

CCC Staff

Long Beach

Dear Sirs and Madams:

This letter provides public comment on the Implementation Plan (IP) component of the Local Coastal Program Amendment (LCPA) for Dana Point Harbor currently before the Commission (DPT-MAJ-1-08). Attached to this letter is the text of the IP, with specific suggestions and comments included. The text was, unfortunately, created by using optical character recognition software on the PDF format image data which the Dana Point Harbor Department (OC DPH) made available on their web site to the public. There may be minor misspellings due to errors in the conversion.

We are very disappointed that Orange County and the City of Dana Point did not rewrite the IP component of the LCPA after the October 2009 hearing on the Land Use Plan (LUP) component to make it consistent with the revised LUP. Instead the County and City appear to have left that task to the Commission and the public.

We would like to focus your attention on a few broad issues that we would like to see addressed before the IP is approved:

1. The overview section (Section 1, approximately 84 pages) contains many specifics that are no longer accurate. For example, will there be one or two Dry Stack boat storage buildings? How many boats and how many trailer/tow vehicles will actually be in planning area 1 at the completion of the "Revitalization"? Many questions were left unresolved in the LUP, and the numbers in the overview are not consistent with the rest of the document. How are the Commission and the public to judge the impact of this project without accurate information?
2. There needs to be a statement for each planning area that all uses must be consistent with the Public Trust Policy and Doctrine of the State Lands Commission. Without this, the legislative intent of the Tideland grant cannot be achieved.
3. Parking has been a significant problem for many years in Dana Point Harbor. This Revitalization will allow significant expansion of the commercial businesses within the harbor to further exacerbate the parking problem. It is important that in the IP a proper number of parking spaces are allocated in appropriate locations to each commercial and recreational activity. For example, allocating 2 parking spaces for large commercial vessels that can carry a 100 or more passengers is grossly under-providing for the true needs in the Commercial Core.
4. Building heights must be included within the IP to insure that the rulings of the Commission are adequately addressed. Forcing the issue to be dealt with on every single Coastal Development Permit for the next 30 years would be overly burdensome and will likely lead to inconsistencies.
5. The Harbor Director (a public employee) is given complete discretion on significant matters of land usage without any guidance or public input (e.g. Chapters 3.7, 3.8). (S)he is, in essence, the Czar of the

Harbor. We believe that this needs to be changed, and that ultimate appellate authority should be given to elected officials (i.e. the Dana Point City Council, as owner of the LCP, or the Orange County Board of Supervisors, as grantee of the Trust).

6. The text calls for a Harbor Review Board, whose composition and duties are not clearly specified (see Chapters 15.2 and 16.2). The composition of the current board includes three people, two of whom are employees supervised by the Harbor Director and the other is a merchant-lessee of OC DPH. There is an obvious conflict when employees have approval authority over the work of their supervisor, and there is a need for both transparency and inclusion in the review process. We suggest that the board include at least 5 members, including members from both the merchant and boater communities, and that, if possible, at least some members of the board be selected by the City (Mayor or Council). Also, the activities of the board should be made explicitly subject to the Brown Act.

7. The regulatory process specified in the IP contains an enormous loophole called “Alternative Development Standards” (Chapter 16.5). The current text allows the City and County to ignore decisions of the Commission and establish a completely new set of rules for the Harbor’s development, and puts the onus on the public (and the Commission) to monitor each and every CDP to make sure new rules are not “slipped in”. While the text limits these to certain items (including boat slips, parking lots and recreational areas), is there any reason not to require these new standards receive specific approval from the Commission, at least from the Executive Director?

8. Over the last 15 to 20 years many changes have been made within the harbor which have not received the benefit of any public process, such as the required Coastal Development Permits. While the City is the holder of the certified Local Coastal Plan, they have not insured that the county complies with the requirements. With the Coastal Commission lacking any meaningful enforcement budget, how can we make sure that the City and County respect this Land Use and Implementation Plan? We would request a chance to explore possible solutions to this dilemma with Commission staff.

We appreciate the opportunity to comment on the IP component before you, and would be happy to meet with you to discuss or clarify any of our comments. Thank you for your consideration of our public input.

Leaders of
Boaters for Dana Point Harbor
www.boaters4dph.com
bruceheyman@cox.net
949 289-8400

Boaters for Dana Point Harbor is a volunteer based organization that has collected approximately 840 signed petitions requesting that we work with the Coastal Commission and others to insure that Recreational Boating within Dana Point Harbor is preserved and protected to the full extent prescribed by the Coastal Act.