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W13b

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STAFF REPORT: APPEAL – DE NOVO

Application No.: A-5-DPT-22-0038

Applicant: City of Dana Point

Project Location: Citywide within the Coastal Zone, City of Dana Point, Orange County

Project Description: Establish a Short-Term Rental (STR) Program to regulate the permitting and operation for STRs within the Coastal Zone of the City of Dana Point.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The City of Dana Point's action on Local Coastal Development Permit (CDP) No. 20-0010 approved the City's proposed short-term rental program to implement new regulations and standards for the operation of short-term rentals (STRs) within the coastal zone. STRs generally refer to the short-term rental (30 days or less) of private dwelling units or a room in a home. The STR Program would regulate STRs in all residential areas of the City's Coastal Zone.¹ The City's proposed STR Program can be found in [Exhibit 2](#) and is the subject of the local CDP.

The Coastal Act contains policy language that protects and prioritizes lower-cost visitor and recreational facilities and requires that public coastal access be maximized. The Commission has found that visitor-serving overnight accommodation uses, including STR units, help maximize the opportunities provided for the public to access the coast. These units can increase public coastal access by providing a wider selection of

¹ The City has indicated that it plans to take action on establishment of an STR program for the areas outside the Coastal Zone following Commission action on the subject appeal.

overnight accommodations in the Coastal Zone to visitors and by including more units in areas where residential communities directly flank the shoreline. At the same time, the Commission has recognized legitimate community concerns over potential adverse impacts associated with STRs, with respect to housing stock and affordability, community character, noise, and parking impacts.

Typically, STR regulations are contemplated by the Commission within the context of a jurisdiction's LCP.² Even though the City of Dana Point has a certified LCP, the City is seeking a CDP to establish limitations on this use within the Coastal Zone as an alternative to the Local Coastal Program Amendment (LCPA) process. The Commission has approved one previous STR program via a CDP, although for a City without a certified LCP (Torrance).³ Thus, this is the first time the Commission is reviewing a CDP for an STR program for a city with a certified LCP.

As currently proposed, the Program creates five categories of STRs:

- (1) *Non-Primary (Residence) STR* – traditional investment properties rented as STRs, where the owner does not live onsite;
- (2) *Primary (Residence) STR* – renter stays in the owner's primary home, while owner is away. This type of STR permit applies for a maximum of 60 days per 12-month period (or shorter, if restricted by covenants, conditions, and restrictions);
- (3) *Home Stay STR* – short-term renter stays within home of owner while owner present;
- (4) *Multi-Family Home Stay STR* – short-term rental of a unit within a multi-family building, where the owner of the rented unit also lives in the same building and is present during the rental period; and
- (5) *Mixed-Use Parcel STR* – any of the above STR types that is located on a Mixed-Use Parcel, which is a parcel zoned for both commercial and residential uses (e.g., commercial on first floor and residential on upper floors).

The City estimates that there are currently approximately 139 STRs operating in the City, including approximately 69 in the City's Coastal Zone. Of those in the Coastal Zone, 66 STRs are non-primary, one is primary, one is home stay, and one is a multi-family home stay.

The City's proposed STR program would create a cap on non-primary STRs in the Coastal Zone of 115 permits.

None of the existing STRs are operating within mixed-use parcels. The City believes mixed-use parcels would be well suited to support renting to visitors who rely on the

² In the Commission's past actions, the Commission has approved STR regulations in the following LCPs: County of Ventura ([LCP-4-VNT-18-0058-1](#)), City of Pismo Beach ([LCP-3-PSB-18-0051-1](#)), County of Santa Cruz ([3-SCO-18-0032-2-Part B](#)), City of Del Mar ([LCP-6-DMR-17-0083-3](#)), City of Laguna Beach ([LCP-5-LGB-19-0074-1](#)), and Long Beach ([LCP-5-LOB-20-0058-3](#)). Note that this is not a comprehensive list.

³ [CDP 5-20-0031](#) (City of Torrance).

City's public transportation infrastructure, commercial businesses, and recreational areas near the City core. Thus, a goal of the STR Program is to encourage STRs on mixed-use parcels. To encourage this type of STR, the City proposes to allow an additional 190 STRs on mixed-use parcels.⁴ There are two main mixed-use sections of the City's Coastal Zone located in the Town Center (inland of the Harbor, within a roughly triangular area bounded by Pacific Coast Highway, Del Prado, and Golden Lantern) and Doheny Village ([Exhibit 7](#)).

The City is proposing not to cap the number of STR permits for primary, home stay, and multi-family home stay STRs.⁵ The proposed resolution also establishes a variety of regulations for STRs intended to limit neighborhood impacts from parties, noise, trash disposal, parking, and other related issues that are often raised in terms of STRs and nuisance issues.

On July 27, 2022, the local CDP was appealed, and on September 7, 2022, the Commission found substantial issue due to concerns that the STR program could adversely impact existing and future long-term multi-family housing in the City's Coastal Zone. Since the City did not propose a cap for multi-family home stay STR permits, STRs could adversely impact the availability of long-term rental housing in multi-family areas. The Commission also found issue with the permit cap adjustment process for mixed-use non-primary STRs, which would serve to concentrate STRs in mixed-use districts of the Coastal Zone and could also have adverse impacts on long-term rental housing.

Sections 30221-30223 of the Coastal Act prioritize visitor-serving, commercial recreational facilities over private residential development regarding the use of private lands, as the former use enhances public opportunities for coastal recreation. Likewise, LUP (LUE) Policy 2.10 of the City's "1996" LCP and Section II.D of the Dana Point Specific Plan (DPSP) place a higher priority on the provision of visitor-serving uses designed to enhance public opportunities for coastal recreation over residential, industrial, or general commercial uses. These policies are not intended to adversely impact residential uses in the Coastal Zone; rather, it is important to balance visitor-serving recreational uses with private residential uses to ensure all coastal resources are protected. This balance is required by Coastal Act Section 30214. Nevertheless, the Commission finds that the Program is currently structured in a manner that does not adequately balance coastal public access and long-term residential opportunities. The Commission acknowledges that there is a housing crisis statewide, and the City must balance housing needs with the provision of visitor-serving overnight accommodations in order to maximize public access in the Coastal Zone for all people, including visitors and long-term residents of Dana Point.

⁴ As proposed, as new permits are issued for STRs on mixed-use parcels, the number of available non-primary STR permits would be reduced by an equivalent number.

⁵ As proposed, as new permits are issued for primary, home stay, and multi-family home stay STRs, the number of available non-primary STR permits would be reduced by an equivalent number.

Staff recommends **APPROVAL** of the proposed project with five special conditions. **Special Condition 1** includes revisions to the City’s originally proposed Program and is shown in strikeout/underline in **Exhibit 3**. As conditioned, staff is recommending significant reductions in the number of year-round “entire unit” STR permits (non-primary, multi-family home stay, and mixed-use non-primary). Staff’s recommended changes to the caps and categories of the STR Program are summarized by the following (additions are shown in underline and deletions in ~~strike through~~):

STR Type	Proposed Cap
Non-Primary Short-Term Rentals	115 in the CZ
<u>Multi-Family Home Stay Short-Term Rental</u> ⁶	
<u>Mixed Use Parcel Non-Primary STR</u> ⁷	
Primary Short-Term Rentals	No Cap
Home Stay Short-Term Rentals	No Cap
Multi-Family Home Stay Short-Term Rental	No Cap
Mixed Use Parcel Non-Primary STR	190 City wide

Staff is recommending additional changes to the STR program, including to specify the process to make changes to the program, to clarify that homeowners associations’ bans on short-term rentals must be legally valid, and to remove references in the program to sections of the City’s municipal code that have not been approved by the Commission.

The other four special conditions require: **2)** submittal of any changes to the Program for review by the Executive Director to determine whether a new CDP or CDP amendment is necessary; **3)** within 10 years, reauthorization of this CDP or application for a CDP or LCP amendment; **4)** submittal of a study at the end of 10-year established authorization period, including specific criteria and metrics to track the performance of the Program (**Exhibit 4**); and **5)** reimbursement in full for all Coastal Commission costs and attorneys’ fees that the Coastal Commission may be required by a court to pay in connection with the defense of any challenges of the approval, issuance, or implementation of this CDP.

⁶ Properties with five (5) or fewer residential units that are located in a structure or group of structures may only convert a maximum of one (1) unit into an STR, and properties with six (6) or more residential units that are located in a structure or a group of structures may only convert a maximum of twenty percent (20%) of the total number of residential units into STRs.

⁷ No more than twenty percent (20%) of the number of residential units in each of the City’s certified Mixed-Use Districts shall be converted to STRs.

A-5-DPT-22-0038 (City of Dana Point)
Appeal – De Novo

The City of Dana Point LCP was certified by the Commission on September 13, 1989. The proposed program applies to the entirety of the City of Dana Point's Coastal Zone. The entirety of the proposed program is subject to Commission appeal procedures pursuant to Coastal Act Section 30603(a). Therefore, the standard of review for de novo consideration of the project is conformance with the certified LCP and public access and recreation policies of the Coastal Act. The motion and resolution to approve the permit are on page 7 of this staff report.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION	7
II. STANDARD CONDITIONS	7
III. SPECIAL CONDITIONS.....	8
IV. FINDINGS AND DECLARATIONS.....	9
A. Project Description and Background	9
B. Standard of Review	15
C. Public Access and Recreation.....	16
D. Lower Cost Overnight Accommodations	22
E. Development and Community Character.....	24
F. Response to Comments	29
G. Reimbursement of Costs and Fees	31
H. California Environmental Quality Act	31
APPENDIX A – RELEVANT LCP POLICIES	33

EXHIBITS

- [Exhibit 1](#) – Project Location
- [Exhibit 2](#) – Resolution No. 22-07-12-01
- [Exhibit 3](#) – CCC Strikeout/Underline Revisions to STR Program
- [Exhibit 4](#) – Rubric for 10-Year Study
- [Exhibit 5](#) – City of Dana Point LCP Areas Map
- [Exhibit 6](#) – Overnight Accommodations within Coastal Zone Vicinity
- [Exhibit 7](#) – Mixed-Use Zones Map
- [Exhibit 8](#) – STR Enforcement Data 2016-2022

I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** Coastal Development Permit A-5-DPT-22-0038 pursuant to the staff recommendation.

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

Resolution:

The Commission hereby approves Coastal Development Permit No. A-5-DPT-22-0038 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the Certified Local Coastal Plan and the public access and recreation policies of the Coastal Act. Approval of the permit complies with 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 development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the applicant or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the applicant to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. **Revised Final Short-Term Rental (STR) Program.** BY ACCEPTANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall agree to implementation of the final STR Program consistent with Exhibit A to Resolution No. 22-07-12-01 ([Exhibit 2](#)), except that that the Program shall be modified pursuant to the revisions shown in [Exhibit 3](#).
2. **Future Changes to Short-Term Rental Regulations.** This permit is only for the Short-Term Rental (STR) Program described in CDP No. A-5-DPT-22-0038, as conditioned. Any changes to the aforementioned Program shall be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations. If the Executive Director determines that an amendment is necessary, no changes shall be made effective until a permit amendment is approved by the Commission and issued by the Executive Director.
3. **Authorization Period and Reauthorization Requirements.**
 - A. This CDP authorizes the approved development on a temporary basis only for a period of ten (10) years from the date of Commission action (i.e., until November 16, 2032). The Executive Director may extend this deadline for good cause.
 - B. No later than twelve (12) months prior to the end of the ten-year term of this permit, and concurrent with the submittal of the study and assessment required in **Special Condition 4**, the applicant shall apply for a new CDP, amendment to this CDP, or LCP amendment to reauthorize the City's STR Program or to modify the terms of its authorization.
 - C. If the applicant fails to obtain the necessary approvals to retain the STR Program beyond the permitted ten (10) year term, as outlined in Part B above, then authorization pursuant to this coastal development permit shall expire on November 16, 2032.
4. **Short-Term Rental (STR) Program Study.** BY ACCEPTANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director, concurrent with the reauthorization application required in **Special Condition 3**, a study that monitors various elements of the STR Program, provides quantitative and qualitative data and trends for the authorization period, and makes recommendations for any appropriate changes to the Program.

The applicant shall undertake the study in accordance with the rubric enclosed in [Exhibit 4](#) for the duration of the ten (10) year authorization period. Any proposed changes to the approved rubric shall be reported to the Executive Director. No

changes to the rubric shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

- 5. Liability for Costs and Attorneys' Fees.** BY ACCEPTANCE OF THIS COASTAL DEVELOPMENT PERMIT, the City of Dana Point agrees to reimburse the California Coastal Commission in full for all Coastal Commission costs and attorneys' fees including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys' fees that the Coastal Commission may be required by a court to pay, which the Coastal Commission may incur in connection with the defense of any action brought by a party other than the City of Dana Point against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval, issuance, and implementation of this CDP. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Background

The City of Dana Point has proposed a Short-Term Rental (STR) Program to implement new regulations and standards for the operation of short-term rentals within the Coastal Zone. The City's proposed STR Program can be found in [Exhibit 2](#).

The Program creates five categories of STRs:

- (1) *Non-Primary (Residence) STR* – traditional investment properties rented as STRs, where the owner does not live onsite;
- (2) *Primary (Residence) STR* – renter stays in the owner's primary home, while owner is away. This type of STR permit applies for a maximum of 60 days per 12-month period (or shorter, if restricted by covenants, conditions, and restrictions);
- (3) *Home Stay STR* – short-term renter stays within home of owner while owner present;
- (4) *Multi-Family Home Stay STR* – short-term rental of a unit within a multi-family building, where the owner of the rented unit also lives in the same building and is present during the rental period; and
- (5) *Mixed-Use Parcel STR* – any of the above STR types that is located on a Mixed-Use Parcel, which is a parcel zoned for both commercial and residential uses (e.g., commercial on first floor and residential on upper floors).

The City estimates that there are currently approximately 139 STRs operating in the City, including approximately 69 in the City's Coastal Zone. While the existing STR permits were not issued by type, the City has been able to parse out that 66 of the Coastal Zone STRs are non-primary, one is primary, one is a home stay, and one is a multi-family home stay.

The STR program establishes an overall cap of non-primary STRs in the Coastal Zone of 115 permits. The 115-permit cap was established by approximating the number of STR permits in existence when the City stopped issuing STR permits (i.e., there were 183 STR permits citywide in 2016), and applying a pro-rata assessment of the number of existing operating non-primary STRs in the Coastal Zone. While the 115-permit cap exceeded the true pro-rata number (which would have been closer to a 94-permit cap), the City Council decided to retain the 115 figure, citing the strong visitor demand for overnight accommodations near the coast (as exemplified by the numerous hotel offerings and campsites within the Coastal Zone), and the City's many coastal and coastal dependent visitor-serving amenities.

None of the existing STRs are operating within mixed-use parcels, and thus a goal of the STR Program is to encourage STRs on mixed-use parcels, which the City believes would be better suited to support renting to visitors who rely on the City's public transportation infrastructure, commercial businesses, and recreational areas near the City core. To encourage this type of STR, an increased cap of 190 new mixed-use parcel STR permits was approved in the local CDP. Likewise, there would be a 25% reduction in the STR permitting fee for new mixed-use parcel STRs. Each time a mixed-use parcel STR permit is issued for a non-primary STR located within the Coastal Zone, the numerical cap for non-primary STR Permits (i.e., 115) will be reduced by one (1). This reduction does not impact existing non-primary STR permits, including when such permits are considered for annual renewal. It only applies to either: (1) reduce the number of non-primary STR permits available to be issued in the event that less than the total number of permissible permits have been issued, or (2) limit the availability of non-primary STR permits that would otherwise be available to property owners on the STR permit waitlist. There are two main small mixed-use sections of the City's Coastal Zone located in the Town Center (inland of the Harbor, within a roughly triangular area bounded by Pacific Coast Highway, Del Prado, and Golden Lantern) and Doheny Village ([Exhibit 7](#)).

Another goal of the STR Program is to encourage home stay, multi-family home stay, and primary STRs. The City suggests that when a property owner resides onsite, the STR is less likely to generate nuisance issues, and thus no cap for these categories is proposed. These categories collectively only account for approximately 4% of the existing STRs operating within the City's Coastal Zone.

Certain types of residential units would be ineligible for use as STRs under the proposed program, such as accessory dwelling units (ADUs) and units designated as affordable. The Program does allow for the host to stay in the ADU, as long as the renter stays in the main residential unit. Units with less than two off-street parking spaces would also be excluded.

The proposed Program would clearly define STRs, add new permitting requirements and operational standards, including, but not limited to, maximum occupancy and parking requirements; afford a mechanism for neighbors to report problems; and establish provisions for the imposition of fines and penalties for violation of the regulations.

The City approval additionally stipulated five general conditions for the City's implementation of the STR Program. First, it was recognized that approval of the coastal development permit in its current form would establish permitting, regulations, and penalties for short-term rentals in Dana Point. Second, the STR Program would be reviewed by the City's Community Development Director at least every five (5) years to reevaluate the permit cap, regulations, penalties, and any other aspect of the STR Program to determine if an amendment must be made. Amendments to the Program that are not in substantial conformance, such as those outlined in Section (9) of the STR Program, would require an amendment to the CDP. Third, the provisions of uncertified Municipal Code Chapter 5.38 would remain applicable to STRs outside the Coastal Zone only, and the CDP would apply within the Coastal Zone only. Fourth, within six months of approval of the CDP, applications for new STRs in the Coastal Zone shall be accepted by the City for review. And finally, if the STR program is not implemented within the two years of approval of the CDP, the permit will expire and become null and void.

According to communications with City staff, the City will not begin enforcing the new STR regulations for properties within the Coastal Zone until the Commission acts on this CDP. The City states that currently, existing STRs are "grandfathered" in the sense that they continue to remain valid and holders of such STR permits will not need to reapply, but they will be subject to provisions of the new STR Program moving forward, subject to approval of the CDP. In the meantime, existing operating STRs are held to the standards found in uncertified Municipal Code Chapter 5.38, which is not part of the City's certified LCP. Any STRs in Dana Point that are currently operating without paying transient occupancy tax, without an existing STR permit, or cited for nuisance, are still subject to enforcement action ([Exhibit 8](#)).

Typically, STR regulations are contemplated by the Commission within the context of a jurisdiction's LCP.⁸ Even though the City of Dana Point has a certified LCP, the City is seeking a CDP for this change in use within the Coastal Zone as an alternative to the LCPA process. The Commission has approved one previous STR program via a CDP, although for a City without a certified LCP (Torrance).⁹ Thus, this is the first time the Commission is reviewing a CDP for an STR program for a city with a certified LCP.

Project History

On February 3, 2014, the City submitted LCPA Request No. 1-14 (LCP-5-DPT-14-0105-1) to amend the Implementation Plan (IP) for both the '1986 LCP' and the '1996 LCP'

⁸ In the Commission's past actions, the Commission has approved STR regulations in the following LCPs: County of Ventura ([LCP-4-VNT-18-0058-1](#)), City of Pismo Beach ([LCP-3-PSB-18-0051-1](#)), County of Santa Cruz ([3-SCO-18-0032-2-Part B](#)), City of Del Mar ([LCP-6-DMR-17-0083-3](#)), City of Laguna Beach ([LCP-5-LGB-19-0074-1](#)), and Long Beach ([LCP-5-LOB-20-0058-3](#)). Note that this is not a comprehensive list.

⁹ [CDP 5-20-0031](#) (City of Torrance).

for Coastal Commission certification regarding short-term rentals (STRs), as defined in uncertified Chapter 5.38 of the City's Municipal Code.

The City's original submittal included conditions of approval and operation of STRs, which identified aspects such as the minimum number of parking spaces, maximum number of guests, removal of trash, noise controls, and transient occupancy tax. No land use plan changes were proposed. The Commission approved LCPA No. 1-14 on April 14, 2016 with the suggested modifications, which included the requirement for the City to incorporate Chapter 5.38 of the Municipal Code into the LCP, as well as further clarification that if the Program is to change in the future, the City would require an additional LCPA. LCPA No. 1-14 did not establish any caps or categories for STRs, and rather established short-term rentals as a "special use standard" in the City's certified Zoning Code.

Concurrence with the Executive Director's determination that the action of the City of Dana Point accepting certification with suggested modifications of the LCPA was scheduled for November 4, 2016. Ahead of the hearing, the City received two referendum petitions against the underlying ordinances encompassing the LCPA, and on November 2, 2016, the City notified the Commission that the City was withdrawing the STR LCPA from final consideration and certification.

On November 15, 2016, the City Council approved [Resolution No. 16-11-15-04](#) to allow existing permitted STRs to continue to operate, but to cease issuing new STR permits. STR regulation must occur within the context of a Local Coastal Program and/or be authorized pursuant to a coastal development permit for the regulation to be effective in the Coastal Zone. However, the City did not pursue a CDP to enact the moratorium on new STR permits. Since then, the City observed an increase in a number of issues and complaints related to unregulated STRs in residential neighborhoods, such as noise, trash, and parking problems ([Exhibit 8](#)). In response to this, the City began an STR public outreach effort in 2018 and studied the issue in order to develop STR regulation recommendations for the Planning Commission and City Council. A number of public hearings were held by the City between February 2022 and July 2022 regarding the most recently proposed iteration of the STR Program.

On July 12, 2022, the City officially adopted City Council Resolution No. 22-07-12-01,¹⁰ authorizing local CDP 20-0010 to establish the City's final STR Program. The City officially adopted City Council Resolution No. 22-07-12-01 on July 12, 2022, authorizing local CDP 20-0010 to establish the City's proposed STR Program. The proposed STR Program found in [Exhibit 2](#) of this staff report and is the subject of the local CDP.

On July 27, 2022, the local CDP was appealed, and on September 7, 2022, the Commission found substantial issue due to concerns that the STR program could

¹⁰ This City Council Resolution denied in part, and affirmed in part, the local appeal of the City's Planning Commission's approval on May 9, 2022 of local CDP No. 22-0010 to establish an STR Program to regulate the permitting and operation of STRs in the Coastal Zone, by amending and upholding portions of the Planning Commission's CDP approval.

adversely impact existing and future long-term multi-family housing in the City's Coastal Zone. Since the City did not propose a cap for multi-family home stay STR permits, STRs could adversely impact the availability of long-term rental housing in multi-family areas. The Commission also found issue with the permit cap adjustment process for mixed-use non-primary STRs, which would serve to concentrate STRs in mixed-use districts of the Coastal Zone and could also have adverse impacts on long-term rental housing.

Project Setting

The shoreline in the Coastal Zone of Dana Point extends approximately 6.7 miles, and the area included in the City's Coastal Zone extends approximately two to four blocks deep near Capistrano Beach, and much further inland near San Juan Creek and west of Dana Point Harbor ([Exhibits 1, 5](#)). The Coastal Zone is bounded on the west by the City of Laguna Beach, on the north by the Cities of Laguna Niguel and San Juan Capistrano, and on the south/east by the City of San Clemente. The area is largely developed with commercial, professional/industrial, and residential uses, but open space, conservation, and recreation areas can also be found, especially near Doheny State Beach/Capistrano Beach County Park, the Dana Point Headlands, Dana Strands Beach, and Monarch Beach/Salt Creek Beach.

The Dana Point Coastal Zone has 3,432 residential properties, developed with both single-family and multi-family dwellings, with the vast majority of parcels zoned for single-family and multi-family residential uses, including a specific carveout for duplexes and Beach Road properties. The City's Coastal Zone also has mixed-use areas, including Town Center Mixed-Use (TC-MU) and Residential/Commercial (C/R and RC-18) zones. The housing stock citywide (both inside and outside the Coastal Zone) consists of approximately 16,172 housing units, which is comprised of 5,376 single-family residences and 10,796 multi-family units (which would include condominiums, duplex/triplex/quadplex units, and apartments). Within the Coastal Zone, there are 5,664 housing units in total, which are comprised of 2,798 single-family residences and 2,866 multi-family units.¹¹ Thus, approximately a third of the City's housing units are located entirely or partially within the Coastal Zone, and the Coastal Zone's housing stock is nearly evenly divided into single-family (49.4%) and multi-family (50.6%) residential units.

There are currently 1,864 existing hotel rooms and 120 campsites within the City of Dana Point, the vast majority of which can be found within its Coastal Zone. Approximately 300 additional hotel rooms and 52 hostel beds are planned or under review by the City ([Exhibit 6](#)). Of the existing and planned overnight accommodations, the City asserts that 215 (or 11%) of the hotel rooms will be affordable, and all (100%) of the 52 hostel beds and 120 campsites will be affordable. In terms of other coastal access facilities found within Dana Point, the City points to at least 15 coastal access points, multiple scenic lookouts, the funicular cable car with access to Strands Beach,

¹¹ Information provided by the City of Dana Point on October 28, 2022.

the Headlands trails and lookout points, Doheny State Beach, the Harbor, and the City's operating Trolley.

Past Commission Actions Related to STRs in Other Coastal Communities

As in other coastal communities in California, STRs have proliferated over the years. What may have been predominantly summer and holiday rentals have evolved into what is now in some cases year-round. The unregulated proliferation of such STRs has raised concerns regarding impacts to the preservation of neighborhood integrity, reductions in rental housing stock, public safety, increased traffic and parking difficulties, and other issues that have sometimes been associated with STRs.

As a reaction to such issues, cities are seeking to regulate STRs, and typically such regulations are contemplated by the Commission within the context of an amendment to a jurisdiction's Certified Local Coastal Program (LCP). Some LCP amendment proposals have been submitted to the Commission to ban STRs in certain communities (e.g. outright bans in all residential zones). However, such bans can conflict with the Coastal Act and LCP policies and objectives to protect and provide for visitor-serving opportunities and coastal public access. In general, rather than supporting restrictive bans of such uses, the Commission has encouraged allowance of this use and more targeted, responsive regulations of STRs that are based on applicable community and area specific factors.

In response to proposed amendments of the LCPs of the City of Laguna Beach (LCP-5-LGB-19-0074-1), County of Ventura (LCP-4-VNT-18-0058-1), City of Pismo Beach (LCP-3-PSB-18-0051-1), County of Santa Cruz (3-SCO-18-0032-2-Part B), City of Del Mar (LCP-6-DMR-17-0083-3) and City of Encinitas (ENC-MAJ-1-06), in order to be consistent with Chapter 3 of the Coastal Act, the Commission has required that local jurisdictions provide a framework to appropriately regulate the establishment and operation of STRs, rather than overly restrict this use or otherwise significantly diminish its visitor-serving utility. The Commission has historically supported STR regulations that provide for the following:

- Limits on the total number of STRs allowed within certain areas (e.g., by neighborhood, by communitywide ratio, etc.).
- Limits on the types of housing that can be used as a STRs (e.g., disallowing STRs in affordable housing contexts, etc.).
- Limits on maximum STR occupancies.
- Limits on the amount of time a residential unit can be used as an STR during a given time period.
- Requirements for 24-hour management and/or response, whether onsite or within a certain distance of the STR.
- Requirements regarding onsite parking, garbage, and noise.
- Signage requirements, including posting 24-hour contact information, posting requirements and restrictions within units, and incorporating operational requirements and violation consequences (e.g., forfeit of deposits, etc.) in rental agreements.

- Payment of Transient Occupancy Tax
- Enforcement protocols, including requirements for responding to complaints and enforcing against violations of STR permit requirements, including providing for revocation of STR permits in certain circumstances.

Furthermore, there is a balance that must be achieved between maintaining the visitor-serving utility of STRs while preserving a City's rental housing stock. The Commission has approved a number of LCP amendments and CDPs regulating STRs in the Coastal Zone.¹² Each of these LCP amendments and CDP presented unique issues considering geographic specificity, but the approved LCP amendments and CDPs generally provide for standards for continued STR operations, rather than blanket bans.

B. Standard of Review

Section 30603(a) of the Coastal Act states, in relevant part:

(a) After certification of its local coastal program, an action taken by a local government on a coastal development permit application may be appealed to the commission for only the following types of developments:

(1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance.

(2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff.

Section 30604(b) of the Coastal Act states:

(b) After certification of the local coastal program, a coastal development permit shall be issued if the issuing agency or the commission on appeal finds that the proposed development is in conformity with the certified local coastal program.

Section 30604(c) of the Coastal Act states:

(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

¹²https://documents.coastal.ca.gov/assets/la/Sample_of_Commission_Actions_on_Short_Term_Rentals.pdf

The standard of review for the Coastal Commission's de novo hearing on this project is the City of Dana Point's certified Local Coastal Program. Dana Point is a shoreline community in southern Orange County that incorporated as a City in 1989. On September 13, 1989, the Commission approved the City's post-incorporation LCP. The City's LCP is comprised of a variety of planning documents. This permit applies to the City's entire Coastal Zone, so all LCP documents are applicable. Since portions of the project site are located between the first public road and the sea, the project must also be consistent with the Chapter 3 public access and recreation policies of the Coastal Act.

C. Public Access and Recreation

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 of the Coastal Act states, in relevant part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby[...] Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway. [...]

(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

Section 30212.5 of the Coastal Act states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30214 of the Coastal Act states, in relevant part:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

- (1) Topographic and geologic site characteristics.
- (2) The capacity of the site to sustain use and at what level of intensity.
- (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.
- (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

Section 30221 of the Coastal Act states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30222 of the Coastal Act states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30223 of the Coastal Act states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

The policies of the City of Dana Point LCP are also applicable ([Appendix A](#)).¹³

In the early 2010s, STRs grew in popularity in Dana Point through the increased use of electronic reservation systems and online platforms, and Dana Point’s coastal location has been especially appealing to out-of-town visitors. In general, STRs have provided an important opportunity to increase visitor-serving overnight accommodations throughout the Coastal Zone, in accordance with Coastal Act Sections 30210, 30211, and 30213. Nonetheless, it has been noted that STRs can also cause problems for coastal residential neighborhoods, and there has been extensive discussion among interested stakeholders regarding impacts from their uses, including but not limited to: changes to community character, rental housing stock reduction, public safety concerns, increased traffic and parking issues, noise impacts, and increased litter accumulation, which are coastal resource issues of concern in part referenced in Coastal Act Section 30214. As such, the City’s position has been to attempt regulating and permitting STR uses, rather than outright banning them.

Similarly, the Commission has generally found that visitor-serving overnight accommodation uses, including STR units, help maximize the opportunities provided for all the public to access the coast. Yet, the Commission has recognized legitimate community concerns associated with the potential adverse impacts associated with STRs, with respect to housing stock and affordability, community character, noise, and traffic impacts. The City of Dana Point’s proposed STR Program includes restrictions on the number of “non-primary” (traditional) STRs allowed in the Coastal Zone and seeks to strike a balance between providing visitor-serving overnight accommodations and maintaining long-term housing, which is in short supply in Dana Point and statewide.

Visitor-Serving Accommodations

Sections 30221-30223 of the Coastal Act prioritize visitor-serving, commercial recreational facilities over private residential development regarding the use of private lands, as the former use enhances public opportunities for coastal recreation. Likewise, LUP (LUE) Policy 2.10 of the City’s “1996” LCP and Section II.D of the Dana Point Specific Plan (DPSP) place a higher priority on the provision of visitor-serving uses designed to enhance public opportunities for coastal recreation over residential, industrial, or general commercial uses. These policies are not intended to adversely impact residential uses in the Coastal Zone; rather, it is important to balance visitor-serving recreational uses with private residential uses to ensure all coastal resources are protected. This balance is required by Coastal Act Section 30214.

Nevertheless, the Commission finds that the Program is currently structured in a manner that does not adequately balance coastal public access and long-term residential opportunities. The “Multi-Family Home Stay” STR category is essentially the same as a non-primary STR, the only distinction being that the owner of the Multi-

¹³ The public access policies in the City’s certified LCP are similar to the Coastal Act access policies. Therefore, the findings in this staff report are based primarily on the applicable Coastal Act policies.

Family Home Stay must own and live in another unit onsite. Thus, the City's proposal to allow for unlimited multi-family home stays throughout all residentially zoned areas of the Coastal Zone has the potential to adversely impact the stock of available residential units.

Multi-family home stay STRs, as currently proposed without a cap, could also foreseeably remove many units from the long-term rental market. The City's proposed STR Program allows for up to six STRs for every multi-family residential structure or associated group of structures; otherwise, the structure(s) would be considered a "hotel" per the City's Zoning Code. While this limitation is useful in large condominium structures and/or associations, buildings containing five units or fewer (where each are under separate ownership) could be completely converted into short-term rental investment properties. Multi-family home stay STRs currently only represent 1.5% of the City's total STR permits in the Coastal Zone (there is only one such registered STR at the moment). However, the Program as proposed would allow for substantial depletion of housing in the approximately 600 multi-family residential parcels in the Coastal Zone, especially in duplexes, triplexes, and quadruplexes.¹⁴ The Commission acknowledges that there is a housing crisis statewide, and the City must balance housing needs with the provision of visitor-serving overnight accommodations in order to maximize public access in the Coastal Zone for all people, including visitors and long-term residents of Dana Point.

In order to ensure that the Program maximizes public access to the coast and visitor-serving opportunities while balancing long-term residential uses in the Coastal Zone, the Commission imposes **Special Condition 1** to reduce the number of certain categories of STRs that could potentially deplete the City's housing stock. This Special Condition modifies the City's proposed STR Program (Resolution No. 22-07-12-01, [Exhibit 2](#)) to establish a total 115-permit cap for non-primary STRs, multi-family home stays, and mixed-use parcel STRs ([Exhibit 3](#)). In an effort to adequately allocate multi-family home stay STRs as a share of the total cap, the modified language also places a second limitation on multi-family home stay STRs so that they may not exceed a particular percentage within any particular multi-family structure or group of structures.

In devising the latter requirement, Commission staff compared and contemplated various past Commission actions on STRs.

For instance, the City of Long Beach adopted a policy geared at protecting long-term lower cost rental housing, which allows for: one non-primary STR for up to 10 units, 10% STRs for 11-50 units, 12% for 51-100 units, and 15% for over 100 units. The City of Torrance has a similar policy that limits STRs in multi-family buildings to one unit per every thirty residential units. The City of Eureka's LCP includes a policy that allows up to 75% of the residential units on a site to be STRs.

¹⁴ If there are 3,432 parcels in the Dana Point Coastal Zone, and there are 2,798 single-family residences, then, assuming one single-family residence per parcel, there would be a remainder of 634 multi-family residential parcels. This is a conservative estimate.

Finally, the City of Laguna Beach's certified LCP includes findings that STRs can be associated with depletion of the City's supply of multi-family residential units, and therefore allows for the conversion of only one unit into an STR on properties with five or fewer residential units, and in properties with six or more residential units, a maximum of 20% of the total number of residential units can be converted into STRs.¹⁵ Given the City of Laguna Beach's similar population size, and the City of Dana Point's Zoning Code requirement that no more than six units be converted to short-term rentals in one structure or group of structures, the Commission believes that the City of Laguna Beach's limitation on multi-family unit conversions to STRs could be appropriately adapted to Dana Point's STR Program.

With the limits on multi-family home stay STRs, the Program will allow for some STRs in multi-family structures in a manner that does not disproportionately restrict the pool of long-term rental/purchase opportunities in multi-family housing, empowers owners of multi-family units to reasonably benefit from the additional income provided, and fosters continued coastal public access and recreation that considers the needs of residential communities.

Geographic Clustering

Currently, STR operations in Dana Point are not evenly distributed throughout the Coastal Zone and tend to concentrate in particularly popular areas, such as the Lantern District, Doheny Village, and Beach Road. A more even distribution of STRs throughout the City's coastal zone may result in a greater range of price points and rental types for visitors. Equitably distributing STRs in the Coastal Zone also reduces the likelihood of overburdening public parking availability in a particular area. In certifying the City of Laguna Beach's 2019 LCP amendment, the Commission found that requiring STRs to be hosted in all residentially zoned areas of the Coastal Zone would allow for maximized public coastal access while preserving the City's available housing stock, preserving the existing lower cost hotel/motel stock in Laguna Beach both within and outside the Coastal Zone, and preventing STRs from negatively impacting the neighborhoods and community character.

The City proposes to incentivize STRs in mixed-use parcel areas. While in theory the Program allows for STRs in all residentially zoned areas of the City's Coastal Zone, the proposed STR Program may in practice serve to concentrate the STR offerings in the two mixed use areas in the Coastal Zone. The proposed incentives for mixed-use parcel STRs could lead to substantial competition with non-primary STRs in other areas of the Coastal Zone. This would mainly occur because the City is currently proposing reductions in the regular non-primary STR cap with each new mixed-use STR permit issued, and the proposed cap for this category is 190 additional STR permits. Mixed-use zoning is mainly located in the Town Center and Doheny Village ([Exhibit 7](#)). Future establishment of a significant portion of the City's STRs in these two mixed-use areas would not result in a wide geographic range of STR options

¹⁵ City of Laguna Beach ([LCP-5-LGB-19-0074-1](#)).

within the Coastal Zone.

In order to ensure that the Program equitably distributes STRs throughout the Coastal Zone, the Commission imposes **Special Condition 1** to place limits on the availability of mixed-use parcel STR permits and change the incentive structure. This Special Condition modifies the City's proposed STR Program to eliminate the additional 190 STR permits proposed for mixed use parcels, and to instead establish a total 115-permit cap for non-primary STRs, multi-family home stays, and mixed-use parcel STRs ([Exhibit 3](#)). In an effort to adequately allocate mixed-use parcel STRs as a share of the total cap, the modified language also places a second limitation on mixed-use parcel STRs so that they may not exceed a 20% of residential units in either of the City's certified mixed-use districts in the Coastal Zone. In order to honor the City's intention to still encourage STRs in mixed-use areas, applications for mixed-use parcel STR permits will be given priority when selected from the City's STR permit waitlist, so long as STR permits are available, and the total 115-permit cap is not exceeded.

Homeowners Associations (HOAs)

There are 28 HOAs within the Coastal Zone. Based on the most recently available information, fifteen (15) of these HOAs, which contain approximately 2,648 residential units, enact short-term rental bans via their covenants, conditions, and restrictions (CC&Rs). Ten (10) of these HOAs, which contain approximately 639 residential units, have CC&Rs that allow short-term rental use. 91% of the existing 69 STR permits in the City's Coastal Zone are found in areas governed by a homeowners association (HOA).¹⁶

California appellate court decisions in *Greenfield v. Mandalay Shores Community Association* and *Kracke v. City of Santa Barbara* confirm the requirement that HOAs must obtain a coastal development permit prior to establishing a ban on STRs, pursuant to Coastal Act Sections 30600 and 30106.¹⁷ Those cases make clear that regulation of STRs in the coastal zone is a matter for cities and the Coastal Commission to regulate, not HOAs acting alone.

In the City of Long Beach's LCPA to establish an STR program,¹⁸ one of the concerns raised by the public was that by not allowing homeowners associations (HOAs) to prohibit STRs, it would pose a security risk and an unfair financial burden for homeowners within HOAs that share utility costs. In this case, the City of Dana Point's STR Program would not prevent HOAs from prohibiting STRs. As proposed, STR permits would not be approved in communities where the CC&Rs prohibit STRs. However, the proposed program does not explicitly require that CC&R STR

¹⁶ Information provided by the City at the Commission's September 7, 2022 'substantial issue' hearing.

¹⁷ *Greenfield v. Mandalay Shores Community Assn.* (2018) 21 Cal.App.5th 896; *Kracke v. City of Santa Barbara* (2021) 63 Cal.App.5th 1089.

¹⁸ [LCP-5-LOB-20-0058-3](#) (City of Long Beach).

prohibitions be established prior to the Coastal Act or pursuant to a CDP/LCPA.

The City has clarified through discussions with Commission staff that it will inform HOAs of the CDP process and facilitate the filing of CDP applications where required. To ensure that the City and HOAs comply with all legal requirements, the Commission imposes **Special Condition 1** to modify the final STR Program to ensure the legality of HOA bans or restrictions on STRs ([Exhibit 3](#)). Future applications for HOA prohibitions on STRs would be evaluated based on consistency with the City's certified LCP. For properties between the sea and first public road, the public access and recreation policies of the Coastal Act would also be part of the standard of review.

Conclusion

As conditioned, the Program will require development to account for various environmental sustainability factors and the privacy of private property owners, in a manner that balances and optimizes public access and visitor-serving recreational opportunities. Additionally, the Program, as conditioned, will help ensure adequate distribution of STRs throughout the City of Dana Point Coastal Zone, will not adversely impact the public's continued access to the coast, and will not contribute significantly to overcrowding and overuse of any particular area of the City's Coastal Zone, and will therefore be consistent with Coastal Act Sections 30212 and 30212.5. Finally, the City of Dana Point STR Program's facilitation of STR restrictions in HOA-governed areas would not adversely impact the availability and distribution of public access amenities and overnight visitor accommodations in the City's Coastal Zone. Thus, the Program, as conditioned, conforms to the public access and recreation policies of the Coastal Act and the City's certified LCP.

D. Lower Cost Overnight Accommodations

Section 30213 of the Coastal Act states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

The policies of the City of Dana Point LCP are also applicable ([Appendix A](#)).¹⁹

¹⁹ The lower cost overnight accommodations policies in the City's certified LCP are similar to the Coastal Act lower cost overnight accommodations. Therefore, the findings in this staff report are based primarily on the applicable Coastal Act policies.

Coastal Act Section 30213 requires that lower-cost visitor facilities be protected, encouraged, and where feasible, provided. LUP (LUE) Policy 3.3 identifies the protection and encouragement of lower cost visitor and recreational facilities as a priority.

The City has provided an inventory of existing accommodation types (i.e., hotel, hostel rooms, and campsites) located within the City of Dana Point, many of which are within the City's Coastal Zone ([Exhibit 6](#)). The City has also pointed to overnight accommodations in neighboring jurisdictions, such as San Clemente. The City categorized these accommodations based on affordability and included the number of rooms in each accommodation. The City clarified whether the overnight accommodations are existing or pending review. To this end, the City has provided evidence that the proposed STR Program will not detract from the existing overnight accommodations available in the City's Coastal Zone.

While the City did not provide nightly rates for these accommodations, a recent survey by Visit California for the 2021 peak season (June – August) shows a regional average daily rate for Orange County of \$195.94. To supplement the record, Barbara Wilson, a local realtor, provided hotel rates data collected from hotel websites on July 21, 2022, and by confirming those rates by phone call ([Exhibit 4](#) of staff report dated 8/25/2022). Average hotel room daily rates ranged from \$264 (lower cost) to \$439 (higher cost). While Commission staff did not verify the nightly rates compiled by the appellants, they appear to be within the ranges provided by the Visit California survey.²⁰

Depending on site-specific circumstances, short-term rental of a residence can potentially provide a lower cost option than a traditional hotel room. For instance, this can be true when traveling with extended family or other larger groups where renting a single residence is less expensive than renting multiple traditional hotel rooms. Short-term residential rental units, especially if non-primary, also typically include full kitchen facilities, which allow overnight visitors the option of preparing meals in, a more affordable option than dining out.

Many of the existing STRs rent at similar average rates as the local hotel rooms, but there is wide variation in prices. While a few Beach Road homes have daily rates approaching \$2,000 during the peak high season, many more homes listed within the \$500-\$600 range.²¹

Also, a hosted STR, such as home stay, allows property owners who live onsite to rent living space and host visitors in their homes. Because only a room or a portion of a residential unit is being rented, home stay units oftentimes provide lower-cost

²⁰ [Visit California](#) publishes monthly average daily rate (ADR) data for the State of California, which is broken down by County. This information can be downloaded directly from the website, but is not archived.

²¹ STR data was collected for week-long listings on Airbnb in Dana Point for the June to August 2023 period (www.airbnb.com, accessed November 3, 2022).

overnight accommodations and can be more affordable than traditional overnight accommodations (hotel/motel) and traditional “entire home” STRs.²² The City proposes to incentivize affordable home stay STRs. While home stay STRs are not proposed to have a cap, and they may grow in popularity over time, it is anticipated that the Program’s required registration process, enforcement mechanisms, and five-year reassessment period would help prevent adverse impacts on affordable overnight accommodations or other types of STRs in the Coastal Zone resulting from home stay STRs.

Special Condition 2 requires the City to submit any changes to the Program for review by the Executive Director to determine whether a CDP amendment is required, and **Special Condition 3** authorizes this CDP for a ten-year term only, unless the City applies for a renewal (via CDP/LCP amendment or new CDP). The Executive Director may extend this deadline for good cause. Together, these conditions will safeguard the protection and encouragement of lower cost visitor and recreational facilities through the continued monitoring of the Program’s performance and implementation of appropriate adjustments on an as-needed basis.

Affordable low- to moderate-cost overnight accommodations increase and maximize public coastal access by allowing visitors of all income levels to stay at the coast, consistent with Section 30213 of the Coastal Act. Importantly, in all cases, STRs increase the range of options available to coastal visitors, regardless of the cost. Overnight accommodations are a high priority use because they allow for enhanced public access and visitor serving opportunities, consistent with the public access policies of the Coastal Act. Thus, the Program, as conditioned, is consistent with the lower cost overnight accommodations policy of the Coastal Act and the City’s certified LCP.

E. Development and Community Character

Section 30105.5 of the Coastal Act states:

"Cumulatively" or "cumulative effect" means the incremental effects of an individual project shall be reviewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

Section 30250 of the Coastal Act states, in relevant part:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and

²² In reviewing Dana Point’s Airbnb listings for the 2023 summertime period, Commission staff found that home stay STR daily rates start at \$119 and average \$142 per room (or \$106 per bed).

where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. [...]

(c) Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

Section 30251 of the Coastal Act states, in relevant part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service [... and] (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation.

Section 30253 of the Coastal Act states, in relevant part:

New development shall do all of the following:

(d) Minimize energy consumption and vehicle miles traveled.

(e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

Section 30255 of the Coastal Act states:

Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

The policies of the City of Dana Point LCP are also applicable ([Appendix A](#)).²³

Residents of Dana Point have previously expressed concern that the City is currently

²³ The development and community character policies in the City's certified LCP are similar to the Coastal Act development and community character policies. Therefore, the findings in this staff report are based primarily on the applicable Coastal Act policies.

experiencing an extremely low housing vacancy rate and they believe that the short-term rental market is exacerbating the scarcity of affordable housing and rental housing. The low vacancy rate also determinately affects the cost of already limited housing for both affordable housing and workforce housing.

The City's Housing Element (a portion of the City's General Plan), while not certified by the Commission and not a part of the City's LCP, is designed to address key housing issues in the City. The Housing Element discusses ways to expand housing access for low- and moderate-income households, while enhancing community character and maintenance of existing affordable housing stock. The Dana Point Specific Plan, which forms the '1986' LCP, states that "these Specific Plan Land Use Regulations are intended to facilitate the location of housing for all segments of the population in the Dana Point community by implementing the inclusionary housing provisions of the Housing Element of the [City's] General Plan." The 1996 LUP's Land Use Element (LUE) Policy 7.5 further "encourage[s] the development of a diversity of housing opportunities including medium density housing in the areas adjacent to the retail areas and also as a part of mixed residential and retail or office uses." Finally, 1996 IP Policy 9.13.010(b) directs new residential development within mixed-use areas (particularly districts designated Residential/Commercial-18 (R/C-18)) to provide a minimum of 10% of the total housing units as "affordable units." The Town Center Plan, Headlands Development and Conservation Plan, and the Monarch Beach Resort Specific Plan, which also form part of the City's certified IP, do not have applicable affordable housing requirements beyond an "in-lieu fee" program.

Land Uses

The City previously interpreted the City's Zoning Code to not allow for STRs in residentially-zoned neighborhoods.²⁴ However, recent case law (e.g., *Kracke v. City of Santa Barbara*, *Keen v. City of Manhattan Beach*, and *Protect Our Neighborhoods v. City of Palm Springs*) precipitated a change of circumstance where the City legally must now find STRs to be allowable uses in residential zones. The City is not proposing to amend the zoning designations in residential neighborhoods via implementation of the STR Program; rather, the general goal of the City's STR regulations is to allow for STRs without impacting long-term rental housing stock in the City and creating a nuisance or threatening the public health, safety, or welfare of neighboring properties.

The Commission concurs with the City's findings that despite inherent differences between the currently proposed STR Program and the program considered under the *Santa Barbara* decision, if the case were to be applied in Dana Point, it would likely be interpreted to mean that until STR regulations are approved pursuant to the Coastal Act, any residentially-zoned property in the Coastal Zone could, by right, operate an STR.

²⁴ [Dana Point City Council Regular Meeting Minutes, November 15, 2016 \(Page 15\).](#)

Community Character

As stated previously, the Program's 115-permit cap is derived from an overall citywide proposal for a 185-permit cap, which approximates the number of STR permits in existence when the City stopped issuing STR permits (i.e., there were 183 STR permits in 2016). Based on the City's previous proposal for a citywide Program with a 185-permit cap, STRs would have represented approximately 1.1% of the City's total 16,172 housing units. Within the Coastal Zone specifically, the 115-permit cap under the current iteration of the STR Program would constitute approximately 2% of housing units. These figures are slightly higher in comparison to rates found in other nearby cities, such as Laguna Beach (1.5%), San Diego (1.0%), and Long Beach (1.6%). Still, the recommended allowance of 115 permits is a pro-rata approximation of the number of active non-primary residence STRs that the Coastal Zone has historically supported. It is also over one-half of the total cap, which protects the proportion of Coastal Zone non-primary STRs, as described above. The target cap of non-primary STRs will not be much beyond the historical baseline, and other categories of less traditional STRs (e.g., home stay, primary) are not nearly as popular. The cap on non-primary, multi-family home stay, and mixed-use STRs imposed by **Special Condition 1** is thus appropriate and adequately protects public access and existing community character, by continuing the offerings of STRs in the Coastal Zone, rather than implementing a total ban on STRs, without excessive detriment to the existing residential population or affordable housing supply.

The proposed Program also includes a provision that restricts un-hosted primary STRs to a maximum of 60 days per year. This number corresponds with the length of a summer/winter season when homeowners are more likely to be away from their primary residence and, therefore, offer their home for un-hosted stays. Hosted home stays (both single-family and multi-family) are not subject to this cap. Even with this limit for un-hosted primary STRs, up to 30 two-night weekend stays or 20 three-night weekend stays would be feasible. In addition, this regulation is consistent with other certified STR-related Programs, including but not limited to, the City of Trinidad (maximum 59 days of STR use per year), the City of Torrance (maximum 90 days of STR use per year), and the City of Oxnard (maximum 100 days of STR use per year). This specific restriction for un-hosted primary STRs is not expected to impact the residential use of these properties or the area's available housing stock because the City has indicated that very few "entire home" short-term rentals, which could include both primary and non-primary residences, are rented less than 60 days per year.

While primary STRs are not proposed to have a cap, and they may grow in popularity over time, it is anticipated that the Program's required registration process, enforcement mechanisms, and five-year reassessment period would help prevent adverse impacts on community character resulting from this type of STRs. A severe reduction in the availability of STRs, or a blanket prohibition of all STRs currently serving guests in the Dana Point Coastal Zone, would not result in preservation of existing community character, more affordable STRs, or alleviation of potential

overcrowding of other lower-cost overnight accommodations in the Coastal Zone. Rather, public access to the coast would be further limited. The Program merely creates a process for the regulation of non-primary STRs that already exist and provides for the possibility to increase other types of STRs in a manner consistent with the existing community character of Dana Point's coastal residential neighborhoods.

Cumulative Impacts

When reviewing a project's consistency with the community character protection policies of the Coastal Act and the Dana Point LCP, the Commission also analyzes the cumulative effects of development. Section 30250(a) of the Coastal Act requires development to not have significant adverse effects, either individually or cumulatively, on coastal resources. Sections 30251 and 30253 of the Coastal Act state that scenic areas and special communities shall be protected. These sections of the Coastal Act require permitted development to be compatible with the character of surrounding areas and require protection of communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses. To evaluate the potential cumulative effects of programmatic CDPs, such as the subject STR Program, on community character, the incremental effects of the development are considered in connection with the effects of past, current, and probable future impacts that arise from implementation of the program.

First, to avoid cumulative impacts to community character resulting from the implementation of the STR Program and the issuance of short-term rental permits and regulations, the Commission imposes **Special Condition 3** to restrict authorization of this CDP for a ten-year term only, unless the City applies for a renewal (via CDP/LCP amendment or new CDP). The Executive Director may extend this deadline for good cause. This condition will ensure that any significant adverse impacts to public access, housing stock, or community character are not prolonged in perpetuity without remedy or recourse.

Second, the City must monitor and report on STRs throughout the Coastal Zone during the authorization period of this CDP. If adverse impacts are observed, the City may correct and mitigate for such impacts in accordance with requirements set forth in **Special Condition 2**, which require the City to submit any changes to the Program for review by the Executive Director to determine whether a CDP amendment is required.

The City is already proposing to reevaluate the permit cap, regulations, penalties, and any other aspect of the STR Program to determine if an amendment must be made within five years of issuance of this CDP. To accomplish a more thorough and comprehensive monitoring/tracking of the STR Program's performance, the Commission imposes **Special Condition 4** for a study and assessment during an extended ten-year period with more prescriptive criteria and metrics, to corroborate that no unintended adverse cumulative impacts on public access, lower cost overnight accommodations, housing stock, and community character arise during implementation of the Program.

In particular, the City will be required to 1) monitor the number of STR permits issued and rescinded over the ten-year term, determine their affordability, and assess whether the permit caps or types are adequate in meeting both market demand and neighborhood needs, 2) monitor enforcement statistics (nuisance complaints, violations, City's enforcement response) and assess the Program's efficacy to address nuisance complaints and violations (in a format similar to [Exhibit 8](#)), 3) monitor the City's Coastal Zone housing inventory, including the number of residential units at any given time and the number of units converted to STRs, evaluate long-term rental affordability, and assess the Program's adverse impacts on depleting housing stock and affordable long-term rental units in the Coastal Zone, 4) monitor inventory of non-STR coastal overnight accommodations and their affordability, and assess the Program's adverse impacts on visitor use of non-STR overnight accommodations and other visitor-serving recreational facilities (in a format similar to [Exhibit 6](#)), 5) assess whether parking and vehicle occupancy requirements for STRs are adequate and whether STRs are facilitating or offering non-automobile transit options, and 6) assess revenues from application fees and waitlist times to determine if they are appropriate.

Thus, the Commission finds that the proposed STR Program, as conditioned, can be found consistent with the development and community character policies of the Coastal Act and the City's certified LCP.

F. Response to Comments

On October 23, 2022, appellants of the local CDP submitted a letter of correspondence raising procedural issues with regard to the Commission's CDP process; additional correspondence was submitted on October 31, 2022 with several specific questions ([Correspondence](#)). In particular, the appellants are concerned that that the Commission will be enacting STR "legislation" without evaluating best practices in other coastal communities, that "rushing" the consideration of this item in November 2022 is "unreasonable," and that Commission staff does not have sufficient data to make a comprehensive staff recommendation. Additionally, the appellants are interested in understanding why the matter cannot be continued at a later hearing per their request, whether the staff recommendation could be negotiated ahead of publication of the staff report, and if a voter-ballot initiative could affect the outcome of the CDP process.

First, the Commission emphasizes that the Coastal Act CDP appeals process is an important implementation mechanism for the Commission's LCP planning and regulatory program. LCPs are intended to implement the statewide policies of the Coastal Act; the Commission is the statewide body tasked with assuring that local governments interpret and apply their LCPs consistent with the Coastal Act with respect to those critical geographic areas and types of development defined by the legislature to be of statewide concern (e.g., public access and recreation, land use, cumulative impacts of development, etc.).²⁵ Rather than enable the Commission to "legislate"

²⁵ [Briefing on the Commission's Coastal Development Permit Appeals Process, For Commission Public Hearing, June 11-13, 2014 Meeting.](#)

coastal policies, the Commission’s appellate review accomplishes the opposite by providing an important oversight, mechanism, and backstop to local LCP implementation, and an important way for the public to continue to be involved in Coastal Act implementation via the public hearing process. In evaluating CDP applications for their consistency with the LCP and potential substantial issues they may raise, the Commission can assure that ongoing implementation of the Coastal Act at the local level is dynamic and responsive to statewide policy concerns, changing conditions, and new information as may be identified by the Commission. Finally, the appeals process is also a critical mechanism for continued ongoing collaboration between Commission and local government staff to achieve the goals of the Coastal Act through LCPs.

The Commission has found “substantial issue” at its September 7, 2022 hearing, and as such is reviewing the application de novo. Pursuant to 14 C.C.R. § 13115(b), the de novo hearing for an appeal is conducted in the same manner as the hearing for a regular coastal development permit application in the Commission’s jurisdiction. Commission staff makes its recommendation, the Commission reports ex partes, the applicant and interested parties testify, staff provides a rebuttal, and the Commission deliberates and decides. Prior to the Commission hearing, staff is obligated to prepare a staff report, schedule and agendaize the item, distribute the staff report for review of the Commissioners and public, circulate all written comments on the CDP application and staff report, and ensure that all interested parties are noticed (14 C.C.R. § 13057-13063, Coastal Act Section 30339). Thus, the appellants’ request to formally confer with Commission staff and the Commissioners and/or establish a 60-day public review period of the de novo CDP, in order to influence the final details of the STR Program, is outside of the protocols established by the Coastal Act and its implementing regulations. Furthermore, the appellants have already had ample opportunity to participate in the appeals process at the local level, to submit a local appeal on May 23, 2022, and to collaborate with the City on drafting the STR Program.

14 C.C.R. § 13064 states that “the commission's public hearing on a permit matter shall be conducted in a manner deemed most suitable to ensure fundamental fairness to all parties concerned, and with a view toward securing all relevant information and material necessary to render a decision without unnecessary delay.” The City has requested that the item be heard as soon as feasible. Sufficient information is available to proceed with the de novo hearing.

Where some information may not be readily available, since the City’s currently proposed STR Program has several aspects and policies that are novel and have not yet been implemented, the Commission notes that **Special Condition 4** of this permit will require the applicant to provide very detailed information that would ensure that all pending and future authorizations of the Dana Point STR Program are data-driven and fully conform with the Chapter 3 policies of the Coastal Act. The Commission finds the requirement in this condition to be a reasonable approach by allotting the City ten (10) years to prepare the requisite information, while simultaneously mitigating potential adverse cumulative impacts of the Program.

Finally, Commission staff may assist the applicant and interested parties in this matter before the Commission for action; however, Commission staff's assistance is often limited to matters of procedure and does not necessarily extend to advice on substantive issues regarding a project's consistency with the Chapter 3 policies. For this reason, Commission staff did not prepare a written response to the appellants' inquiries regarding the hypothetical legalities of a voter-ballot initiative, and how it may interact with the CDP process, as that is outside of the scope of the procedure presently before the Commission.

G. Reimbursement of Costs and Fees

Coastal Act Section 30620(c)(1) authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications. See also 14 C.C.R. § 13055(g). Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its action on the pending CDP application. Therefore, consistent with Section 30620(c), the Commission imposes **Special Condition 5** requiring reimbursement of any costs and attorneys' fees the Commission incurs in connection with the defense of any action brought by a party other than the permittee challenging the approval, issuance, or implementation of this permit. Modifications to the final STR Program (Resolution No. 22-07-12-01, [Exhibit 2](#)) required in **Special Condition 1** will ensure that the Commission is not subject to any claims, damages, or liabilities resulting from or arising out of the City of Dana Point's implementation of the STR Program described in this coastal development permit, for which the City assumes full responsibility ([Exhibit 3](#)).

H. California Environmental Quality Act

Section 13096(a) of the California Code of Regulations requires Commission approval of coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. On July 12, 2022, the City of Dana Point, as the lead agency, determined that short-term rental use is an already established residential use in the City (as determined by the Commission and related case law), and the City's adoption of the STR Program would not result in intensification or expansion of that use but would rather limit it, and is thus categorically exempt from CEQA under Class 1 (14 C.C.R. § 15301).

Under Section 15251(c) of Title 14 of the California Code of Regulations, the Commission's CDP regulatory process has been certified as the functional equivalent to the CEQA process. As a certified regulatory program, Section 21080.5(d)(2)(A) of CEQA still applies to the Commission's CDP regulatory process and prohibits a proposed development from being approved if there are feasible alternatives or feasible

mitigation measures available, which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project, as conditioned, has been found consistent with the certified LCP and the Chapter 3 policies of the Coastal Act. The Commission incorporates these findings as if set forth here in full. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and complies with the applicable requirements of the Coastal Act to conform to CEQA.

APPENDIX A – RELEVANT LCP POLICIES

Certified IP Section 9.13.010(b), Residential/Commercial-18 (R/C-18), states:

(b) 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 (18) 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 one-half 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 percent (10%) 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/RC) zoning designation in Sections 9.11.010 and 9.11.020(b)).

Certified IP Section 9.61.020, Interpretation, Administration, and Enforcement, states:

- (a) Authority and Procedure for Interpretations.
- (1) The Director of Community Development is hereby charged with the duty of providing interpretations of the Zoning Code.
 - (2) The interpretations of the Director of Community Development are subject to the policy directives of the Planning Commission and City Council.
 - (3) Any appeal of decisions by the Director of Community Development shall be made pursuant to Section 9.61.110, Appeal Procedures.

(4) All interpretations of the Code made by the Director shall be recorded in writing. The record of interpretations made by the Director shall be kept on file in the Community Development Department and shall be available to the public upon request. These interpretations shall be incorporated into the Zoning Code pursuant to the provisions of Section 9.61.080, at such time as is deemed appropriate by the Director.

(b) Planning Commission Administration of Code. The Planning Commission of the City of Dana Point is responsible for administering the Zoning Code, making recommendations to the City Council on matters governed by the Code, and initiating amendments to the Code when necessary to promote the public health, safety, or welfare.

(c) Procedure for Enforcement. When any use or structure is found to be in violation of the provisions of this Code, the City Council may direct the City Attorney to commence appropriate civil, administrative, or criminal proceedings for the discontinuation or removal of the illegal use or structure in the manner prescribed by law.

(d) Investigation or Inspection of Property. Any duly authorized city official may enter any premises, building, or structure at any reasonable hour, after either obtaining the consent of the owner or other responsible individual or pursuant to an inspection warrant, for investigation or inspection of such premises, building, or structure to determine whether said building, premises, or structure is in violation of this Code. Every person who denies, prevents, obstructs or attempts to deny, prevent, or obstruct such access pursuant to an inspection warrant is guilty of a misdemeanor.

Certified IP Chapter 9.75, Definitions and Illustrations of Terms, states, in relevant part:

“Accessory Use” — a use of a portion of land or building which is customarily and clearly incidental and subordinate to the principal use of the land or building which is located on the same lot as such principal use. Accessory uses typically are very small in proportion to the principal use and associated structures exceed six (6) feet in height.

“Recreational Uses” — shall mean establishments providing active or passive recreational activities and their incidental support facilities. Typical uses would include, but not be limited to, athletic clubs, health clubs, dance studios, game courts, golf courses, golf driving ranges, gymnasiums, swimming pools, private or public recreational facilities and parks.

‘1986’ DPSP Section II.D, Access Component, states, in relevant part:

1. Introduction.

...

a. Coastal Act of 1976.

...

Section 30222. The use of private lands suitable for visitor serving commercial recreational facilities designed to enhance public

opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial developments, but not over agriculture or coastal-dependent industry.

Section 30223. Upland areas necessary to support coastal recreational uses shall be preserved for such uses, where feasible.

Section 30250(c). Visitors-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors (amended by Cal. Stats. 1979, Ch. 1090)

b. Work Program Issues.

...

6. Recreational opportunities to be provided.
7. Distribute public facilities to mitigate overcrowding or overuse.
8. Identification of ocean front land suitable for recreational use.
9. Identification of upland areas necessary to support coastal recreation.
10. Identification of visitor-servings and commercial recreational facilities.

...

...

4. Definitions

- j. Visitor-Serving Facilities: Visitor-serving facilities are public and private developments that provide accommodations, food, and services for tourists.

...

...

7. Policies

...

Visitor-Serving and Commercial Recreation Facilities Policies:

...

83. Adequate parking will be provided in close proximity to recreation and visitor-serving facilities (Dana Point Specific Plan Local Coastal Program Policy, page X-6)
84. Future visitor-serving facilities will be located in those areas designated as tourist recreation/ commercial by the Land Use Plan. (Dana Point Specific Plan Local Coastal Program Policy, page X-7)
85. The primary use within this area will be a hotel/lodge facility integrated with a public open space system adjacent to the bluffs. (Dana Point Specific Plan Headlands Land Use Policy, Area D, page IV-23)
86. Proposed uses will be oriented exclusively toward Tourist-Recreation/Commercial facilities, and include but not be limited to overnight lodging, retail shops, restaurants, and other similar facilities. (Dana Point Specific Plan Headlands Land Use Policy, Area E, page IV-23)

'1996' LUP Land Use Element (LUE) Policies, in relevant part:

Policy 2.10: The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry. (Coastal Act/30222)

Policy 3.3: Priority should be given to those projects that provide for coastal recreational opportunities for the public. Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible. (Coastal Act/30213, 30222, 30223)

Policy 7.5: Encourage the development of a diversity of housing opportunities including medium density housing in the areas adjacent to the retail areas and also as a part of mixed residential and retail or office uses.