

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

August 20, 2008

**TO:** Commissioners and Interested Persons**W14a****FROM:** Peter Douglas, Executive Director
Sherilyn Sarb, Deputy Director
Karl Schwing, Supervisor, Regulation & Planning, Orange County Area
Fernie Sy, Staff Analyst**SUBJECT:** Concurrence with the Executive Director's determination that the action of the City of Dana Point accepting certification with suggested modifications of Major LCP Amendment No. 4-06 is legally adequate. For Commission review at its September 10-12, 2008 meeting in Eureka.**STAFF RECOMMENDATION**

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

BACKGROUND

On December 27, 2006, the City of Dana Point submitted Major Local Coastal Program (LCP) Amendment Request No. 4-06 for Commission certification pursuant to City Council Resolution No. 06-11-08-06 and also Resolution No. 06-11-08-5 and proposed the changes contained in City Council Ordinance No. 06-17. Local Coastal Program (LCP) Amendment No. 4-06 consists of a Land Use Plan (LUP) and Implementation Plan (IP) that would replace, in its entirety, the Dana Point Specific Plan Local Coastal Program for the Town Center Area. On May 8, 2008, the Commission approved the amendment with suggested modifications.

On June 3, 2008, the Dana Point City Council adopted Resolution No. 08-06-03-01 acknowledging receipt of the Coastal Commission action and accepting and agreeing to the suggested modifications to the City's General Plan (Land Use Plan). Also on June 3, 2008 the City Council adopted Resolution No. 08-06-03-02 requesting final certification by the California Coastal Commission. Additionally, on June 3, 2008 the City Council adopted Ordinance No. 08-08 amending the City's Zoning Code and Zoning Map (Implementation Plan) by incorporating the modifications suggested by the Commission.

The City has submitted the modifications to the Executive Director for a determination that they are consistent with the Commission's action on May 8, 2008 (see attachment).

As provided in Section 13544 of the California Code of Regulations, the Executive Director must determine whether 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 Dana Point LCP Amendment No. 4-06 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)(E).

RESOLUTION NO. 08-06-03-01

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING GENERAL PLAN AMENDMENT GPA 06-02, WHICH AMENDS THE GENERAL PLAN LAND USE ELEMENT, URBAN DESIGN ELEMENT, CIRCULATION ELEMENT, AND CONSERVATION/OPEN SPACE ELEMENT, TEXT, TABLES AND DIAGRAMS, AND SUBMISSION OF GPA 06-02 AS LOCAL COASTAL PROGRAM AMENDMENT LCPA 06-05 FOR FINAL APPROVAL BY THE CITY COUNCIL.

Applicant: City of Dana Point, Community Development Department
File No.: GPA 06-02/ZC06-01/ZTA06-04/LCPA 06-05

WHEREAS, on July 9, 1991, the City of Dana Point adopted its General Plan; and

WHEREAS, in accordance with the requirements of the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's local CEQA Guidelines, the City prepared a Mitigated Negative Declaration which has been reviewed and adopted by the City Council; and

WHEREAS, the City Council on November 8, 2006, approved General Plan Amendment GPA 06-02, Zone Text Amendment ZTA 06-04, Zone Change ZC 06-01, Local Coastal Program Amendment LCPA 06-05; and

WHEREAS, LCPA 06-05 was submitted to the Coastal Commission, which reviewed such amendment pursuant to the California Coastal Act and on May 8, 2008, approved Local Coastal Program Amendment LCPA 06-05 with suggested modifications; and

WHEREAS, the Coastal Commission found that the LCP Amendment with the suggested modifications was consistent with the policies of Chapter 3 of the Coastal Act; and

WHEREAS, in accordance with Public Resources Code Section 21166 and CEQA Guidelines Sections 15162-15164, the City assessed whether any potential environmental impacts of the suggested modifications were previously analyzed in the Mitigated Negative Declaration and if any changes were necessary, and

WHEREAS, it was determined that no changes are needed to the previously approved Mitigated Negative Declaration; and

WHEREAS, said suggested modifications have been accepted, **COASTAL COMMISSION** incorporated into LCPA 06-05, and

EXHIBIT # 1
PAGE 1 OF 10

WHEREAS, the City may amend all or part of an adopted General Plan to promote the public interest up to four times during any calendar year pursuant to Government Code Section 65358; and

WHEREAS, the City of Dana Point adopted a Local Coastal Program, which was certified by the California Coastal Commission and may be amended in whole or in part; and

WHEREAS, the General Plan Amendment GPA 06-02 is the first General Plan Amendment processed for 2008; and

WHEREAS, the proposed amendment would make changes to the Land Use Element, Urban Design Element, Circulation Element, and Conservation/Open Space Element; and

WHEREAS, the amendment is internally consistent with the other elements of the General Plan; and

WHEREAS, the preparation and adoption of the Local Coastal Program Amendment is statutorily exempt from the California Environmental Quality Act, pursuant to Section 21080.9 of the Public Resources Code and CEQA Guidelines Sections 15251(f) and 15265(a)(1); and

WHEREAS, a Mitigated Negative Declaration was prepared as the environmental documentation for the consideration of the General Plan Amendment; and

WHEREAS, the City Council did on June 3, 2008 conduct a duly noticed public hearing as prescribed by law to consider the General Plan Amendment GPA 06-02 and LCPA 06-05; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors relating to GPA 06-02 and LCPA 06-05; and

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

Section 1. That the above recitations are true and correct;

Section 2. The City Council finds as follows:

- A. The City acknowledges receipt of the Coastal Commission's certification of the LCP amendment with suggested modifications.
- B. The City accepts and agrees to the suggested modifications and agrees to take formal action to satisfy the suggested modifications by making

COASTAL COMMISSION

EXHIBIT # 1
PAGE 2 OF 10

conforming amendments as necessary to its ordinances, General Plan, LCP, and the Zoning Code.

- C. The City agrees to issue coastal development permits for the total area included in the certified Local Coastal Program.
- D. That the proposed action complies with all other applicable requirements of State law and local Ordinances;
- E. That the General Plan Amendment under GPA 06-02 is in the public interest;
- F. That the Local Coastal Program Amendment (LCPA 06-05) is consistent with, and will be implemented in full conformity with the Coastal Act;
- G. That the Mitigated Negative Declaration is complete and adequate for the consideration of the General Plan Amendment;
- H. That the City Council adopts the following findings:
 - 1. That the public and affected agencies have had ample opportunity to participate in the LCPA process. Proper notice in accordance with the LCP Amendment procedures has been followed.
 - 2. That all policies, objectives, and standards of the LCPA conform to the requirements of the Coastal Act. The amendments to the General Plan are consistent with the Coastal Act policies that encourage coastal access and preservation of coastal and marine resources. That the Land Use Plan as amended is in conformance with and adequate to carry out the Chapter Three policies of the Coastal Act and that the implementation program amendment is in conformance with and adequate to implement the Land Use Plan.
 - 3. 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. As a General Plan Amendment and Local Coastal Program Amendment, no specific development is proposed. Any proposed development will be reviewed for compliance with the City's Local Coastal Program.
 - 4. That the level and pattern of development proposed is reflected in the Land Use Plan, Zoning Code, and Zoning Map. The applicable sections are being amended accordingly to be consistent with state law.
 - 5. That a procedure has been established to ensure adequate notice of interested persons and agencies of impending development

COASTAL COMMISSION

EXHIBIT # 1
PAGE 3 OF 10

proposed after certification of the LCPA. Proper notice in accordance with the LCP Amendment procedures has been followed.

6. That zoning measures are in place which are in conformance with and adequate to carry out the coastal policies of the Land Use Plan. The City's Zoning Code is being amended concurrently with the LCP amendment.
7. The City certifies that with the adoption of these amendments, the City will carry out the Local Coastal Program in a manner fully in conformity with Division 20 of the Public Resources Code as amended, the California Coastal Act of 1976.
8. The City certifies that the Land Use Plan, as amended, is in conformity with and adequate to carry out the Chapter Three policies of the Coastal Act.
9. The City certifies the implementing actions as amended, are in conformity with and adequate to carry out the provisions of the certified Land Use Plan.
10. The Resolution of the City Council specifies that Local Coastal Program Amendment LCPA 06-05 be submitted to the Coastal Commission for final certification.

Section 3. The City Council adopts the amendments to the City's General Plan as shown in Exhibit "A" of this Resolution, attached hereto and incorporated herein by this reference.

Section 4. The City Council amends the currently adopted 1996 Land Use Plan of the 1996 Local Coastal Program as shown in General Plan Amendment GPA 06-02, attached hereto as Exhibit "A" to this Resolution.

Section 5. The City Council approves that the Dana Point Town Center Plan replaces in its entirety the Dana Point Specific Plan (including the Orange County Zoning Code) for the Town Center Plan area.

Section 6. The City Council amends the 1986 Dana Point Local Coastal Program (including the Orange County Zoning Code) in its entirety as it applies to the property within the Town Center Plan and replaces these portions of the 1986 Dana Point Local Coastal Program.

Section 7. That GPA06-02, ZC06-01, ZTA06-04, the Town Center Plan and other remaining sections of the City's General Plan and Zoning Code shall constitute the LCP for the Town Center area.

Section 8. The City Clerk shall certify to the adoption of this Resolution.

COASTAL COMMISSION

EXHIBIT # 1
PAGE 4 OF 10

PASSED, APPROVED, AND ADOPTED this 3rd day of June, 2008.



JOEL BISHOP, MAYOR

ATTEST:



Kathy Ward
City Clerk

COASTAL COMMISSION

EXHIBIT # 1
PAGE 5 OF 10

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

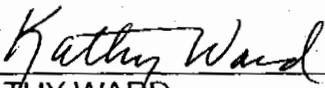
I, Kathy Ward, City Clerk of the City of Dana Point, do hereby certify that the foregoing Resolution No. 08-06-03-01 was duly adopted and passed at a regular meeting of the City Council on the 3rd day of June, 2008, by the following vote, to wit:

AYES: Council Members Anderson, Weinberg, Mayor Pro Tem Bartlett and Mayor Bishop

NOES: None

ABSENT: Council Member Harkey

ABSTAIN: None



KATHY WARD
CITY CLERK

COASTAL COMMISSION

EXHIBIT # 1
PAGE 6 OF 10

EXHIBIT A

To Resolution No. 08-06-03-01

COASTAL COMMISSION'S SUGGESTED MODIFICATIONS TO DANA POINT GENERAL PLAN AMENDMENT – GPA06-02

Note: The text to be deleted per the Suggested Modifications is shown in ~~Strike Out~~. The text to be added Per the Suggested Modifications is shown In **Italic Underlined**.

SUGGESTED MODIFICATIONS TO LAND USE ELEMENT

Policy 6.9: Retail service commercial and visitor serving commercial uses are priority uses which shall be encouraged within the Town Center. (Town Center Plan Policy 1.9)

Policy 6.10: Demolition of Existing Lower Cost Overnight Accommodations
If demolition of the existing lower cost overnight accommodations in the Town Center planning area is proposed, a fee shall be required in lieu of providing replacement lower cost motel units. If all the demolished units are replaced by lower cost motel units, the in-lieu fee shall be waived. This in-lieu fee shall be required as a condition of approval of a coastal development permit for demolition, in order to provide funding to support the establishment of lower cost overnight visitor accommodations within the coastal area of Orange County, and within 12 miles of the City of Dana Point's coastal zone.

The Town Center planning area does include one existing 24 room Motel which does provide lower cost overnight accommodations. The Motel's location is at the northern section of the Town Center planning area and sits between two major three lane roadways, Del Prado and Pacific Coast Highway.

The in-lieu fee for the demolition of the existing motel shall be an amount sufficient to fund provision of lower cost overnight accommodations comparable in number to those that are lost. The required in-lieu fees shall be deposited into an interest-bearing account, to be established and managed by the California Department of Parks and Recreation (CDPR). The entire fee and accrued interest shall be used for renovation of existing structures not currently functioning as overnight accommodations to overnight beach cottages available to the public at the Historic District of Crystal Cove State Park (Cottages 14, 17 and 21). The renovated cottages shall provide at least the same number of beds as units that are demolished and will provide a lower cost beach front overnight experience. All development ~~by this account~~ will require review and approval of the Executive

COASTAL COMMISSION
EXHIBIT # 1
PAGE 7 OF 10

Director of the Coastal Commission. Any portion of the fee that remains after five years shall be donated to one or more of the State Park units or non-profit entities providing lower cost visitor amenities or other organization acceptable to the Executive Director within 12 miles of the City of Dana Point's coastal zone. (Town Center Plan Policy 1.10)

SUGGESTED MODIFICATIONS TO URBAN DESIGN ELEMENT

Policy 3.7: Encourage the use of small spaces for landscaping and mini-parks with art features. **Landscaping shall be consistent with Policy 3.11.** (Town Center Plan Policy 2.7)

Policy 3.11: Establish a recommended plant list for trees, shrubs, herbaceous materials and ground cover within the Design Guidelines for Town Center. ~~Priority shall be given to drought tolerant plants.~~ **Non-invasive, primarily drought tolerant plants shall be used.** (Town Center Plan Policy 2.11)

Policy 3.33: **In addition to the adopted Zoning Code Landscape Design Standards that encourage the use of drought tolerant landscaping as well as protection, preservation and enhancement of native species, the use of non-invasive plant species shall be required.** (Town Center Policy 9.10)

SUGGESTED MODIFICATIONS TO CIRCULATION ELEMENT

The Town Center

Policy 11.1: Provide opportunities for shared parking facilities in the Town Center, such as through the establishment of an off-street parking district **through a subsequent LCP amendment.** (Town Center Policy 4.1)

Policy 11.2: Develop a parking concept that emphasizes shared parking facilities **through a subsequent LCP amendment.** (Town Center Policy 4.3)

Policy 11.3: Create an in-lieu parking program which includes appropriate fees which consider the costs of land acquisition and construction costs associated with providing a parking space in the Town Center. **Approval of a Local Coastal Program Amendment from the California Coastal Commission shall be required for any zoning code amendments made for the purpose of implementing an in-lieu parking program for the Town Center.** (Town Center Policy 4.5)

COASTAL COMMISSION

EXHIBIT # 1
PAGE 8 OF 10

SUGGESTED MODIFICATIONS TO CONSERVATION AND OPEN SPACE ELEMENT

The Town Center Water Quality Program

Goal: Continue the City's commitment to protecting water quality by seeking strict standards and subsequent enforcement of those standards for all new public and private development and significant redevelopment.

Policy 1.22: In addition to CEQA as applied to specific project development, projects will be consistent with Sections 30230 and 30231 of the California Coastal Act for water quality. (Town Center Policy 9.11)

Policy 1.23: All development within the Town Center shall meet the requirements of the San Diego Regional Water Quality Control Board (SDRWQCB) National Pollutant Discharge Elimination System (NPDES) permit. (Town Center Policy 9.12)

Policy 1.24: All development shall incorporate Best Management Practices (BMPs) designed to minimize or avoid the runoff of pollutants from structures, landscaping, parking and loading areas. (Town Center Policy 9.14)

Policy 1.25: In areas of new development and redevelopment, minimize the amount of impervious surfaces and directly connected impervious surfaces and where feasible maximize on-site infiltration of runoff, except where site conditions preclude infiltration (e.g., geologic hazards would be exacerbated, or pollutant concentrations are high). (Town Center Policy 9.15)

Policy 1.26: Businesses shall incorporate BMPs designed to minimize runoff of oil and grease, solvents, phosphates, suspended solids, and other pollutants to the storm drain system. (Town Center Policy 9.16)

Policy 1.27: All development shall minimize erosion, sedimentation, and other polluted runoff from construction-related activities and land disturbing activities (e.g., clearing, grading, and cut-and-fill), especially in erosive areas, to the maximum extent feasible. Development shall incorporate soil stabilization BMPs on disturbed areas as soon as feasible. Development that requires a grading/erosion control plan shall include a plan and schedule for landscaping and re-vegetation of graded or disturbed areas. (Town Center Policy 9.17)

Policy 1.28: Efficient irrigation practices shall be utilized within Town center to minimize the potential for nuisance water runoff. (Town Center Policy 9.18)

COASTAL COMMISSION

EXHIBIT # 1
PAGE 9 OF 10

Policy 1.29: A public awareness program shall be developed concerning water quality for future business owners, tenants, residents as well as property owners within the Town center. The program will emphasize the appropriate use of water with respect to landscaping, fertilizers and pesticides, irrigation, sewage control, overall business operations and public spaces. (Town Center Policy 9.19)

Policy 1.31: All development projects will be required to have a detailed Water Quality Management Plan requiring effective Site Design, Source Control and Treatment Control Best management Practices to the maximum extent practicable. In addition to common practices for reducing runoff, best available technology for catch basin inserts, filtration systems, diversion and/or biofiltration will be required. (Town Center Policy 9.20)

Policy 1.30: When the combination of site design and source control BMPs is not sufficient to protect water quality as required by the LCP or Coastal Act, or when required by Regional Board per municipal permit provisions, structural treatment BMPs will be implemented along with site design and source control measures. Use multi-benefit, natural feature, storm water treatment systems, such as landscape-based bioretention systems, bioswales and green roofs, in place of proprietary systems where feasible. (Town Center Policy 9.21)

Policy 1.31: Post-construction structural BMPs (or suites of BMPs) shall be designed, sized and installed to treat, infiltrate or filter the amount of storm water runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs and/or the 85th percentile, 1-hour storm event (with an appropriate safety factor, i.e. 2 or greater) for flow-based BMPs. (Town Center Policy 9.22)

COASTAL COMMISSION

EXHIBIT # 1
PAGE 10 OF 10