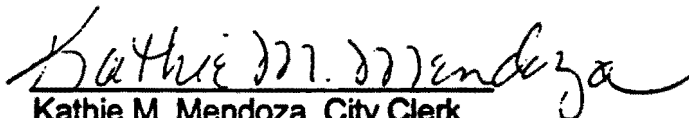
PAGE 2 OF 7

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

PASSED, APPROVED AND ADOPTED this 10th day of August, 1999.

  
RUBY L. NETZLEY (MAYOR)

ATTEST:

  
Kathie M. Mendoza, City Clerk

COASTAL COMMISSION  
DPT LCRA 1-99

EXHIBIT # 2  
PAGE 3 OF 7

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

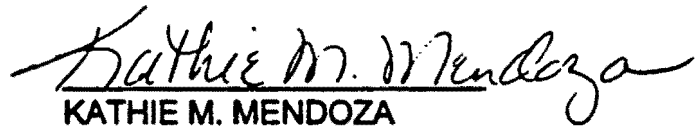
I, KATHIE M. MENDOZA, City Clerk of the City of Dana Point, California, do hereby certify that the foregoing Ordinance No. 99-07 was duly introduced and placed upon its first reading at a regular meeting of the City Council on the 27<sup>th</sup> day of July, 1999, and that thereafter, said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 10<sup>th</sup> day of August, 1999, by the following vote, to wit:

AYES: Council Members Ossenmacher, Rayfield,  
Mayor Pro Tem McGuire and Mayor Netzley

NOES: Council Member Kaufman

ABSTAIN: None

ABSENT: None

  
KATHIE M. MENDOZA  
CITY CLERK

COASTAL COMMISSION  
DPT LCPA 1-99

EXHIBIT # 2  
PAGE 4 OF 7

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. 99-07, being:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENT ZTA99-02 AND LOCAL COASTAL PROGRAM AMENDMENT LCPA99-03 TO MODIFY THE CITY OF DANA POINT ZONING CODE TO ALLOW NON-RESTAURANT RELATED DRIVE THROUGH USES WITHIN ALL C/R ZONING DISTRICTS CITYWIDE

was published in summary in the Dana Point News newspaper on the 5<sup>th</sup> day of August, 1999, and the 19th day of August, 1999, and, in further compliance with City Resolution No. 91-10-08-1, on the 5<sup>th</sup> day of August, 1999, and the 19th day of August, 1999, was caused to be posted in four (4) public places in the City of Dana Point, to wit:

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

*Kathie M. Mendoza*

KATHIE M. MENDOZA  
CITY CLERK  
Dana Point, California

COASTAL COMMISSION  
DPT LCPA 1-99

EXHIBIT # 2  
PAGE 5 OF 7



EXHIBIT A  
to  
CITY COUNCIL ORDINANCE 99-07

EXHIBIT # 2  
PAGE 6 OF 7

The underlined text represents added language and the ~~strikeout text~~ indicates deleted language. Each topic will be addressed separately below.

**SECTION 9.13.020(C) MIXED USE DISTRICTS**

The C/R district of the land use table on Page 9.13-3 is hereby amended by adding Drive Through Uses to list of permitted uses subject to the approval of a conditional use permit. The notation of C (4) will be placed in the land use matrix for drive through uses within the C/R zoning district. An additional footnote (4) will be added to the bottom of the Mixed Use District table. The following footnote information is proposed to be added to Page 9.13-3:

(4) Permitted with a Conditional Use Permit which shall be reviewed and approved by the Planning Commission and precludes restaurant/food uses, and liquor establishments, and permits such uses, but not limited to, dry cleaners, banks and pharmacies. (See Section 9.07.240)

**CHAPTER 9.07 SPECIAL USE STANDARDS**

Page 9.07-1 of SPECIAL USE STANDARDS of the Zoning Code is amended to include Section 9.07.240 Drive Through Uses as follows:

**9.07.240 Drive Through Uses.**

- (a) Purpose and Intent. This section provides standards and procedures for the development of non-restaurant drive through uses. These standards are established so that proposed drive through uses may be designed in such a manner to assure their compatibility and enhancement to the site and surrounding land uses, and provide a safe and desirable living environment.
- (b) Use Restrictions.
  - 1) Drive through uses shall only be permitted to sites that are developed entirely with commercial uses.
  - 2) Kiosks shall be prohibited.
- (c) Development Standards.
  - 1) All forms of speaker amplification shall be prohibited.
  - 2) The hours of operation shall be limited from 7a.m. to 10p.m.
  - 3) On site parking
    - A) Drive Through uses shall comply with the parking standards of Section 9.35.080(e) for "General Retail".
    - B) The total amount of required off-street parking may be reduced if justified by a parking demand study and an alternative parking design is submitted for review and approval by the Planning Commission to accommodate the total required off-street parking assuming the entire building contains retail uses.
  - 4) The drive through use shall be designed to minimize conflicts with on-site circulation and to preclude impacts to the public roadways.

- The on-site circulation shall be reviewed and approved by the Traffic Engineering Department.
- 5) The drive through aisles shall be properly screened with landscaping to help minimize the potential visual impact.

## APPENDIX (A) MASTER LAND USE MATRIX

Page A-9 of APPENDIX A of the Zoning Code is amended to "conditionally" permit drive through uses instead of prohibiting them. The notation of C (3) will replace X in the land use matrix for drive through uses within the C/R zoning district. An additional footnote (3) will be added to the bottom of the master land use matrix. The following footnote information is proposed to be added to Page A-9:

(3) Permitted with a Conditional Use Permit which shall be reviewed and approved by the Planning Commission and precludes restaurant/food uses, and liquor establishments, and permits such uses, but not limited to, dry cleaners, banks and pharmacies. (See Section 9.07.240)

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compatibility for residential uses. The only projects allowed in this district are professional or mixed use (professional/residential) projects. Residential development is only permitted in conjunction with professional development as part of a mixed use project.

**9.13.020 Permitted Uses, Accessory Uses, Temporary Uses and Conditional Uses**

- (a) Several classes of use are allowed in Mixed Use Districts. Each of these classes must promote the mixed use character of the districts. These classes of uses are:
  - (1) Permitted Use - allowed by right if no discretionary review is required. Certain permitted uses, indicated by a P\*, are also regulated by provisions contained in Chapter 9.07.
  - (2) Accessory Use - allowed by right if accessory to a permitted or conditional use.
  - (3) Temporary Use - allowed on a temporary basis in accordance with the provisions of Chapter 9.39.
  - (4) Conditional Use - allowed subject to the approval of a Conditional Use Permit in accordance with the provisions of Chapter 9.65. Certain conditional uses, indicated by a C\*, are also regulated by provisions contained in Chapter 9.07.
  - (5) Prohibited Use - not allowed in the subject mixed use district.
- (b) Certain uses other than permitted uses may not be suitable or desirable in every location within Mixed Use Districts and, therefore require a Temporary Use Permit as described in Chapter 9.39, or discretionary review through the Conditional Use Permit process described in Chapter 9.65.
- (c) The following Table lists the classification of allowable uses in Mixed Use Districts. Any use not expressly allowed is prohibited. } \*

**SECTION 9.13.020(c)  
MIXED USE DISTRICTS**

LAND USES	C/R	P/R
Administrative Office Uses	P	P
Adult Day Care Facility	C	C
Alcoholic Beverage Outlet	P*/C*	X
Automotive Sales and Rental Uses	C* (1)	X
Business Service Uses	P	P
Caretaker's Residence	C	C
Civic Uses	C	P
Clinical Service Uses	P	P
Commercial Antenna	C	C
Community Care Facility	C	C
Congregate Care Facility	C	C
Congregate Living Health Facility	C	C
Convalescent Facility	C	C
Cultural Uses	P	P
Day Care Centers	P	P
Day Treatment Facility	C	C
Drinking Establishments	P*/C*	X
Drug Abuse Recovery or Treatment Facility	C	C
Dwelling Unit, Multiple Family	A (2)	A (2)
Dwelling Unit, Single Family	P (3)	P (3)

- (1) Accessory repair or service of motor vehicles is prohibited, but the incidental installation of parts or accessories, excluding mechanical components, is permitted.
- (2) Permitted only as an accessory use to commercial or professional uses in a mixed use project.
- (3) A single family detached unit may only be permitted to replace an existing nonconforming single family residence. The replacement residence shall be developed in accordance with the development standards of the RSF 7 district. Single family attached units may be constructed as an accessory use in a mixed use project.

**LEGEND:**

P = Permitted Use	P* = Permitted Use subject to special use standards (see Chapter 9.07)
C = Conditional Use	C* = Conditional Use subject to special use standards (see Chapter 9.07)
T = Temporary Use	T* = Temporary Use subject to special use standards (see Chapter 9.39)
X = Prohibited Use	A = Accessory Use

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**SECTION 9.13.020(c)**  
**MIXED USE DISTRICTS**  
 (continued)

LAND USES	C/R	P/R
Educational Uses	X	P
Family Day Care Home, Large	C	C
Family Day Care Home, Small	C	C
Food Service Uses, Specialty	P	C
Group Dwelling/Group Home	C	C
Hospital, Acute Psychiatric	C	C
Hospital, Chemical Dependency Recovery	C	C
Hospital, General Acute Care	C	X
Hospital, Special	C	C
Intermediate Care Facility	C	C
Live Entertainment Uses	C*	X
Medical Office Uses	P	P
Membership Organizations	P	C
Minor Repair Service Uses	P	P
Mixed Use Center	P	P
Mobile Home Park	P (4)	X
Open Space	P	P
Park, Public	P	P
Personal Service Uses	P	P

(4) Only those mobilehome parks in existence as of November 23, 1993 shall be permitted.

**LEGEND:**

- |                     |  |
|---------------------|--|
| P = Permitted Use   | P* = Permitted Use subject to special use standards (see Chapter 9.07)   |
| C = Conditional Use | C* = Conditional Use subject to special use standards (see Chapter 9.07) |
| T = Temporary Use   | T* = Temporary Use subject to special use standards (see Chapter 9.39)   |
| X = Prohibited Use  | A = Accessory Use  |

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**SECTION 9.13.020(c)**  
**MIXED USE DISTRICTS**  
 (continued)

LAND USES	C/R	P/R
Photographic, Reproduction and Graphic Service Uses	P	P
Professional Office Uses	P	P
Recreational Uses	C	C
Religious Uses	C*	C*
Research and Development Uses	P	P
Residential Care Facilities for the Elderly	C	C
Residential Facility	C	C
Restaurant	P	C
Restaurant, Take-Out	P	C
Restaurant, Walkup	P	C
Retail Sales Uses	P	X
Sanitarium, Health	X	C
Sanitarium, Mental	X	C
Senior Citizen Housing	C	C
Single Room Occupancy	C	C
Skilled Nursing Facility	C	C
Small Family Home	C	C
Social Day Care Facility	C	C
Social Rehabilitation Facility	C	C
Temporary Uses	T*	T*

**LEGEND:**

P = Permitted Use  
 C = Conditional Use  
 T = Temporary Use  
 X = Prohibited Use

P\* = Permitted Use subject to special use standards (see Chapter 9.07)  
 C\* = Conditional Use subject to special use standards (see Chapter 9.07)  
 T\* = Temporary Use subject to special use standards (see Chapter 9.39)  
 A = Accessory Use

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**SECTION 9.01.040  
GENERAL PLAN LAND USE/ZONING CONSISTENCY**

General Plan Land Use Designations	Applicable Zoning Districts	Zoning District Abbreviations
<b>Residential:</b>  Residential 0-3.5 DU/AC  Residential 3.5-7 DU/AC  Residential 7-14 DU/AC  Residential 14-22 DU/AC  Residential 22-30 DU/AC	Residential Single Family 2 Residential Single Family 3  Residential Single Family 4 Residential Single Family 7  Residential Multi-Family 7 Residential Single Family 8 Residential Single Family 12 Residential Beach Road 12 Residential Multi-Family 12 Residential Duplex 14 Residential Single Family 14  Residential Multi-Family 14 Residential Beach Road Duplex 18 Residential Single Family 22  Residential Multi-Family 22 Residential Multi-Family 30	RSF 2 RSF 3  RSF 4 RSF 7  RMF 7 RSF 8 RSF 12 RBR 12 RMF 12 RD 14 RSF 14  RMF 14 RBRD 18 RSF 22  RMF 22 RMF 30
<b>Commercial:</b>  Neighborhood Commercial  Community Commercial  Visitor/Recreation Commercial	Neighborhood Commercial  Community Commercial/Pedestrian Community Commercial/Vehicular  Visitor/Recreation Commercial Visitor/Recreation Commercial/Timeshare	NC  CC/P CC/V  V/R V/R/C/T
* {  <b>Mixed Use:</b>  Commercial/Residential	Commercial/Residential <sup>1</sup> Professional/Residential	C/R P/R
<b>Office:</b>  Professional/Administrative	Professional/Administrative	P/A
<b>Industrial:</b>  Industrial/Business Park	Industrial/Business Park	I/B
<b>Community and Other:</b>  Community Facility  Recreation/Open Space  Transportation Corridor	Community Facility  Recreation Open Space Conservation  Transportation Corridor	CF  REC OS CONS  TC
<b>Harbor:</b>  Harbor Marine Land Harbor Marine Water Visitor/Recreation Commercial Recreation/Open Space Community Facility	Dana Point Harbor Planned Community	DPHPC

1 Existing residential development is consistent with the Commercial/Residential designation.

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