

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
(2) 590-5071



June 24, 1999

**TO:** Coastal Commissioners and Interested Persons

**FROM:** Deborah Lee, South Coast District Director

**SUBJECT:** Concurrence with the Executive Director's determination that the action of the City of Dana Point accepting certification with suggested modifications of the City's LCP Amendment 1-98 is legally adequate.

**STAFF RECOMMENDATION**

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

**BACKGROUND**

The Commission approved the City of Dana Point's Local Coastal Program Amendment 1-98 with suggested modifications at the public hearing held in Agoura Hills on November 6, 1998. On February 3, 1999, the Commission adopted the revised findings supporting the Commission's November 6, 1998 action. The purpose of the LCP amendment is to revise the existing LCP provisions concerning the area of Capistrano Beach, an area of the City's coastal zone east of San Juan Creek. The amendment replaces the existing LCP document covering Capistrano Beach prepared by Orange County (effectively certified by the Commission in 1987) with the City's General Plan and Zoning Code, in the format they were certified by the Commission in 1996 for the Monarch Beach area of the City. The LCP amendment also consists of amendments to the City's Zoning Code, which serves as the IP portion of the LCP for the Monarch Beach area of the City, and upon effective certification, the Capistrano Beach area. These changes to the Zoning Code include, among other things, provisions for deck extensions over slopes, a change to the definition of basement, and provisions regarding the location of pool equipment. As adopted with suggested modifications, the LCP amendment also results in changes to the standards regarding public accessway dedications in Capistrano Beach and changes to policies regarding improvements and repairs to oceanfront, nonconforming structures located in the floodplain.

The City of Dana Point accepted, and agreed to the Commission's suggested modifications by passing resolution 99-04-13-03, on April 13, 1999, and adopting ordinance 99-05, on April 27, 1999, incorporating the Commission's suggested modifications into the City's certified Local Coastal Program.

As provided for in Section 13544 of the California Code of Regulations, the Executive Director must determine that the City's action is legally adequate and report that determination to the Commission. In this case, the Executive Director has determined that the City's action is legally adequate. Unless the Commission objects to the Executive Director's determination, the certification of the City of Dana Point LCP Amendment 1-98 shall become effective upon the filing of the required notice of certification with the Secretary of Resources as provided in Public Resources Code Section 21080.5(d)(2)(V).

**ORDINANCE NO. 99-05**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENT ZTA99-01 AND LOCAL COASTAL PROGRAM AMENDMENT LCPA99-01 TO AMEND THE TEXT 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 CAPISTRANO BEACH SEGMENT OF THE DANA POINT COASTAL ZONE.**

Applicant: City of Dana Point  
File Number: FF#0610-15/ZTA99-01/LCPA99-01

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

WHEREAS, the applicant intends to amend the text of the City of Dana Point Zoning Code in accordance with the action of the California Coastal Commission (CCC) to certify the Capistrano Beach segment 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 3rd day of March, 1999 and the City Council did on the 13<sup>th</sup> day of April, 1999, hold duly noticed public hearings as prescribed by law to consider said request; and

WHEREAS, at said public hearings, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, said Commission and Council considered all factors relating to Zone Text Amendment ZTA99-01 and Local Coastal Program Amendment LCPA99-01.

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

**SECTION 1:** The above recitations are true and correct.

**SECTION 2:** Based on the evidence presented at the public hearings, the City Council adopts the following findings and approves Zone Text Amendment ZTA99-01 and Local Coastal Program Amendment LCPA99-01:

**SECTION 3: Findings**

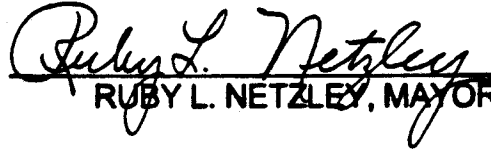
- A. That the proposed changes are consistent with the Dana Point General Plan in that they will promote consistency with the California Coastal Act, such as Public Views and Access (Urban Design Policy 1.4), Public Facilities (Land Use Policy 3.5) and Coastal Resources (Land Use Policy 4.3).
- B. That the proposed changes comply with applicable requirements of State law and local ordinances.
- C. That the proposed change 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.
- D. The Local Coastal Program Amendment is intended to be carried out in a manner fully in conformity with Division 20 of the Public Resources Code as amended (*California Coastal Act of 1976*).
- E. That the amendment is in response to suggested modifications approved by the Coastal Commission at their November 6, 1998 meeting.
- F. That the implementation program, as amended, is in conformity with and adequate to carry out the Chapter Three policies of the Coastal Act.

**SECTION 4:** That the Dana Point Zoning Code shall be modified as shown in Exhibit A attached hereto and incorporated herein by this reference.


**SECTION 5:** This ordinance shall take effect and be in force thirty (30) days after its passage.

**SECTION 6:** 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 27<sup>th</sup> day of April, 1999.

  
RUBY L. NETZLEY, MAYOR

ATTEST:

  
Kathie M. Mendoza, City Clerk

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

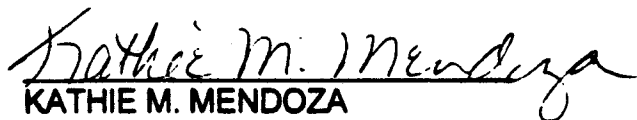
I, KATHIE M. MENDOZA, City Clerk of the City of Dana Point, California, do hereby certify that the foregoing Ordinance No. 99-05 was duly introduced and placed upon its first reading at a regular meeting of the City Council on the 13<sup>th</sup> day of April, 1999, and that thereafter, said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 27<sup>th</sup> day of April, 1999, by the following vote, to wit:

AYES:           COUNCIL MEMBERS KAUFMAN, RAYFIELD AND  
                  MAYOR PRO TEM McGUIRE

NOES:           COUNCIL MEMBER OSSENMACHER  
                  AND MAYOR NETZLEY

ABSTAIN:       NONE

ABSENT:        NONE

  
KATHIE M. MENDOZA  
CITY CLERK

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. 99-05, being:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENT ZTA99-01 AND LOCAL COASTAL PROGRAM AMENDMENT LCPA99-01 TO AMEND THE TEXT 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 CAPISTRANO BEACH SEGMENT OF THE DANA POINT COASTAL ZONE

was published in summary in the Dana Point News newspaper on the 22<sup>nd</sup> day of April, 1999, and the 6<sup>th</sup> day of May, 1999, and, in further compliance with City Resolution No. 91-10-08-1, on the 22<sup>nd</sup> day of April, 1999, and the 6<sup>th</sup> day of May, 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

## EXHIBIT A TO CITY COUNCIL ORDINANCE NO. 99-05

*Modifications are shown as follows:*

- 1.) *Added text is shown in underline*
- 2.) *Deleted text is shown in strikeout*
- 3.) *Instructions are shown in {bracketed italics}*

All text will be reformatted to match indents, tabs and font style as currently designed in the Zoning Code.

### 1. Chapter 9.05 – General Development Standards {no modifications to intervening sections}

#### 9.05.080 *Maximum Projections Into Required Yard Areas*

Except for the Residential Beach Road 12 (RBR 12), and the Residential Beach Road Duplex 18 (RBR 18) zoning districts, the items indicated in the following Table may be placed in required yards or extend beyond maximum height limits subject to the conditions placed upon those items by the table, except that for blufftop lots in the Coastal Overlay District, the limitations on development in the blufftop setback described in the blufftop setback requirements of Chapter 9.27 (Coastal Overlay District) shall supersede the provisions of the following Table. {no modifications to intervening sections}

#### 9.05.270 *Deck Extensions Over Slope Areas*

Where a deck is proposed to extend over a slope area, the following regulations shall apply, except that for slope areas on blufftop lots in the Coastal Overlay District, decks shall not project past the bluff edge, and the limitations on development in the blufftop setback described in the blufftop setback requirements of Chapter 9.27 (Coastal Overlay District) shall supersede the following regulations. {no modifications to intervening sections}

### 2. Chapter 9.09 – Residential Districts {no modifications to intervening sections}

#### 9.09.040 *Special Development Standards*

(a) Development in the Residential Beach Road 12 (RBR 12) and Residential Beach Road Duplex 18 (RBRD 18) Zoning Districts shall comply with the following standards.

(1) The following Table provides the requirements for structural stringlines, patio stringlines, ~~lateral access lines~~ and front yard setbacks for properties in the Residential Beach Road 12 (RBR 12) and Residential Beach Road Duplex 18 (RBRD 18) Districts.

{Delete the lateral access stringline column from this table. Delete all references to the lateral access stringline in the Zoning Code}

**Footnotes for Section 9.09.040(a)(1):** {no modifications to intervening sections}

~~(c) The lateral access stringline is subject to periodic review.~~ {no modifications to intervening sections}

(4) Offers to dedicate easements for public pedestrian access laterally along the beach at Capistrano Beach will be required as a condition of any new development project, as defined in public access ordinance (Section 9.27.030(a)(2)(A) of this Zoning Code), requiring a coastal development permit along Beach Road, consistent with the requirements of the public access ordinance (Section 9.27.030(a) of this Zoning Code). ~~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.~~ {no modifications to intervening sections}

### **3. Chapter 9.27 – Coastal Overlay District**

{no modifications to intervening sections}

#### **9.27.030 Development Standards**

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 {no modifications to intervening sections}

(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 the structural and patio stringlines as described in Section 9.09.040(a)(1) of this Zoning Code (the Residential Beach Road 12 (RBR 12) and Residential Beach Road Duplex 18 (RBRD) Zoning Districts), ~~or dripline.~~ {no modifications to intervening sections}

(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.

Seawalls in the northern portion of the Capistrano Bay District private community along Beach Road (north of Pines Park located in the inland bluffs above the community), when permitted in accordance with the other requirements of this Chapter, shall have a scour blanket consisting of rip-rap stone placed at the seaward toe of the seawall to minimize beach erosion. {no modifications to intervening sections}

#### **4. Chapter 9.31 – Floodplain Overlay District** {no modifications to intervening sections}

##### **9.31.050 Administration** {no modifications to (a) through (b)}

(c) **Nonconforming Uses and Structures in the Floodplain Overlay Districts.** Any use or structure lawfully existing on any premises that is made nonconforming by the application of this Chapter, or by any amendment of this Chapter, shall be subject to the provisions of Chapter 9.63, Nonconforming Uses and Structures, except as follows:

- (1) Any nonconforming structure located outside the coastal zone may be expanded, enlarged, reconstructed or structurally altered without conforming to the standards of this Chapter, provided that such expansion, enlargement, reconstruction or structural alteration does not constitute a substantial improvement. Any substantial improvement to a nonconforming structure shall be subject to all the regulations of this Chapter.
- (2) Any nonconforming structure located outside the coastal zone which sustains substantial damage shall be subject to all the regulations of this Chapter.

**{Delete proposed language and reinsert existing certified language as indicated below}**

- (3) ~~Notwithstanding other standards of the Local Coastal Program, the Floodplain Overlay District regulations for nonconforming structures set forth in the Capistrano Beach Specific Plan/Local Coastal Program and Dana Point Specific Plan/Local Coastal Program remain in effect. The following regulations shall apply to nonconforming uses and structures located in Floodplain Overlay Districts in the coastal zone:~~



- (A) No nonconforming use or structure shall be enlarged, expanded, reconstructed or structurally altered, with the limited exception of a one-time, ten percent (10%) square footage improvement that may be allowed on the inland side or within the sideyard setback areas of an existing residence, unless the entire structure is made to conform with the development standards contained in this Chapter (excepting the provisions contained in subsections (c)(1) and (c)(2) above). In addition, that work done in any period of twelve (12) months on ordinary alterations or replacement of walls, fixtures or plumbing not exceeding ten percent (10%) of the value of the building, as determined by the Director of Community Development, shall be permitted provided that the cubical contents of the building, as it existed at the time this subsection or amendments thereto take effect, are not increased.
- (B) If any nonconforming use or structure shall be destroyed or damaged to any extent by flood or wave action or accident, then said use or structure and the land on which said use or structure was located or maintained shall be allowed up to a fifty percent (50%) building valuation increase without any change in the structure's footprint once in a twelve month period. (Coastal Act/30600(e)). {no modifications to intervening sections}

**5. Chapter 9.61 – Administration of Zoning**  
{no modifications to intervening sections}

**9.61.080 Amendments**

(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 in the coastal zone for local coastal program purposes unless and until effectively certified by the Coastal Commission as an amendment to the Local Coastal Program. An amendment to the Local Coastal Program shall be processed pursuant to the provisions of Section 9.61.080(e) below. {no intervening modifications}

**(e) Local Coastal Program Amendments**

A Local Coastal Program Amendment (LCPA) is required for 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 ~~these~~ that LCPs. Otherwise, Local Coastal Program

Amendments shall be processed in accordance with the following provisions: {no intervening modifications}

**(6) City Council Resolution**

**{A} The LCPA shall be submitted to the California Coastal Commission, after public hearing, pursuant to a Resolution adopted by the City Council. The Resolution shall include the following:**

- 1. ~~which shall certify~~ A statement certifying that the City will carry out the local coastal program ~~is intended to be carried out in a manner fully in conformity with Division 20 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} 2. 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~~ implementing actions, or both, and the nature of the proposed changes.**
- 3. 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.**
- 4. Resolutions for amendments involving changes to the implementing actions ~~Implementation Plan amendment~~ shall certify that the City has found that the implementing actions ~~Implementation Plan amendment~~ as amended is are in conformity with and adequate to carry out the provisions of the certified land use plan.**
- 5. 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.**
- 6. The Resolution shall ~~certify~~ include a statement certifying that the amendment will be submitted to the Coastal Commission for review and approval.**

**{C}{B} 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}{C}~~ Under either alternative in subsection ~~9.61.080(e)(6)(C)~~ 9.61.080(e)(6)(B) 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 Commissions' 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))

**(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, including;**

- 1. a listing of members of the public, organizations, and agencies appearing at any hearing or contacted for comment on the LCP amendment, and copies of speaker slips for all persons testifying at said hearing(s);**
- 2. and copies or written summaries of significant comments received and of the City's response to those comments;**
- 3. Copies of hearing notices for all public hearings at which the LCPA was discussed or scheduled for discussion;**
- 4. Proof of publication. {no modifications to intervening sections}**

**(C) A written discussion of the LCPA's relationship to and effect on the other sections of the certified LCP. {no modifications to intervening sections}**

**(G) Copies of City staff reports for all public hearings at which the LCPA was discussed or scheduled for discussion.**

**(H) Copies of final, adopted Ordinances and Resolutions approving the LCPA.**

**(I) Copies of final, approved minutes of all public hearings at which the LCPA was discussed or scheduled for discussion. {no modifications to intervening sections}**

**6. Chapter 9.69 – Coastal Development Permit**

**9.69.010 Intent and Purpose**

**{no modifications to the intervening paragraphs}**

**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 existing certified Dana Point Specific Plan/Local Coastal Program remains in effect in those areas covered by the Dana Point Specific Plan/Local Coastal Program for local coastal program purposes. The procedures in this Chapter shall be applied in a manner which is most protective of coastal resources and public access.**

**9.69.030 Authority to Grant Permit**  
{no modifications to intervening sections}

- (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 for development 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) or in the appeals area (Pursuant to Section 30603(a) of the Coastal Act and as defined in Section 9.75.010 of this Zoning Code):* {no modifications to intervening sections}

**9.69.040 Exemptions**  
{no modifications to intervening sections}

- (j) *A coastal development permit is not required for any of the following projects, except that notification by the agency or public utility performing any of the following projects shall be made to the City within 14 days from the date of the commencement of the project:*
- (1) *Immediate emergency work necessary to protect life or property or immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.*
  - (2) *Emergency projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway, as defined in Section 360 of the Vehicle Code, except for a highway designated as an official state scenic highway pursuant to Section 262 of the Streets and Highways Code, within the existing right-of-way of the highway, damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, within one year of the damage. This paragraph does not exempt any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide from the requirement to obtain a coastal development permit from the City.*

**9.69.100 Notice of Final Action to Coastal Commission**  
{no modifications to intervening sections}

(b) *Notice of Final City Action.*

- (1) *Within seven (7) calendar days of the final City action 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:*

**(A) the Coastal Commission office having jurisdiction over the City of Dana Point; and**

**(B) to any person or group requesting notice of such action.**

**(2) Contents of Notice:**

**(A) The notice shall contain the date on which the appeal period from the approving authority to the next local appellate body expired.**

**(B) The notice shall include all conditions of approval and written findings as described in Section 9.69.100(a) of this Section above, Section 9.69.110(e)(3)(C) below, or Section 9.69.160(c) below.**

**(C) 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)) {no modifications to intervening sections}**

**(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 described 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 that circumstance, ~~final local government action~~, notify the City that the operation and effect of the final City action has been stayed.**

**When the circumstance described in Section 9.69.100(d)(2) above occurs, the City shall then transmit a revised notice of final action which meets the requirements of Section 9.69.100(b) above. When the Coastal Commission office having jurisdiction over the City of Dana Point receives the revised notice of final action, and the Executive Director has determined that the revised notice of final action meets the requirements of Section 9.69.100(b) above, the appeal period shall commence. (Coastal Act/30333, 30620; 14 Cal. Code of Regulations/13572)**

**9.69.110 Administrative Coastal Development Permit**  
{no modifications to intervening sections}

(e) *Effective Date of Administrative Permit* {no modifications to intervening sections}

(3) *A decision on an administrative coastal development permit shall not be deemed final and effective until all the following have occurred:* {no modifications to intervening sections}

(E) *Notice of Final Action prepared in accordance with Section 9.69.100 of this Zoning Code has been received by the Coastal Commission.*

(f) *Amendment to Administrative Coastal Development Permits*

(1) *Amendments to administrative coastal development permits issued by the Director of Community Development 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.* {no modifications to intervening sections}

(g) *The Director of Community Development shall not approve amendments to administrative permits issued by the Executive Director of the Coastal Commission.* {no modifications to intervening sections}

**9.69.130 Amendments to Coastal Development Permits**

(f) *Amendments to coastal development permits approved by the Coastal Commission, either prior to certification of the local coastal program or on appeal after certification of the local coastal program, shall not be processed by the City and instead shall be processed by the Coastal Commission. (Coastal Act/30333, 30519(a); 14 Cal. Code of Regulations/13166)* {no modifications to intervening sections}

**9.69.150 Emergency Coastal Development Permits**  
{no modifications to intervening sections}

(g) *Limitations* {no modifications to intervening sections}

(2) *For emergency permits issued by the Coastal Commission in the appeals area pursuant to Section 30624 of the Coastal Act, an application for the required follow-up regular coastal development permit for the emergency work shall be submitted to the City, in accordance with the requirements of Section 9.69.050 of this Zoning Code, no later than 60 days from the date of issuance of the emergency permit granted by the Executive Director of the Coastal Commission. The City may process the follow-up regular coastal*

development permit application concurrently with the Coastal Commission proceeding of the emergency permit application.

**9.69.160 Di De Minimis Project Waivers from Coastal Development Permit Requirements**

{no modifications to intervening sections}

(2) A Waiver for De Minimis Development shall be granted only for development that:

(A) Does not fall in a class of appealable development set forth in Section 9.69.090(b) of this Chapter or as defined in Section 9.75.010 of this Zoning Code; {no modifications to intervening sections}

**B. GRAPHIC MODIFICATIONS**

Modifications are shown as follows:

- 1.) Added text is shown in underline
- 2.) Deleted text is shown in ~~strikeout~~
- 3.) Instructions are shown in {bracketed italics}

**1. Section 9.01.080(a) Table**

**9.01.080 Relationship to Existing Specific Plans, Planning Communities and Local Coastal Programs.**

(a) The provisions of this Code shall supersede and replace the development regulations portions of the plans listed below as they apply to areas within the City of Dana Point:

{Reinsert the Capistrano Beach Specific Plan/Local Coastal Program back into the table}

**Footnote for Section 9.01.080(a) Table:** ~~Both the The Dana Point Specific Plan/Local Coastal Program and the Capistrano Beach Specific Plan/Local Coastal Program~~ remains in effect for the purpose of issuing coastal development permits in the area covered by the Dana Point Specific Plan/Local Coastal Program. The Land Use, Urban Design, and Conservation/Open Space Elements of the General Plan shall become the Land Use Plan portion of the City's local coastal program for all certified areas of the City not governed by the Dana Point Specific Plan/Local Coastal Program. This Zoning Code shall become the Implementing Actions of the City's local coastal program for all certified areas of the City not governed by the Dana Point Specific Plan/Local Coastal Program.

## **2. Table of Contents**

*The Table of Contents of the Zoning Code shall be updated to reflect changes to the Zoning Code as a result of Coastal Commission action on this LCP amendment.*



**RESOLUTION NO. 99-04-13-03**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA APPROVING GENERAL PLAN AMENDMENT GPA99-01 AND LOCAL COASTAL PROGRAM AMENDMENT LCPA99-01 TO AMEND THE TEXT AND MAPS OF THE DANA POINT GENERAL PLAN IN ACCORDANCE WITH THE ACTIONS OF THE CALIFORNIA COASTAL COMMISSION CERTIFYING THE CITY'S LOCAL COASTAL PROGRAM FOR THE CAPISTRANO BEACH SEGMENT OF THE DANA POINT COASTAL ZONE.**

**Applicant: City of Dana Point  
File Number: FF#0630-30/GPA99-01/LCPA99-01**

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

**WHEREAS, the applicant intends 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 Capistrano Beach Segment 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 3rd day of March, 1999, and the City Council did, on the 13<sup>th</sup> day of April, 1999 hold duly noticed public hearings as prescribed by law to consider said request; and**

**WHEREAS, at said public hearings, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, said Commission and Council considered all factors relating to General Plan Amendment GPA99-01 and Local Coastal Program Amendment LCPA99-01.**

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

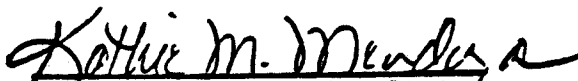
- A) The above recitations are true and correct.**
- B) Based on the evidence presented at the public hearing, the City Council adopts the following findings and approves General Plan Amendment GPA99-01 and Local Coastal Program Amendment LCPA99-01:**

1. That the proposed changes are consistent with the Dana Point General Plan in that they will promote consistency with the California Coastal Act, such as Public Views and Access (Urban Design Policy 1.4), Public Facilities (Land Use Policy 3.5) and Coastal Resources (Land Use Policy 4.3).
2. That the proposed changes comply with applicable requirements of State law and local ordinances.
3. That the proposed change 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.
4. The Local Coastal Program Amendment is intended to be carried out in a manner fully in conformity with Division 20 of the Public Resources Code as amended (*California Coastal Act of 1976*).
5. That the amendment is in response to suggested modifications approved by the Coastal Commission at their November 6, 1998 meeting.
6. That the land use plan, as amended, is in conformity with and adequate to carry out the Chapter Three policies of the Coastal Act.

PASSED, APPROVED AND ADOPTED this 13th day of April, 1999.

  
RUBY L. NETZLEV, MAYOR

ATTEST:

  
Kathie M. Mendoza, City Clerk

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.  
99-04-13-03 adopted by the City Council of the City of Dana Point, California, at a  
regular meeting thereof held on the 13th day of April, 1999, by the following vote:

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

NOES: Council Member Ossenmacher

ABSTAIN: None

ABSENT: None

  
Kathie M. Mendoza  
City Clerk

## EXHIBIT A TO CITY COUNCIL RESOLUTION NO. 99-04-13-03

Modifications are shown as follows:

- 1.) Added text is shown in underline
- 2.) Deleted text is shown in ~~strikeout~~
- 3.) Instructions are shown in {bracketed italics}

All text will be reformatted to match indents, tabs and font style as currently designed in the General Plan.

### A. LAND USE ELEMENT

#### Local Coastal Program Components {Beginning on Page 7 of the Land Use Element}

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)~~ all areas of the City of Dana Point's coastal zone, excepting the uncertified Dana Strands area and the area covered by the existing certified Dana Point Specific Plan/Local Coastal Program, are contained in the Land Use, Urban Design, and Conservation/Open Space Elements of the General Plan. ~~The 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 and other geographic areas of the City which are covered by the existing Dana Point Specific Plan/Local Coastal Program are contained within the Dana Point Specific Plan/Local Coastal Program 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.~~ These 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 for local coastal program purposes for those specific geographic areas.

### B. URBAN DESIGN ELEMENT

#### {Goal 6: 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. (Coastal Act/30210, 30213 30250)