

CALIFORNIA COASTAL COMMISSION

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F8a

April 25, 2019

TO: Commissioners and Interested Persons

FROM: Karl Schwing, Deputy Director
Shannon Vaughn, Planning Supervisor
Meg Vaughn, Staff Analyst

SUBJECT: Major LCP Amendment Request No. 1-17 (LCP-5-DPT-17-0076-1) to the City of Dana Point's Certified Local Coastal Program. For public hearing and Commission action at the Commission's May 10, 2019 meeting in Oxnard.

SUMMARY OF LCP AMENDMENT REQUEST NO. 1-17

The Local Coastal Program (LCP) amendment requests to make changes to the Implementation Plan portion of the Dana Point Specific Plan/1986 LCP, as reflected in Specific Plan Amendment SPA-17-001. The proposed change would modify the Coastal Visitor Commercial District (C-VC) zoning designation to add additional, specific, non-visitor serving uses within the C-VC zoning district, above the ground floor only and subject to approval of a Conditional Use Permit (in addition to any required coastal development permit).

The LCP Amendment was submitted pursuant to City of Dana Point City Council Resolution No. 17-12-05-03 (**Exhibit 1**), which approves Dana Point Specific Plan Amendment SPA17-0001 (amending the Dana Point Specific Plan/1986 LCP) and Zoning Text Amendment ZTA17-0001 (amending Dana Point Zoning Code/1996 LCP). The two proposed amendments were originally submitted to the Commission together; however, the City has since withdrawn that portion of the amendment request included under Zoning Text Amendment ZTA17-0001 (amending Dana Point Zoning Code/1996 LCP). Only the changes proposed to the Coastal Visitor Commercial District (C-VC) reflected in ZTA 17-0001 are currently before the Commission.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission certify City of Dana Point LCP Amendment No. 1-17 to the Dana Point Specific Plan as submitted. The motion to accomplish this is on **Page 3** of this staff report.

STANDARD OF REVIEW

The standard of review for the proposed amendment to the Implementation Plan portion of the Dana Point Specific Plan /1986 LCP is that the proposed amendment is in conformance with, and adequate to carry out, the provisions of the certified Land Use Plan (LUP) portion of the Dana Point Specific Plan of the City of Dana Point certified Local Coastal Program, as proposed to be amended herein. (Pub. Res. Code §§ 30513, 30514(b); 14 CCR § 13542(c).)

LOCAL REVIEW AND DEADLINE FOR COMMISSION ACTION

The City made the proposed LCP amendment available to the public at City Hall, the Community Development Department, and at the local Orange County public library branch. Notice of availability of the proposed amendment for public review was printed in the local paper and posted at City Hall, local Post Offices, in the local library, and on the City's website. A noticed Planning Commission study session was conducted by the Planning Commission at City Hall to review proposed amendment on October 23, 2017. Six members of the public attended and two attendees spoke on the amendment that has since been withdrawn. No public comments were received regarding the amendment to the C-VC zone district. On November 13, 2017 the Planning Commission held a noticed public hearing at City Hall, no members of the public spoke on this item. On December 5, 2017, the City Council held a noticed public hearing at City Hall and no members of the public spoke at the hearing. The City Council approved the proposed amendment following the public hearing.

On December 11, 2017, the City submitted the LCP amendment request for Coastal Commission certification pursuant to City of Dana Point City Council Resolution No. 17-12-05-03 (**Exhibit 1**). On December 21, 2017, the submission was deemed incomplete by Commission staff. Commission staff received a written response from the City on February 27, 2018. After reviewing the response, Commission staff deemed the LCP amendment submittal complete. On May 9, 2018, the Commission authorized a one-year extension for action on the LCP Amendment request. As such, the deadline for Commission action on this item is May 28, 2019. Thus, the Commission must act at this May 2019 hearing.

ADDITIONAL INFORMATION

The file is available for review at the South Coast District office located at 301 East Ocean Blvd., Suite 300, Long Beach, 90802. The staff report can be viewed on the Commission's website: <http://www.coastal.ca.gov/mtgcurr.html>. For additional information, contact Meg Vaughn in the South Coast District office at (562) 590-5071.

EXHIBITS

1. City Council Resolution No. 17-12-05-03
2. Specific Plan Amendment-17-001
3. Dana Point Local Coastal Programs Map
4. Survey of Visitor Serving Uses – Dana Point Coastal/Harbor Area (Planning Systems, 10/6/2017)
5. Location Map – Property Zoned C-VC

I. MOTIONS AND RESOLUTIONS

A. APPROVAL OF IP AMENDMENT No. 1-17 TO THE DANA POINT SPECIFIC PLAN 1986 LCP AS SUBMITTED

Motion 1:

I move that the Commission reject Implementation Plan Amendment No. 1-17 to the Dana Point Specific Plan 1986 LCP as submitted by the City of Dana Point.

Staff recommends a **NO** vote on the foregoing motion. Failure of this motion will result in certification of the Implementation Plan Amendment No. 1-17 to the Dana Point Specific Plan 1986 LCP as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Resolution to certify the implementation plan amendment as submitted:

The Commission hereby certifies the Implementation Plan Amendment No. 1-17 to the Dana Point Specific Plan 1986 LCP as submitted by the City of Huntington Beach and adopts the findings set forth below on grounds that the implementation plan amendment conforms with, and is adequate to carry out, the provisions of the certified land use plan. Certification of the implementation plan amendment will meet the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the implementation plan amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

II. FINDINGS

The Commission hereby finds and declares:

A. DESCRIPTION OF THE LCP AMENDMENT REQUEST

The City of Dana Point has requested Commission action on Local Coastal Program Amendment (LCPA) 1-17 which affects the Implementation Plan (IP) only of the City's certified LCP. The LCPA was submitted pursuant to City of Dana Point City Council Resolution No. 17-12-05-03 which approves Dana Point Specific Plan Amendment SPA17-0001 and Zoning Text Amendment ZTA17-0001, and submits them together as local LCPA17-003 for approval and certification by the Coastal Commission. As submitted, the amendment request represented two distinct requests – one affecting the Dana Point Specific Plan and the other affecting the Dana Point Zoning Code. These were approved by the City Council under separate actions, but submitted for Coastal Commission action under a single resolution: Dana Point City Council Resolution No. 17-12-05-03. Because the two requests are distinct, affect separate LCP documents, and were acted on individually by the City, they may be processed as two parts. The City has withdrawn that portion of LCPA 1-17 that had requested action on ZTA 17-0001, which requested modifications to the Zoning Code. The Dana Point Zoning Code serves as the Implementation Plan portion of the City's certified 1996 LCP. Since that segment of the LCPA has been withdrawn no action by the Commission will occur. The remaining portion of the original LCPA is described below.

LCPA 1-17: Amendment to Dana Point Specific Plan

SPA 17-0001 requests to modify the Coastal Visitor Commercial (C-VC) zoning designation of the Implementation Plan portion of the Dana Point Specific Plan/1986 LCP to allow additional, specific, non-visitor serving uses above the ground floor within the C-VC zone, subject to approval of a Conditional Use Permit. This portion of the proposed amendment would add new Subsection 5. *Permitted Uses Above Ground Floor* to Chapter E. *District Regulations*, Subsection 6. *C-VC Coastal Visitor Commercial District* of the Implementation Plan (Dana Point Specific Plan/1986 LCP). Proposed new Subsection 5 would allow the following non-visitor serving uses above the ground floor level within District 6 C-VC Coastal Visitor Commercial: administrative and professional offices; personal services oriented to the daily needs of the immediate neighborhood, such as beauty shops, barber shops, and dry cleaners; banks and savings and loan association branches; and optometry and dental offices. Currently only visitor serving uses and uses accessory to those uses are allowed within this district. The proposed non-visitor uses would be allowed only above the ground floor and will require approval of a conditional use permit in addition to any required coastal development permit. The Dana Point Specific Plan is also referred to as the 1986 LCP as discussed in the next section.

B. HISTORY OF CERTIFICATION OF CITY OF DANA POINT

Prior to the City of Dana Point's incorporation in 1989, the Commission had approved the segmentation of formerly unincorporated Orange County's coastal zone into the geographic segments of Capistrano Beach, Dana Point, Laguna Niguel, and South Laguna segments. Following the City's incorporation in 1989 all of these geographic areas covered by the former Orange County LCP segments were included within the city limits of the new City of Dana Point. In addition, a portion of the South Laguna segment was within the new City's boundary. The City combined the Capistrano Beach and Dana Point segments, and the portion of the South Laguna segment within its jurisdiction, and, after some minor modifications, the City adopted these County LCP documents as its first post-

incorporation LCP. On September 13, 1989, the Commission approved the City's post-incorporation LCP. However, the City did not adopt the LUP which had been certified as the Laguna Niguel segment (which contained the area known as the Strand). When the Monarch Beach area was certified, the City chose to whitehole the Strand. The Strand is now known as the Dana Point Headlands. Also, in order to differentiate between the new City of Laguna Niguel (which was also incorporated in 1989) and the Laguna Niguel planning area (which was within the new City of Dana Point and not within the new City of Laguna Niguel), the Laguna Niguel LUP planning area was re-named 'Monarch Beach'.

Since initial certification of the City's LCP, the City has taken steps to consolidate and update those LCP documents to reflect current needs of the City. The first step involved certification of a new land use plan (LUP) and implementation plan (IP) for the Monarch Beach area of the City under LCP Amendment 1-96. This action adopted, with modifications, a new Land Use Plan ("LUP") component consisting of three elements of the City's General Plan: Land Use, Urban Design, and Conservation/Open Space 1.¹ LCPA 1-96 also included adoption with modifications, of the implementing actions component of the LCP for the Monarch Beach area, which is the City's Zoning Code. This updated document is referred to as the 1996 LCP.

Next the City updated the 1996 LCP by incorporating the Capistrano Beach area into the 1996 LCP via LCPA 1-98. The City adopted the modifications to the LUP and IP suggested by the Commission in approving LCPA 1-98 if modified. The modified LCP for Capistrano Beach was effectively certified on July 13, 1999. Thus, the 1996 LCP applies to the Monarch Beach and Capistrano Beach areas of the City's coastal zone.

Since updating the 1996 LCP for the Monarch Beach and Capistrano Beach areas of the City, the City has also obtained certification of an LCP for the Headlands area (known as the Headlands Development Conservation Plan, effectively certified on 1/14/2005 via Dana Point LCPA 1-03). In addition, the City has obtained certification for an updated specific plan for the Town Center area of the City that serves as the LCP for that area (known as the Town Center Plan, effectively certified on 9/10/2008 via Dana Point LCPA 4-06). And most recently, the City created and gained certification of a specific plan for Dana Point Harbor (known as Dana Point Harbor Revitalization Plan, effectively certified in October 2011 via Dana Point LCPA 1-10 and Dana Point LCPA 1-08). Rather than incorporate these areas into the 1996 LCP as Monarch Beach and Capistrano Beach were, the Headlands, Town Center, and Dana Point Harbor are subject to Specific Plans that serve as LCPs for those geographic areas. The original 1986 LCP remains in effect for the remainder of the City. The 1986 LCP includes the Dana Point Specific Plan, which serves as the LCP for that specific geographic area (Exhibit 4).

Thus, the City of Dana Point certified Local Coastal Program is currently comprised of a number of different documents, which serve as the LCP for specific geographic areas:

¹ Certain sections and policies within these documents that pertained to areas that were not being updated/re-certified were excluded from the certification. Among the areas excluded were the policies associated with the Dana Point Headlands, the harbor, and the town center areas.

- The Dana Point Specific Plan/1986 LCP (based originally on former County LCPs for geographic areas that later became part of the City of Dana Point when it incorporated in 1989).
- The Monarch Beach/Capistrano Beach 1996 LCP (comprised of the Land Use Element, Urban Design Element, and Conservation Open Space Element [LUP], and the City's Zoning Code [IP]).
- Headlands Development Conservation Plan.
- The Dana Point Town Center Plan.
- The Dana Point Harbor Revitalization Plan.

The proposed change to allow non-visitor serving uses within the Coastal Visitor Commercial District would modify the Implementation Plan portion of the Dana Point Specific Plan/1986 LCP.

**C. LCPA 1-17: AMENDMENT TO THE DANA POINT SPECIFIC PLAN/1986 LCP
IMPLEMENTATION PLAN: C-VC COASTAL VISITOR COMMERCIAL DISTRICT
– APPROVAL AS SUBMITTED**

More specifically, the proposed amendment to the Dana Point Specific Plan (1986 LCP) would add the following new language to Section 6.b Coastal Visitor Commercial District Land Uses (City proposed addition to currently certified language is shown below in underline type):

6. Coastal Visitor Commercial District
- a. Purpose and Intent [no change]
 - b. Land Uses

1. Principal Permitted Uses
[no change]
2. Other Permitted Uses
[no change]
3. Accessory Uses Allowed
4. Prohibited Uses

5. Permitted Uses above the Ground Floor – The following uses are permitted on floors that are above the ground floor, in compliance with the site development standards contained in subsection “C” below and subject to the provisions of a Coastal Development Permit approved in compliance with the CD District Regulations, and a Conditional Use Permit (CUP), except for permitted uses as specified in subsection b1 and b2 above area allowed without a Conditional Use Permit (CUP). Approved CDP’s are subject to appeal to the Coastal Commission.

- a) Administrative and professional offices.
- b) Personal services oriented to the daily needs of the immediate neighborhood, beauty shops, barber shops, and dry cleaners.
- c) Banks and savings and loan association branches.
- d) Optometry or Dental offices.

The Dana Point Specific Plan Implementation Plan (IP)/1986 LCP zone designation Coastal Visitor Commercial District (C-VC) implements the Dana Point Specific Plan LUP land use designation Tourist Recreation/Commercial (5.31 on the Land Use Element map). The LUP describes uses within this designation as: *“Typical uses to be encouraged include public or private recreational, cultural, social and educational facilities; gift and specialty shops; food and drink establishment; hotels and other permanent overnight accommodations; limited residential development; and required parking facilities.”*

In support of this, the LUP Tourist Recreation/Commercial Guidelines encourage, among other things:

- To encourage multi-use developments combining the above uses and any others which achieve the intent of this designation.
- To provide for a mix of uses which will facilitate both seasonal and year-round activities.
- To vary the uses from site to site so as to capitalize on the particular location, size, and uniqueness of each area.
- To provide for maximum public access to the amenities afforded by the site.
- To arrange buildings, structures and man-made improvements so that scenic aspects of the site are available for public enjoyment.
- To conserve natural features of the site through use of site alterations and grading that enhance the natural scenic and recreational features of the site.

Currently, the Tourist Recreation/Commercial land use designation and the Coastal Visitor Commercial District zone apply to three sites in the City. One is located at the northwest corner of the intersection of Dana Point Harbor Drive and Golden Lantern. This site is developed with the Dana Marina Plaza shopping center, which includes restaurants, retail shops, and offices and personal services establishments (optometrist, hair salon, financial services, etc.). The second is located at the end of Park Lantern, immediately inland of Lantern Bay Park. This site is developed with the Laguna Cliffs Marriott Resort and Spa, a 378 room hotel with a restaurant and lounge and spa facilities. The third site is located at the southeast corner of the intersection of Pacific Coast Highway and Dana Point Harbor Drive. This site, currently vacant, is immediately adjacent to and inland of Doheny State Beach. The proposed amendment would make no change to the locations where this land use designation and zoning apply (Exhibit 5).

The certified LUP encourages visitor serving uses within the Tourist Recreation/Commercial land use designation. This higher priority is also reflected in the Coastal Visitor Commercial District zone, by the uses that are allowed within the zone. These include hotels, motels and restaurants, bicycle and surfboard shops and rentals, and retail and service businesses associated with the needs of visitors and tourists, among other permitted uses. Although the certified LUP encourages visitor serving uses, it also recognizes that allowing limited, non -visitor serving uses within the Coastal Visitor Commercial District can provide benefits as well. As reflected in the LUP policies cited above, uses promoted by the LUP within this designation and zoning include multiple use developments, and a varied mix of uses that would facilitate both seasonal and year-round activities. A mix of uses within this district may also reduce the number of vehicle miles traveled as patrons would be able to accomplish more than one activity on a single visit. In addition, oftentimes the non-visitor serving uses have a different

peak use period than the visitor uses. For example, office use typically involves day time hours whereas, depending upon the type of restaurant, restaurant use typically peaks during evening hours. Providing limited non-visitor serving uses within a visitor serving complex helps support the continued viability of the visitor serving uses during the off-peak seasons as patrons of an office or service use may be drawn to use of the restaurant or retail uses at the site, but may not otherwise have visited the location were it not for the non-visitor purpose (office, service uses).

The owner of one of the sites subject to this amendment (Dana Marina Plaza) commissioned a survey of visitor serving uses in the area that compares uses available now to those available in 1984 (when the Dana Marina Plaza was approved). The survey (Exhibit 4), found that the number and scale of visitor serving uses within the survey area have increased between 1984 and 2017 (when the survey was conducted). The number of hotels has increased from two to four, providing a total of 474 additional guest rooms. The number of restaurants has increased from 43 to 51; and other visitor serving uses have also increased: one new interpretive center, one new art gallery, two new surf rental shops, and one new bike rental shop.

The proposal to allow non-visitor serving uses within the visitor district will still prioritize visitor serving uses for the following reasons: all ground floor area will still be required to be utilized entirely for visitor serving uses and visitor serving uses will still be allowed above the ground floor as well. In addition, visitor serving uses will be allowed outright (subject to any required coastal development permit), whereas non-visitor serving uses will be subject to approval of a conditional use permit, in addition to any required coastal development permit, providing an additional layer of review. The City's Planning Commission staff report (11/13/2017) states: "The discretionary review ensures that the proposed uses meet applicable development standards, but also to ensure that it is not impacting the visitor serving commercial uses which are the priority in the C-VC zoning district."

In addition, all uses proposed in this zone must still comply with all other requirements of the LCP including, but not limited to, the LUP sections cited above regarding protection of public access and public views. The proposed LCPA makes no change to the current parking requirements. For all the reasons described, the Commission finds that the proposed amendment would still prioritize visitor uses within the Coastal Visitor District, consistent with the requirements of the certified LUP to encourage and promote visitor serving uses within this district. Therefore, the Commission finds that, as proposed, the amendment is consistent with and adequate to carry out the visitor serving policies of the certified LUP and approves the amendment as submitted.

III. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.9 of the California Public Resources Code – within the California Environmental Quality Act (CEQA) - exempts local governments from the requirement of preparing an Environmental Impact Report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of an LCP. The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under Section 21080.5 of CEQA, the Commission is relieved of the responsibility to prepare an EIR for each LCP. Nevertheless, the Commission is required in approving an LCP submittal to find that the LCP does conform with the provisions of CEQA, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternatives or

feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. Sections 13542(a), 13540(f), and 13555(b).

As outlined in this staff report, the proposed IP Amendment 1-17 as submitted is consistent with the policies of the certified 1986 LUP. Thus, the Commission finds that the IP Amendment 1-17 is in conformity with and adequate to carry out the land use policies of the certified LUP. Therefore, the Commission finds that approval of City of Dana Point LCP Amendment 1-17 will not result in significant adverse environmental impacts under the meaning of CEQA. Therefore, the Commission certifies LCP Amendment request No. 1-17 as submitted.