

December 30, 2010

California Coastal Commission
South Coast Area Office
Attn: Fernie Sy, Coastal Program Analyst II
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Long Beach, CA 90802

City of Dana Point
Community Development Department
Attn: John Tilton,
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33282 Golden Lantern
Dana Point, CA 92629-1805

RE: Draft California Coastal Commission Staff Suggested Modifications
Local Coastal Program (LCP) Amendment Request No. 1-10
Dana Point Harbor Implementation Plan

Dear Sirs and Madams:

Boaters for Dana Point Harbor (B4DPH) would like to thank the Commission and the City for the opportunity to respond to the new draft of the Dana Point Harbor Implementation Plan (IP). As with the Land Use Plan last year, the Commission staff has done a thorough, professional, and truly magnificent job of aligning the "Revitalization" plan with the requirements of the Coastal Act and other statutes. We are very grateful for the many years of hard work that have been required to reach this point, and we are confident that the IP is almost ready for Commission approval.

We would like to bring up several significant items that B4DPH believes should be clarified and improved, either before the hearing or at that time. These are generally items which are either ambiguous or at odds with the overall direction in the IP. We are ready to discuss these with the staff and/or applicant in more detail if that would be helpful, but will only outline what we believe are remaining issues that should be resolved. We've taken the liberty of providing proposed solutions for the applicant's and for your consideration.

We have organized these items by the Chapter in the IP where they appear.

Chapter 2

We want to begin by applauding the staff for including both the Tidelands grant policies and the priority of water-oriented uses in the "Purposes and Objectives" chapter. We are also very happy to see the idea of enhancing boating and other priority uses made an objective.

Chapter 3 – General Regulations

Section 10 – Special Events: We are uncertain what is intended by listing 3 very specific criteria which "all" must be met to require a CDP for a temporary event. We believe this should be changed to "any one", or there should be an explanation about why those 3 criteria are special. We believe that recent history within the harbor validate that any one of those elements present enough of a risk of reducing coastal recreational access that they must be properly addressed in advance.

Chapter 3 – Special Regulations

Section 7 – Grading Plans: The first sentence in b) is very ambiguous. Should the word “unless” be replaced with “where it must be”?

Section 30—Vessel Maintenance and Operation

Requirements shall be maintained in ship rental agreements that all vessels docked or moored in Dana Point Harbor are maintained in a seaworthy and navigable manner as certified on an annual basis by the U.S. Coast Guard Auxiliary or similar organization...

While we applaud and support the ultimate objective of this requirement we believe as stated it is unworkable. First we are unaware of any Coast Guard function that “certifies” a vessel for seaworthiness or navigability with the exception of inspected vessels under 46 CFR Subchapters T and K regulations which do not apply to the recreational vessels berthed in Dana Point Harbor. Additionally we are unaware of any standard accepted definition of a seaworthy and navigable vessel, including from the Department of Boating and Waterways. Lastly we fail to see what the Implementation Plan prescribes for vessels that either fail to take the test or fail the test. As written, the section excludes dry storage and trailered vessels, but would require 2500 or more individual inspections every year, in perpetuity. We recommend that this requirement be dropped at this time.

Chapter 4

Section 4.5 –Development Standards and Requirements: We suggest the following more specific language for paragraph p).

p) Ship Yard: A shipyard shall be maintained in the Marine Services Commercial Planning Area and the land side portion shall be no less than 1.6 acres in size. The expansion, modification or renewal of the shipyard lease footprint shall be required to demonstrate that the proposed size of the lease area is adequate to maintain a full-service shipyard facility that includes all services and capabilities to take care of all of the needs of the boaters in Dana Point Harbor including do-it-yourself and other low cost vessel maintenance capabilities, boat haul-out and repair services. The shipyard should be able to meet these needs for all of the sizes of recreational boats envisioned within the harbor.

Chapter 5

Section 5.1--Purpose and Intent: We suggest adding “and the other requirements of these Regulations” to the final sentence for clarity.

Chapter 6

Section 6.5—Development Standards and Requirements: Subsection c) does not contain the same height restriction as Planning Area 2 (cf. 5.5c4). There is no specified maximum height for the hotel. We recommend the same language as 5.5c4.

Subsection r) contains language at odds with Chapter 14 regarding boater parking. We recommend ending the sentence with “shall be consistent with existing boater parking.” In a recent communication to the boater community, the Harbor Department (OC DPH) said (emphasis theirs):

In conceptual plans considered to date, all boater designated parking lots will remain as they are today, with the exception of one small boater designated parking lot near the proposed Commercial Core. In conceptual designs, this parking lot only serves the slips from gangways M and N and once completed, boaters from these two gangways will be able to park in other lots if they choose. Parking for all other gangways in the Harbor **will not change**. Each of the other boater designated parking lot locations and configuration will remain as they are today, providing boaters parking per the state guidelines.

The Harbor Department (OC DPH) also distributed materials to the Commissioners pointing out that only the area near M and N gangways would be changing. We believe it was obvious that the Commissioners’ used this information when they approved the Land Use Plan.

We believe OC DPH’s position and commitment should be codified in these regulations.

Chapter 7

Section 7.5—Development Standards and Requirements: The last sentence of subsection q) on Recreational Parking is inconsistent with Chapter 14 and the comment above on Section 16.5r. It should be removed and the consolidated language in Chapter 14 used.

Chapter 8

Section 8.5—Site Development Standards and Requirements: Subsections p) (Recreational Boating Opportunities) and q) (Hand Launch Facilities) are extremely important to the community, and we hope that expansion in this area can occur independently of the larger scale improvements.

Chapter 11

Section 11.5—Development Standards and Requirements: Subsection j) on Anchorages should be reworded to allow the taking of anchorage space specifically to provide new berthing space per the zero slip loss goal. This will increase access by increasing the number of boats in the harbor.

Chapter 12

Section 12.5—Development Standards and Requirements: Subsection o) needs to be reworded to remove reference to the dry boat storage facility. No existing slips should be removed prior to the issuance of a waterside CDP which addresses loss of slips. The proposed dry boat storage cannot be used for mitigating slip loss or mix shift as the proposed dry storage capacity is less than what is there for dry boat storage today and historically.

Chapter 13

Section 13.5—Development Standards and Requirements: As with Section 11.5, this should be reworded, and new berthing space near the bait barge/fuel dock area (and its associated requirements) provided for.

Chapter 14

General Comment: The problems associated with parking in Dana Point Harbor have been with us almost since the creation of the harbor. However, there are many days each year where parking is not an issue. The purpose of this chapter and the emphasis on parking controls is for the peak parking periods, typically weekends and holidays, in the summer and early autumn, or when the weather is particularly good. These are the times which require the rules in both the LCP and IP, and only evidence gathered during those times is relevant to the issues. Rainy Tuesdays in winter provide many parking opportunities for all users of the harbor, but few choose to take advantage of them.

Section 14.2—General Provisions: We are not convinced that joint use of the launch ramp area, even as conditioned, is a good idea on winter weekends, given the lack of data on utilization and the checkered history of that parking area. We recommend that a lower number be used, 15%, and that mechanisms be implemented that allow the public to quickly and easily verify the activity of each vehicle in the parking area (employee, valet restaurant/shops, Catalina Express, Launch Ramp, or Sports Fishing/Charter). This percentage can be increased up to the 15% should the data indicate a higher level of shared use can be accommodated without adversely affecting recreational boating access. The definition of Launch Ramp area is not to include dry boat storage or the required parking for this element.

Section 14.3—Standards for Individual Permitted Uses: Item 1 (Dry Boat Storage) provides for only 0.25 spaces per boat. This is below the DBW standard, which does not differentiate between wet slips and dry storage:

From Department of Boating and Waterways Marina Design Guidelines

G1.2 Minimum Number of Parking Spaces

G1.2.1 0.60 single vehicle parking spaces per recreational berth

G1.2.2 2.00 parking spaces per commercial fishing boat berth

Commentary: *The minimum parking requirement is to be utilized where self-parking is provided for marina patrons, including persons with disabilities. This level of parking is specifically for support of the users of the boat berths, and is not intended to address the parking needs of visitors, offices, restaurants, concessionaire operations, retail businesses, chandleries, fishing piers, boat launching ramps, park and picnic areas, government agencies and other entities and activities that require vehicle parking at a marina.*

Regarding item 4 (Sport fishing, charter boat concessions and passenger ferry), the provision of one space per 3 passengers does not take into account the overlap between incoming and outgoing groups of passengers during busy times. The issues with parking in the harbor occur almost entirely during these peak periods. This requirement should be lowered to one space per 2 passengers, which is a far more realistic assessment of the peak number of spaces this usage category occupies. Additional spaces must be provided for the crew as their counts are typically not included in the USCG Certificate of Inspection allowed passenger.

Section 14.5-- Exceptions and/or Modifications to Off-Street Parking Requirements: Subsection 4 provides for a public hearing before the City's Planning Commission. This is an excellent idea, but many harbor users are not residents of Dana Point. We recommend that a public notification requirement be added that requires notices of hearings under this section be prominently posted in the Harbor and be included with monthly bills for slip rentals, in addition to the few locations where the City currently posts CDP notices, in compliance with Sections 30006 and 30503 of the Coastal Act.

Chapter 16

Section 16.6—Public Hearing Notification: As with Section 14.5, we would recommend expansion of the notification requirement to include the Harbor for CDP hearings regarding harbor planning areas.

Chapter 17

Section 17.4-- Procedures for Revisions to the Dana Point Harbor Revitalization Plan and Statistical Table: While it may seem to be a trivial issue, the “Dana Point Harbor Revitalization Plan” is never defined. Does it include the LCP as amended? Does it include all the CDP’s. Does it include the construction plans? This is not trivial, because Subsection a) requires a public hearing for any revision. Of course, revision isn’t define either. It would be helpful to clarify this section, as some of it seems to either conflict or overlap with other parts of the LUP and IP.

The other issue concerning the section is the contents of the Statistical Table. It should be noted that there are some interesting numbers therein. Every building in planning areas 4 and 5 is given a significant increase in size, although there no major increases planned in most of those buildings. The dry stack storage building (which is really a barn) is included as 50,000 square feet, but that area will not generate any additional need for parking, since the same number of boats must be housed in Planning Area 1 with or without the building.

On the other hand, The additional 84 hotel rooms and any increase in the size of existing rooms was excluded from the table, despite the obvious need to account for that space. The net effect is to make the commercial aspects of the revitalization appear to be a small percentage of the total space being added to the harbor, on the order of 1/3. A more realistic estimate, in our opinion, is that it is closer to ¼ of the new building space.

We include a short table to illustrate this:

Planning Area	Existing sq ft	Maximum sq ft	Difference	Notes	Realistic Difference
1	10750	63350	52600	50000 dry stack	2600
2	81900	119000	37100		37100
3	8600	31350	22750	plus 84 rooms*200?	39550
4	54000	86700	32700	Every building grows?	15000
5	21800	33800	12000	Every building grows?	9000
6	32000	32000	0		0
Totals	209050	366200	157150		103250

Base Line Numbers

During discussion with Coastal Commission Enforcement Staff in the Long Beach office, we have been informed that at some point in time, the true base line for the number of slips and dry boat storage within the harbor will be set. The numbers of 2409 wet slips and 516 dry boat storage locations do not reflect the approved conditions through valid permitting processes. We know the Commission does not

Representing over 860 boaters who have asked that the Harbor Revitalization proceed in a way less injurious to recreational boating coastal access.

generally approve developments that were done without proper Coastal Development Permits and; requires the Applicants to either properly state the existing conditions or apply for CDPs to bring the current state into compliance. **We look forward to participating with the Commission in these corrections and expect this IP, if approved in advance of the corrections, to be so noted.**

In summary, we want to congratulate the Commission staff and the applicants for producing a set of regulations which are greatly improved from the original, and with the modifications we suggest, will move the Harbor Revitalization forward. We look forward to discussing any of these items with you, and we hope to be able to urge its adoption at the hearing on the 12th.

Please include this correspondence in the staff report addendum for this item.

Yours faithfully,

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