

**CALIFORNIA COASTAL COMMISSION**

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Filed: 08/20/01  
 49th Day: 10/08/01  
 180th Day: N/A  
 Staff: KFS-LB  
 Staff Report: 08/23/01  
 Hearing Date: September 11-14, 2001  
 Commission Action:

**Tu 22c**

**STAFF REPORT: APPEAL**  
**SUBSTANTIAL ISSUE**

**LOCAL GOVERNMENT:** City of Dana Point

**LOCAL DECISION:** Approval with Conditions

**RECORD PACKET COPY**

**APPEAL NUMBER:** A-5-DPT-01-336

**APPLICANT:** Kirk Bell

**APPELLANTS:** Coastal Commissioners: Sara Wan & Shirley Dettloff

**PROJECT LOCATION:** 35405 Beach Road, Dana Point, Orange County

**PROJECT DESCRIPTION:** Demolition of an existing residence and construction of a new 3,530 square foot residence on a shorefront 4,526 square foot parcel.

**SUMMARY OF STAFF RECOMMENDATION**

The staff recommends that the Commission **open and continue** the public hearing to determine whether a substantial issue exists with respect to the grounds on which the appeal has been filed for the following reasons:

Pursuant to Section 30621 of the Coastal Act, a hearing on a coastal development permit appeal shall be set no later than 49 days after the date on which the appeal is filed with the Commission. An appeal of the above-described decision was filed on August 20, 2001. The 49<sup>th</sup> day falls on October 8, 2001. The only Coastal Commission meeting scheduled between the date the appeal was filed and the 49 day limit is the September 11-14, 2001 meeting.

In accordance with Section 13112 of the California Code of Regulations, staff requested on August 21, 2001 that the City of Dana Point forward all relevant documents and materials regarding the subject permit to the Commission's South Coast District office in Long Beach. The documents and materials relating to the City's approval of the project are necessary to analyze the project's consistency with the Coastal Act and the certified Local Coastal Program (LCP) in relation to the grounds of the appeal.

In order to be ready for the Commission's meeting, the staff report and recommendation for the appeal would have to be completed by August 23, 2001. As of August 23, 2001, the City's documents and materials relating to the local approval have not been received in the Commission's Long Beach office. Therefore, it is not possible to thoroughly analyze the appealed project and City approval in time to prepare a staff recommendation in time for the Commission's September 2001 meeting.

Therefore, pursuant to Section 13112 of the California Code of Regulations, the staff recommends that the Commission open and continue the Substantial Issue Hearing at the date meeting in place

Section 13112 of the California Code of Regulations (Effect of Appeal) states:

*(a) Upon receipt in the Commission office of a timely appeal by a qualified appellant, the executive director of the Commission shall notify the permit applicant and the affected local government that the operation and effect of the development permit has been stayed pending Commission action on the appeal by the Commission as required by Public Resources Code Section 30623. Upon receipt of a Notice of Appeal the local government shall refrain from issuing a development permit for the proposed development and shall, within five (5) working days, deliver to the executive director all relevant documents and materials used by the local government in its consideration of the coastal development permit application. If the Commission fails to receive the documents and materials, the Commission shall set the matter for hearing and the hearing shall be left open until all relevant materials are received.*

As required by the above stated regulation, the Substantial Issue Hearing will be reopened at a subsequent Commission hearing after staff has received the local government record and fully analyzes the local approval of the appealed project.