

CALIFORNIA COASTAL COMMISSION

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

July 19, 2012



TH 8a

TO: Commissioners and Interested Persons

FROM: Sherilyn Sarb, Deputy Director
Teresa Henry, South Coast District Manager
Karl Schwing, Orange County Area Supervisor
Fernie Sy, Coastal Program Analyst II

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. 2-10 is legally adequate. For Commission review at its August 8-10, 2012 meeting in Santa Cruz.

STAFF RECOMMENDATION

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

BACKGROUND

On August 10, 2010 the City of Dana Point submitted Major Local Coastal Program (LCP) Amendment Request No. 2-10 for Commission certification pursuant to City Council Resolution No. 09-06-08-10 and also Resolution No. 09-06-08-11 and proposed the changes contained in City Council Ordinance No. 09-06. Local Coastal Program (LCP) Amendment No. 2-10 proposes to: 1) include a new Land Use designation "Residential/Commercial" in the Land Use Element (LUE) of the General Plan (a part of the Local Coastal Program, Land Use Plan), as outlined in General Plan Amendment GPA07-01; 2) include a new Zoning Category "Residential Commercial-18 (R/C-18)" in the Zoning Ordinance (a part of the Local Coastal Program, Implementation Plan), as outlined in Zone Text Amendment ZTA07-02; and 3) change the Land Use designation of the subject site located at 34202 Del Obispo Street, from "Dana Point Specific Plan Local Coastal Program or '1986 LCP' designation "Recreation" and the Zoning designation of "Coastal Recreation Space" to '1996 LCP' Land Use Element (LUE) designation of "Residential/Commercial" and the Zoning designation of "R/C-18", as outlined in Zone Change ZC07-01. Besides this action being applied to the area within the '1996' LCP, this amendment would also apply to the site located at 34202 Del Obispo Street, currently owned by A&M Capital Real Estate, since this amendment will remove it from being within the jurisdiction of the Dana Point Specific Plan Local Coastal Program (LCP) or '1986' LCP and now placing it in the jurisdiction of the '1996' LCP. On December 7, 2011, the Commission approved the amendment with suggested modifications.

On April 17, 2012, the Dana Point City Council adopted Resolution No. 12-04-17-01 acknowledging receipt of the Coastal Commission action and accepting and agreeing to the suggested modifications to the City's General Plan/Local Coastal Program Land Use Plan (Exhibit #2). Also on April 17, 2012 the City Council adopted Resolution No. 12-04-17-02 requesting final certification by the California Coastal Commission Plan (Exhibit #3). Additionally, on April 17, 2012 the City Council adopted Ordinance No. 12-05 amending the City's Zoning Code/Local Coastal Program Implementation Plan by incorporating the modifications suggested by the Commission Plan (Exhibit #4).

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. 2-10 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).

RECOMMENDATION

Staff recommends that the Commission CONCUR with the Executive Director's determination as set forth in the attached letter (a letter that substantially conforms with Exhibit #1 to be sent after Commission endorsement).

CALIFORNIA COASTAL COMMISSION

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

July 19, 2012



Kyle Butterwick, Community Development Department Director
City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629-1805

Re: Effective Certification of City of Dana Point Local Coastal Program (LCP) Major Amendment No. 2-10.

Dear Mr. Butterwick:

We are pleased to notify you that on August 9, 2012, the Commission concurred with the Executive Director's determination that the action of the City of Dana Point accepting certification of Local Coastal Program (LCP) Amendment No. 2-10 with suggested modifications was legally adequate. Therefore, the LCP amendment will be fully effective upon filing of the notice of the Commission's certification with the Secretary of the Resources Agency as provided by Public Resources Code Section 21080.5(d)(2)(v).

On August 10, 2010 the City of Dana Point submitted Major Local Coastal Program (LCP) Amendment Request No. 2-10 for Commission certification pursuant to City Council Resolution No. 09-06-08-10 and also Resolution No. 09-06-08-11 and proposed the changes contained in City Council Ordinance No. 09-06. Local Coastal Program (LCP) Amendment No. 2-10 proposes to: 1) include a new Land Use designation "Residential/Commercial" in the Land Use Element (LUE) of the General Plan (a part of the Local Coastal Program, Land Use Plan), as outlined in General Plan Amendment GPA07-01; 2) include a new Zoning Category "Residential Commercial-18 (R/C-18)" in the Zoning Ordinance (a part of the Local Coastal Program, Implementation Plan), as outlined in Zone Text Amendment ZTA07-02; and 3) change the Land Use designation of the subject site located at 34202 Del Obispo Street, from "Dana Point Specific Plan Local Coastal Program or '1986 LCP' designation "Recreation" and the Zoning designation of "Coastal Recreation Space" to '1996 LCP' Land Use Element (LUE) designation of "Residential/Commercial" and the Zoning designation of "R/C-18", as outlined in Zone Change ZC07-01. Besides this action being applied to the area within the '1996' LCP, this amendment would also apply to the site located at 34202 Del Obispo Street, currently owned by A&M Capital Real Estate, since this amendment will remove it from being within the jurisdiction of the Dana Point Specific Plan Local Coastal Program (LCP) or '1986' LCP and now placing it in the jurisdiction of the '1996' LCP.

On December 7, 2011, the Commission approved the amendment with suggested modifications. On April 17, 2012, the Dana Point City Council adopted Resolution No. 12-04-17-01 acknowledging receipt of the Coastal Commission action and accepting and agreeing to the suggested modifications to the City's General Plan/Local Coastal Program Land Use Plan. Also on April 17, 2012 the City Council adopted Resolution No. 12-04-17-02 requesting final certification by the California Coastal Commission. Additionally, on April 17, 2012 the City Council adopted Ordinance No. 12-05 amending the City's Zoning Code/Local Coastal Program Implementation Plan by incorporating the modifications suggested by the Commission.

On behalf of the Coastal Commission, I would like to congratulate the City on the completion of LCP Amendment 2-10. If you have any questions, please contact Fernie Sy at our Long Beach office (562) 590-5071.

Sincerely,

Teresa Henry
District Manager

RESOLUTION NO. 12-04-17-01

MAY 4 2012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING GENERAL PLAN AMENDMENT GPA 07-01, WHICH AMENDS THE GENERAL PLAN LAND USE ELEMENT BY CREATING A NEW LAND USE CATEGORY OF "RESIDENTIAL/COMMERCIAL", AND CHANGES THE GENERAL PLAN DESIGNATION OF THE SUBJECT SITE, 34202 DEL OBISPO STREET, FROM "DANA POINT SPECIFIC PLAN - COASTAL RECREATION SPACE" TO "RESIDENTIAL/COMMERCIAL", AND SUBMISSION OF GPA 07-01 AS LOCAL COASTAL PROGRAM AMENDMENT LCPA 07-01 FOR FINAL APPROVAL BY THE COASTAL COMMISSION.

Applicant: Alvarez & Marsal Capital Real Estate, LLC
File No.: GPA 07-01/ZC07-01/ZTA07-02/LCPA 07-01

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 June 8, 2009, approved General Plan Amendment GPA 07-01, and Local Coastal Program Amendment LCPA 07-01, and on July 27, 2009, adopted Zone Text Amendment ZTA 07-02, and Zone Change ZC 07-01; and

WHEREAS, LCPA 07-01 was submitted to the Coastal Commission, which reviewed such amendment pursuant to the California Coastal Act on December 7, 2011, and approved Local Coastal Program Amendment LCPA 07-01 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, agreed to, and incorporated into LCPA 07-01, and

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 07-01 is the first General Plan Amendment processed for 2012; and

WHEREAS, the proposed amendment would make changes to the Land Use Element of the General Plan and will also change the designation of the subject site from "Dana Point Specific Plan - Coastal Recreation Space" to "Residential/Commercial; 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 April 17, 2012, conduct a duly noticed public hearing as prescribed by law to consider the General Plan Amendment GPA 07-01 and LCPA 07-01; 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 07-01 and LCPA 07-01; 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 conforming amendments as necessary to its ordinances, General Plan, LCP, and the Zoning Code.
- C. The City agrees to issue coastal development permits for 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 07-01 is in the public interest;
- F. That the Local Coastal Program Amendment (LCPA 07-01) 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 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 07-01 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 07-01, attached hereto as Exhibit "A" to this Resolution.

Section 5. The City Council approves that the 1986 Dana Point Local Coastal Program (Dana Point Specific Plan and Orange County Zoning Code) as it applies to the subject site be replaced with the 1996 Local Coastal Program (as amended).

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 subject site and replaces these portions of the 1986 Dana Point Local Coastal Program.

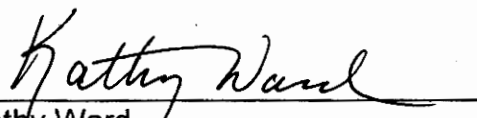
Section 7. That GPA07-01, ZC07-01, ZTA07-02, and other remaining sections of the City's General Plan and Zoning Code shall constitute the LCP for the subject site.

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

PASSED, APPROVED, AND ADOPTED this 17th day of April, 2012.


LARA ANDERSON, MAYOR

ATTEST:


Kathy Ward
City Clerk

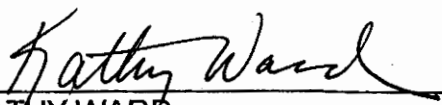
STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF DANA POINT)

I, Kathy Ward, City Clerk of the City of Dana Point, do hereby certify that the foregoing Resolution No. 12-04-17-01 was duly adopted and passed at a regular meeting of the City Council on the 17th day of April, 2012, by the following vote, to wit:

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

NOES: None

ABSENT: None



KATHY WARD
CITY CLERK

EXHIBIT "A"

General Plan Amendment GPA07-01

Modification of Land Use Element of the General Plan: The "Mixed Use Designation" shall be amended to add a new Land Use category of "Residential/Commercial" as follows: (The Coastal Commission's suggested modifications are shown in bold font).

Residential/Commercial: The Residential/Commercial designation provides for a mixture of residential, commercial, and office uses in the same building, or on the same parcel. Residences in the Mixed Use designation provide housing near sources of employment or commercial and professional services. **New Mixed Use development within Residential/Commercial designated areas shall be sited in a manner that minimizes vehicle miles traveled (VMT). In consideration of minimizing VMT, this alternative Mixed Use housing and commercial designation adds to the City's supply of housing opportunities, reduces commute time distance between home and work, provides housing development within walking distance to existing or proposed transit stops and promotes a strong, stable, and desirable pedestrian-oriented business environment. When mixture of uses occur in the same building, retail uses or offices are usually located on the ground floor with residential or office uses above. When Residential/Commercial development is located in areas that support general public visitors, including, but not limited to, areas bordering the Pacific Coast Highway, visitor serving uses are strongly preferred uses over all other uses for ground floor commercial spaces. In such areas, lower cost visitor commercial facilities shall be protected, encouraged, and, where feasible, provided. The mixed uses are usually located in areas where multiple activities and pedestrian orientation are considered to be desirable objectives.**

RESOLUTION NO. 12-04-17-02

MAY 4 2012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING LOCAL COASTAL PROGRAM AMENDMENT LCPA07-01 AND REQUESTING FINAL CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION.

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

WHEREAS, the City Council on June 8, 2009, approved General Plan Amendment GPA 07-01, and Local Coastal Program Amendment LCPA 07-01, and on July 27, 2009, adopted Zone Text Amendment ZTA 07-02, and Zone Change ZC 07-01; and

WHEREAS, LCPA 07-01 was submitted to the California Coastal Commission, which reviewed such amendment pursuant to the California Coastal Act on November 2, and December 7, 2011, and approved Local Coastal Program Amendment 07-01 with suggested modifications; and

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

WHEREAS, said suggested modifications have been incorporated into the LCPA 07-01, and

WHEREAS, the City Council, after giving notice as prescribed by law, held a public hearing on April 17, 2012, regarding the Dana Point Local Coastal Program Amendment LCPA07-01, and the City Council finds that the proposed amendment is consistent with the Dana Point General Plan, the Local Coastal Program and the California Coastal Act; and

WHEREAS, the City Council of the City of Dana Point certifies that it intends to implement the Local Coastal Program in a manner fully consistent and in conformance with the California Coastal Act; 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

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 conforming amendments as necessary to its ordinances, General Plan, LCP, and 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 Local Coastal Program Amendment is in the public interest;
- F. That the Local Coastal Program Amendment (LCPA 07-01) is consistent with, and will be implemented in full conformity with the Coastal Act;
- G. That the Mitigated Negative Declaration for the proposed project is complete and adequate for the consideration of Local Coastal Program 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 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 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 07-01 be submitted to the Coastal Commission for final certification.

Section 3. That the Dana Point City Council approved Dana Point Local Coastal Program Amendment LCPA07-01 pursuant to Resolution 12-04-17-01 and Ordinance No. 12-05. LCPA07-01 pertains General Plan Amendment GPA07-01, Zone Text Amendment ZTA07-02, Zone Change ZC07-01 and LCPA07-01. A copy of Resolution 12-04-17-01 and Ordinance 12-05 approving LCPA07-01 with the specific content of the proposed amendment is attached hereto as Exhibit A and is incorporated herein by this reference as though fully set forth herein.

Section 4. That the California Coastal Commission is hereby requested to consider, approve and finally certify Dana Point Local Coastal Program Amendment LCPA07-01 which replaces the 1986 Dana Point Specific Plan Local Coastal Program for the subject site, 34202 Del Obispo Street.

Section 5. That pursuant to Section 13551(b) of the Coastal Commission Regulations, Dana Point Local Coastal Program Amendment LCPA07-01 will automatically take effect immediately upon California Coastal Commission approval, as provided in Public Resources Code Section 30512, 30513 and 30519.

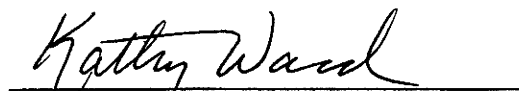
Section 6. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 17th day of April, 2012.



LARA ANDERSON, MAYOR

ATTEST:



KATHY WARD
City Clerk

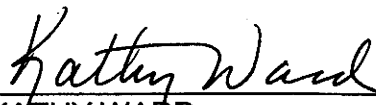
STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF DANA POINT)

I, Kathy Ward, City Clerk of the City of Dana Point, do hereby certify that the foregoing Resolution No. 12-04-17-02 was duly adopted and passed at a regular meeting of the City Council on the 17th day of April, 2012, by the following vote to wit:

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

NOES: None

ABSENT: None



KATHY WARD
CITY CLERK

ORDINANCE NO. 12-05

MAY 4 2012

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENT ZTA 07-02 AND ZONE CHANGE ZC07-01 TO ESTABLISH A NEW ZONING CATEGORY OF "RESIDENTIAL/COMMERCIAL-18" (R/C-18) IN CHAPTER 9.13 OF THE ZONING ORDINANCE AND TO CHANGE THE DESIGNATION OF THE SUBJECT SITE, 34202 DEL OBISPO STREET, FROM "DANA POINT SPECIFIC PLAN - COASTAL RECREATION SPACE" TO "R/C-18", AS PART OF LOCAL COASTAL PROGRAM AMENDMENT LCPA07-01 FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION.

Applicant: Alvarez & Marsal Capital Real Estate, LLC
File No.: GPA 07-01/ZC07-01/ZTA07-02/LCPA 07-01

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

WHEREAS, in January, 1994, the City of Dana Point adopted its Zoning Code and Zoning Map; and

WHEREAS, the City seeks to amend the Zoning Code and Zoning Map, affecting the subject site located at 34202 Del Obispo Street; and

WHEREAS, the proposal is for a Zone Text Amendment, Zone Change and Local Coastal Program Amendment to amend the Dana Point Zoning Code by adding a new category of "R/C-18" in Chapter 9.13 of the Zoning Ordinance, and to amend the Dana Point Zoning Map to designate the subject site as "R/C-18"; and

WHEREAS, the Zone Text Amendment and Zone Change will be consistent with and will provide for the orderly, systematic and specific implementation of the General Plan, as amended; and

WHEREAS, the R/C-18 zoning designation of the subject site will be harmonious with the zoning of the surrounding properties; and

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

WHEREAS, the City Council on June 8, 2009, approved General Plan Amendment GPA 07-01, and Local Coastal Program Amendment LCPA 07-01, and on July 27, 2009, adopted Zone Text Amendment ZTA 07-02 and Zone Change ZC 07-01; and

WHEREAS, LCPA07-01 was submitted to the Coastal Commission, which reviewed such amendment pursuant to the California Coastal Act and on December 7, 2011, approved Local Coastal Program Amendment LCPA07-01 with suggested modifications; and

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

WHEREAS, said suggested modifications have been accepted and agreed to, and incorporated into GPA07-01 and LCPA07-01, 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, 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 Zone Text Amendment and Zone Change will be consistent with and will provide for the orderly, systematic and specific implementation of the General Plan, as such General Plan would be amended; 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, the City Council did on April 17, 2012, conduct a duly noticed public hearing as prescribed by law to consider the Zone Text Amendment, Zone Change, and LCPA; 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 ZTA 07-02, ZC 07-01, and LCPA 07-01; and

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

- A. That the above recitations are true and correct;
- B. The City acknowledges receipt of the Coastal Commission's certification of the LCP amendment with suggested modifications.
- C. The City accepts and agrees to the suggested modifications and agrees to take formal action to satisfy the suggested modifications by making conforming amendments as necessary to its ordinances, General Plan, LCP, and Zoning Code.
- D. The City agrees to issue Coastal Development Permits for the subject area included in the certified Local Coastal Program.
- E. That the proposed action complies with all other applicable requirements of State law and local Ordinances;
- F. That the Zone Text Amendment (ZTA 07-02) and Zone Change (ZC 07-01) are in the public interest;
- G. That the Local Coastal Program Amendment (LCPA 07-01) is consistent with, and will be implemented in full conformity with the Coastal Act;
- H. That the Mitigated Negative Declaration for the proposed project is complete and adequate for the consideration of the Zone Text Amendment and Zone Change;
- I. 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 Zone Text Amendment and Zone Change, 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 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 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 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 Ordinance of the City Council specifies that Local Coastal Program Amendment LCPA 07-01 be submitted to the Coastal Commission for final certification.
- J. The City Council adopts the suggested modifications to the amendment to the City Zoning Code as shown in the attached Exhibit "A" of this Ordinance.
- K. The City Council amends the currently adopted Implementation Action portion of the 1996 Local Coastal Program as shown in Zone Text Amendment ZTA 07-02 and Zone Change ZC 07-01, as shown in Exhibit "A" to this Ordinance.

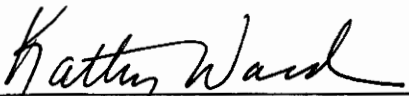
- L. The City Council amends the 1986 Dana Point Local Coastal Program (including the Orange County Zoning Code) in its entirety as it applies to the subject site and replaces these portions of the 1986 Dana Point Local Coastal Program with the 1996 Local Coastal Program (as amended) along with Zone Text Amendment (ZTA 07-02) and Zone Change (ZC 07-01).

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

PASSED, APPROVED, AND ADOPTED this 1st day of MAY, 2012


LARA ANDERSON, MAYOR

ATTEST:


KATHY WARD
City Clerk

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

I, KATHY WARD, City Clerk of the City of Dana Point, California, do hereby certify that the foregoing Ordinance No. 12-05 was duly introduced at a regular meeting of the City Council on the 17th day of April, 2012, and was duly adopted and passed at a regular meeting of the City Council on the 1st day of May, 2012, by the following vote, to wit:

·AYES: Council Members Bartlett, Brough, Schoeffel, Mayor Pro Tem
 Weinberg, and Mayor Anderson

NOES: None

ABSTAIN: None


KATHY WARD, CITY CLERK

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

AFFIDAVIT OF POSTING
AND PUBLISHING

KATHY WARD, 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. 12-05, being:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ZONE TEXT AMENDMENT ZTA07-02 AND ZONE CHANGE ZC07-01 TO ESTABLISH A NEW ZONING CATEGORY OF "RESIDENTIAL/COMMERCIAL-18" (R/C-18) IN CHAPTER 9.13 OF THE ZONING ORDINANCE AND TO CHANGE THE DESIGNATION OF THE SUBJECT SITE, 34202 DEL OBISPO STREET, FROM "DANA POINT SPECIFIC PLAN - COASTAL RECREATION SPACE" TO "R/C-18", AS PART OF LOCAL COASTAL PROGRAM AMENDMENT LCPA07-01 FOR APPROVAL AND CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION.

was published in summary in the Dana Point News newspaper on the 26th day of April, 2012, and the 10th day of May, 2012, and, in further compliance with City Resolution No. 91-10-08-1, on the 20th day of April, 2012, and the 4th day of May, 2012, 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

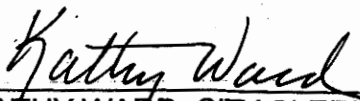

KATHY WARD, CITY CLERK
Dana Point, California

EXHIBIT "A"

Modification of Development Standards: Chapter 9.13 shall be amended as follows:
(The Coastal Commission's suggested modifications are shown in bold font).

9.13.010 Intent and Purpose.

The mixed use districts provide for the compatible and beneficial mixture of commercial, office and residential uses in a single structure or on a single site. These districts are designed to achieve a convenient business and residential environment in areas where multiple activities and an increased degree of pedestrian orientation are considered to be desirable. The districts also provide a transitional or buffering zone between exclusive non-residential and residential districts. Residences in the Mixed Use District provide housing near sources of employment or commercial and professional services-- an alternative to exclusively residential districts. This alternative housing is intended to add to the City's supply of affordable housing, reduce commutes between home and work, and promote a strong, stable, and desirable pedestrian-oriented business environment.

(a) **Commercial/Residential (C/R).** The Commercial/Residential (C/R) district provides for compatible mixtures of commercial and office uses, and residential units in the same building or on the same parcel. Allowable commercial and office uses include those that are typically permitted in the Community Commercial (CC) districts. These uses provide for a commercially-oriented environment that also offers compatibility for residential uses. The only projects allowed in this district are commercial or mixed use (commercial/residential) projects. Residential development is only permitted in conjunction with commercial development as part of a mixed use project.

(b) **Residential/Commercial-18 (R/C-18).** The Residential/Commercial-18 (R/C-18) district provides for a mixture of residential uses with commercial and office uses in the same building or on the same parcel. Allowable commercial and office uses include those which are visitor serving in nature and at the same time are compatible with residential uses such as bed and breakfast inns, restaurants, specialty and convenience shops and recreation/open space uses such as coastal recreation equipment, rental shops and environmental education facilities related to coastal ecology. This district provides for a residential density of eighteen units per acre. New development within Residential/Commercial-18 shall be sited in a manner that minimizes the residential development residents' vehicle miles traveled (VMT). VMT siting considerations shall include, but not be limited to: close proximity of the new development to existing or planned transit stops (efforts should be made to site residential development within ½ mile to existing or planned transit stops); walkability to commercial development like restaurants, grocery stores and cultural venues; and close proximity to, and/or provision of, bicycle amenities like bicycle racks and bicycle lanes or dedicated bicycle pathways. It implements the State's Mello Act and the City's goals, objectives and policies for production of affordable housing by requiring that any project of new construction with more than ten residential units, which is located within the Coastal Overlay District, shall be required to provide a minimum ten percent (10%) of the total housing units as "affordable units", as defined in the Housing Element of the City's General Plan and pursuant to the provisions of the aforementioned State's Mello Act. The only projects allowed in this district are mixed use (residential/commercial) projects. The gross floor area for commercial uses is limited to a maximum of ten (10) percent of the total site area. Properties fronting Pacific Coast Highway are required, at a minimum, to provide visitor serving commercial uses on the ground floor of all the buildings fronting Pacific Coast Highway, for a minimum depth of forty (40) feet. (Visitor Serving Uses are those allowed under the Visitor/Recreation Commercial (V/R) zoning designation in Section 9.11.010 and 9.11.020(b)).

(b)-(c) Professional/Residential (P/R). The Professional/Residential (P/R) district includes a mixture of professional offices and residential use in the same building or on the same parcel. Allowable professional uses typically include those that are permitted in the Professional/Administrative (P/A) district. These uses provide for a professional office-oriented environment that also offers 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	R/C-18	P/R
Administrative Office Uses	P	<u>P</u>	P
Adult Day Care Facility	C	<u>X</u>	C
Alcoholic Beverage Outlet	P*/C*	<u>P*/C*</u>	P*/C*
Automotive Sales and Rental Uses	C* (1)	<u>C*(1)</u>	X
<u>Bed and Breakfast Inn</u>		<u>C</u>	
Business Service Uses	P	<u>X</u>	P
Caretaker's Residence	C	<u>C</u>	C
Civic Uses	C	<u>C</u>	P
Clinical Service Uses	P	<u>C</u>	P
Commercial Antenna	C	<u>C</u>	C
Community Care Facility	C	<u>X</u>	C
Congregate Care Facility	C	<u>X</u>	C

Congregate Living Health Facility	C	<u>X</u>	C
Convalescent Facility	C	<u>X</u>	C
Cultural Uses	P	<u>P</u>	P
Day Care Centers	P	<u>X</u>	C
Day Treatment Facility	C	<u>X</u>	C
Drinking Establishments	P*/C*	<u>P*/C*</u>	X
Drive Through Uses	<u>C(4) (5)</u>	<u>X</u>	X
Drug Abuse Recovery or Treatment Facility .	C	<u>X</u>	C
Dwelling Unit, Multiple Family	A (2)	<u>P (3)</u>	C (2)
Dwelling Unit, Single Family	<u>P (3) (4)</u>	<u>P(4)</u>	C (2)
Educational Uses	X	<u>X</u>	C
Family Day Care Home, Large	C	<u>C</u>	C
Family Day Care Home, Small	C	<u>C</u>	C
Food Service Uses, Specialty	P	<u>P</u>	C
Group Dwelling/Group Home	C	<u>X</u>	C
Hospital, Acute Psychiatric	C	<u>X</u>	C
Hospital, Chemical Dependency Recovery	C	<u>X</u>	C
Hospital, General Acute Care	C	<u>X</u>	X
Hospital, Special	C	<u>X</u>	C
Intermediate Care Facility	C	<u>X</u>	C
Live Entertainment Uses	C*	<u>C*</u>	X
Medical Office Uses	P	<u>P</u>	P
Membership Organizations	P	<u>P</u>	C
Minor Repair Service Uses	P	<u>C</u>	P
Mixed Use Center	P	<u>P</u>	P
Mobilehome Park	<u>P (5) (6)</u>	<u>X</u>	X
Open Space	P	<u>P</u>	P
Park, Public	P	<u>P</u>	P
Personal Service Uses	P	<u>P</u>	P
Photographic, Reproduction and Graphic Service Uses	P	<u>P</u>	P
Professional Office Uses	P	<u>P</u>	P
Public Utility Uses	C	<u>X</u>	X
Recreational Uses	C	<u>C</u>	C
Religious Uses	C*	<u>C*</u>	C*

Research and Development Uses	P	X	P
Residential Care Facilities for the Elderly	C	X	C
Residential Facility	C	X	C
Restaurant	P	P	C
Restaurant, Take-Out	P	P	C
Restaurant, Walkup	P	P	C
Retail Sales Uses	P	P	C
Sanitarium, Health	X	X	C
Sanitarium, Mental	X	X	C
Senior Citizen Housing	C	C	C
Single Room Occupancy	C	C	C
Skilled Nursing Facility	C	X	C
Small Family Home	C	X	C
Social Day Care Facility	C	X	C
Social Rehabilitation Facility	C	X	C
Temporary Uses	T*	T*	T*

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

Footnotes for Section 9.13.020(c):

- (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 and located on the second floor only.
- (3) Permitted only as part of a mixed use project. In compliance with the Mello Act, new construction projects of more than ten residential units which are located within the Coastal Overlay District are required to provide a minimum ten percent (10%) of the units as "affordable units".
- ~~(3)~~ (4) 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.
- (4) (5) 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)
- ~~(5)~~ (6) Only those mobilehome parks in existence as of November 23, 1993 shall be permitted.

9.13.030 Development Standards.

The following general development standards Table provides the minimum acceptable standards for development within the mixed use districts necessary to assure quality development and attractive local mixed use areas. The development standards are supplemented, and where applicable, superseded by the special development standards described in Chapter 9.05, Chapter 9.07, and Section 9.13.040. Parking standards are provided in Chapter 9.35.

SECTION 9.13.030 MIXED USE DEVELOPMENT STANDARDS

Development Standards (1)	Mixed Use Zoning Districts		
	C/R	R/C-18	P/R
(a) Minimum Lot Size (2)	5,000 sf	<u>5,000 sf</u>	5,000 sf
(b) Minimum Lot Width (2)	50 ft	<u>50 ft</u>	50 ft
(c) Minimum Lot Depth (2)	100 ft	<u>100 ft</u>	100 ft
(d) Maximum Lot Coverage	40%	<u>40%</u>	35% (3)
(e) Maximum Residential Density	10 du/net ac	<u>18 du/net ac</u>	10 du/net ac
(f) Maximum Height	31-35 ft (4) 3 stories (5)	<u>31-35 ft (4)</u> <u>3 stories (5)</u>	31 ft 2 stories
(g) Standard Floor Area Ratio (non-residential) (6)	.5:1	<u>N/A</u>	.5:1
(h) Standard Floor Area Ratio for Mixed Use Projects (6)	.7:1	<u>N/A</u>	.5:1
(i) Minimum Front Yard Setback			
From Ultimate Public Street R/W Line	5 ft	<u>5 ft</u>	0 ft
(j) Minimum Side Yard Setback			
Interior Side	0 ft	<u>5 ft</u>	0 ft
Street Side	5 ft	<u>5 ft</u>	5 ft
(k) Minimum Rear Yard Setback			
Standard Lot	15 ft	<u>15 ft</u>	15 ft
Adjacent to Alley or Street	10 ft	<u>10 ft</u>	10 ft
(l) Minimum Open Space (Required for residential portion of development only)	Private:	100 sf per du	<u>100 sf per du</u>
	Common:	100 sf per du	<u>100 sf per du</u>
(m) Minimum Landscape Coverage (7)	10%	<u>15% (8)</u>	15% (8)
(n) Minimum Building Separation	10 ft	<u>10 ft</u>	10 ft
(o) Minimum lockable, enclosed storage per residential unit provided in garage or carport area	250 cubic feet	<u>250 cubic feet</u>	250 cubic feet
(p) Separate trash and recycling facilities areas shall be provided for the residential component and the non-residential component of C/R and P/R developments	Yes	<u>Yes</u>	Yes

Footnotes for Section 9.13.030:

- (1) See Chapter 9.75 for definitions and illustrations of development standards.
- (2) Development standard applies to proposed subdivisions of land. The standards may be waived by the Planning Commission when necessary to accommodate the parcel configuration for an integrated commercial development subject to approval of a Conditional Use Permit pursuant to Chapter 9.65.
- (3) An increase in lot coverage may be permitted with a Site Development Permit (pursuant to Chapter 9.71) provided that the development demonstrated exceptional design quality and improvements.
- (4) Subject to the criteria in Section 9.05.110(b)(4).
- (5) A maximum of 3 stories may be permitted in accordance with Section 9.05.200.
- (6) A maximum FAR of 1.5:1 may be permitted in accordance with Section 9.05.210.
- (7) All residential units shall be provided with twenty (20) square feet of private landscaped area which shall not be calculated in the minimum landscape coverage.
- (8) A decrease in landscape coverage may be permitted with a Site Development Permit with an approved landscape plan.

9.13.040 Special Development Standards.

(a) Maximum Density. The maximum residential density in the mixed use districts is subject to the following requirements:

When residential dwelling units are combined with office, or retail commercial uses in a single building or on the same parcel, the maximum density shall be 10 dwelling units per net acre. The Floor Area Ratio requirements do not apply to the residential portion(s) of the structure.

The maximum residential density in the R/C-18 district shall be eighteen dwelling units per acre. Proposed development does not have any presumptive development right or 'entitlement' to the maximum residential density of eighteen dwellings units per acre; the actual development allowed may be less than the maximum density due to localized conditions identified during the development review process. Projects of new construction with more than ten residential units, which are located within the Coastal Overlay District and in the R/C-18 district, are also required to provide a minimum ten percent (10%) of the total housing units as "affordable units" in compliance with the Mello Act. Any affordable housing units provided pursuant to Government Code Section 65590(d) shall be counted toward compliance with affordable housing requirements of this Zoning district and the City's General Plan. The affordable housing units are not counted in the density calculations of a project.

(b) Accessory Uses and Structures. Accessory buildings or structures are subject to the same height and setback requirements described for primary buildings and structures in Section 9.13.030 except as modified by Section 9.05.080, Maximum Projections into Required Yard Areas.

(c) Design Compatibility. New improvements or uses to the site or structure shall be sensitive to the fact that the new improvement or use will be within a district that may act as a transition or buffer between intensive non-residential districts and residential neighborhoods. The new structure or use shall be designed so that it does not impact the adjacent uses, yet enhances the site's use as a buffer or transition.

The new improvement or use shall recognize internal compatibility and create mutual enhancement with adjacent uses on site. In order to properly mix residential and non-residential uses on the same site, potential noise, odors, glare, excessive pedestrian traffic, or other significant impacts shall be reduced to a level of insignificance. New improvements shall be subject to the following additional standards:

(1) Sound Mitigation. All residential dwellings shall be designed to be sound attenuated against present and future project noise. New projects, additions to existing projects, or new non-residential uses in existing projects shall, under the discretion of the Director of Community Development, prepare an acoustical analysis report (by a City-certified acoustical engineer) describing the acoustical design features of the structure required to satisfy the exterior and interior noise standards (65db CNEL in outdoor living areas and an interior standard of 45db CNEL). The report shall include satisfactory evidence that the measures specified in the report(s) have been, or will be, incorporated into the design of the project.

(2) Lighting Compatibility. All new projects, additions to existing projects, and new non-residential uses, shall mitigate any light and glare impacts that may be directed towards on-site residential units. This may require, at the discretion of the Director of Community Development, the preparation of a photometric study which addresses the potential lighting impacts upon the residential units, any proposed mitigation measures, and evidence that the measures will be incorporated into the design of the project.

(3) Design Standards. The design of the structure and site shall encourage integration of the street pedestrian environment with the non-residential uses through the use of plazas and street furniture, yet use its design to hinder the street pedestrian from direct access to the on-site residential units.

The design of a mixed-use project shall ensure that the residential units are of residential character, creating a home and not simply a place to live. The design of the project shall ensure that privacy between other residential units and between other uses on site shall be maintained.

For projects in the R/C-18 zone, the ground floor area of any building fronting Pacific Coast Highway, for a minimum depth of forty (40) feet, is restricted to visitor serving commercial uses. Projects are also encouraged to coordinate visual and circulation linkages between adjacent developments to create design continuity. Emphasis should be on pedestrian orientation and pedestrian opportunities through widened sidewalks and street facing plazas, courtyards and richly planted landscape focus points oriented to the street. Appropriate landscape buffers should be provided between street and pedestrians and building sites.

(4) Parking Standards. Parking areas for mixed use projects shall incorporate the following provisions:

(A) Reserved parking stalls and appropriate signage indicating so, shall be required for each residential unit. This provision shall be included within the association bylaws.

(B) Each residential unit shall be assigned a minimum 45 cubic foot exterior storage space and bicycle locker capable of securing two bicycles.

(C) All parking areas shall be well lighted at all times.

(D) The design of the structure will incorporate safe passages from the parking areas to the units. Enclosed corridors for pedestrian access between parking areas and residential units, in excess of ten (10) feet long, shall be prohibited.

(E) Surface parking shall not be located to front Pacific Coast Highway.

(5) Hours of Operation/Performance. In mixed use projects, non-residential uses shall be restricted from operation between the hours of 10:00 p.m. to 7:00 a.m.

(6) Joint Owners' Association. A joint resident/commercial/office owner's association shall be formed in all mixed use projects to ensure the well-being of each tenant on site. The association shall be formed of equal voting rights according to type of use (i.e. residential, commercial, office). The association's bylaws shall at a minimum shall include the following: determination of the maintenance and landscaping responsibilities, trash facility responsibilities, parking facility maintenance responsibility, assignment of parking spaces per each use, relationship between uses regarding association representation, voting procedures, and ways that problems are solved between the different on-site uses. The association bylaws shall be subject to review and approval by the Director of Community Development and City Attorney.

(7) Signage Standards. All site signage shall minimize potential impacts of light, glare and noise, upon the on-site residential units. Signage for all uses shall be compatible with each other, and appropriately integrated into the structure/site design. All proposed signage shall conform to Chapter 9.37, Sign Regulations.

(d) Sign Programs. Multi-tenant mixed use developments shall be required to obtain approval for a project sign program pursuant to Chapter 9.37.

(e) "Art-in-Public-Places" Program. All new development projects located in the zoning districts described in this Chapter are subject to the provisions of the "Art-in-Public-Places" Program as described in Section 9.05.240.

(f) In addition to the Special Development Standards located above, the following shall also apply to the site located at 34202 Del Obispo Street:

(1) There shall be at least a 25-foot setback from the property line adjacent to the San Juan Creek Bike Trail. Only development necessary to provide landscape features, pedestrian and bicycle uses and for passive park purposes are allowed within this setback area.

(2) Public pedestrian and bicycle access to the San Juan Creek Bike Trail shall be provided onsite.

(3) All streets and pedestrian and bicycle accessways shall be ungated and available to the general public for parking, vehicular, pedestrian, and bicycle access. All public entry controls (e.g. gates, gate/guard houses, guards, signage, etc.) and restrictions on use by the general public (e.g. preferential parking districts, resident-only parking periods/permits, etc.) associated with any streets, on-street parking areas, or pedestrian and bicycle accessways shall be prohibited.

(4) An adequate buffer shall be established during the development review process between the South Orange County Wastewater Authority (SOCWA) parcel and development located on the subject parcel. The buffer must be located on the subject parcel and not the SOCWA parcel. Where necessary to accommodate an adequate buffer, the amount/density of residential development onsite shall be reduced and/or eliminated, as opposed to reducing the amount/density of allowed commercial/visitor serving uses onsite.