

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
301 E. OCEAN BLVD., SUITE 300
LONG BEACH, CA 90802
(562) 590-5071



Th12a

Date: January 26, 2023

To: COMMISSIONERS AND INTERESTED PERSONS

From: KARL SCHWING, DEPUTY DIRECTOR, SOUTH COAST DISTRICT
ERIC STEVENS, DISTRICT SUPERVISOR, SOUTH COAST DISTRICT
FERNIE SY, COASTAL PLANNER, SOUTH COAST DISTRICT

Subject: STAFF RECOMMENDATION ON CITY OF DANA POINT MAJOR
AMENDMENT NO. LCP-5-DPT-21-0059-5 (Doheny Village) for Commission
Meeting of February 9, 2023

SUMMARY OF LOCAL COASTAL PROGRAM (LCP) AMENDMENT REQUEST

The proposed City of Dana Point Local Coastal Program (LCP) Amendment is for the Doheny Village Zoning District Update which applies to the Doheny Village area within the Capistrano Beach neighborhood located in the City of Dana Point. Doheny Village consists of approximately 80 acres bounded by the City of San Juan Capistrano and Interstate 5 (1-5) on the north, the 1-5 off-ramp to Pacific Coast Highway (PCH) on the east, PCH on the south, and the Southern California Regional Rail Authority/Orange County Transportation Authority railroad right-of-way on the west. Doheny Village is entirely within the Coastal Overlay District and partially located within the Appeals Jurisdiction of the California Coastal Commission ([Exhibit 1](#)).

The City of Dana Point is requesting that the Commission certify an amendment to modify and add provisions to the Land Use Element of the General Plan and to the Zoning Code, both of which are components of the City of Dana Point Local Coastal Program (LCP), commonly known as the "1996" LCP. The stated purpose of this amendment is to preserve and enhance the eclectic combination of commercial, light industrial, and residential mixed uses in the Doheny Village area.

More specifically, the amendment will do the following:

1) Amend the "Mixed Use Designation" category found in the Land Use Element, which is a component of the City's General Plan, as well as the City's Land Use Plan (LUP), to modify the existing "Commercial/Residential" land use designation development standards and add new land use designations of "Commercial/Main Street" and "Commercial/Industrial" (GPA21-001) ([Exhibit 2](#)). More specifically, modifications include

amending land use designations, development intensity, and residential density allowances. In addition, an existing Map, Figure LU-8, will be replaced with Figure LU-8a and an existing table (Table LU-8) will be revised ([Exhibit 6](#)).

The existing land use designations for the project area are Community Commercial, Commercial/Residential, Community Facility, and Recreation/Open Space ([Exhibit 5](#)). The land use designation for the area currently identified as Community Commercial will be replaced with Commercial/Industrial and Commercial/Main Street land use designations([Exhibit 4](#)). All other existing land use designations will remain.

2) Amend the Zoning Code (Title 9 of the City’s Municipal Code), which serves as the Implementation Plan (IP), by adding a new chapter, Chapter: Ch. 9.14 Doheny Village District (ZTA20-0001), which also includes a new Exhibit, “Exhibit A Housing Incentive Overlay.” The new chapter includes allowed uses, development standards (i.e., lot size, setback, density, open space, landscaping requirements, etc.), special development standards (i.e., maximum density, housing incentive overlay, accessory uses and structures, parking requirements, and art-in-public-places program, etc.), and special use standards (i.e., pertaining to manufacturing uses, caretaker’s residence, storage yard uses, temporary uses, potential specific plan, etc.) ([Exhibit 3](#)).

The LCP Amendment also amends the Dana Point Zoning Map (also part of the IP) to include three new zoning districts: “Village Commercial/Industrial (V-C/I)”, “Village Main Street (V-M/S)”, and “Village Commercial/Residential (V-C/R)” (ZC20-0001) ([Exhibit 3](#)).

SUMMARY OF STAFF RECOMMENDATION

The subject LCP Amendment involves changes to the LUP and IP of the City’s certified LCP (“1996” LCP). Staff recommends that the Commission, after public hearing, **approve** Amendment Request No. LCP-5-DPT-21-0059-5 as submitted.

The standard of review for the proposed amendment to the LUP is consistency with the Chapter 3 policies of the Coastal Act. As analyzed by Commission staff, the amendment would do the following and thus be consistent with the Chapter 3 policies of the Coastal Act:

- 1) Legalize existing nonconforming, residential uses; however, it would not alter the amount or area designed or reserved for visitor-serving commercial;
- 2) Allow for increased residential development intensity which could result in increased traffic on the identified coastal access route. However, both the proposed “Commercial/Residential” and “Commercial/Main Street” land use designations encourage development of housing near sources of employment or commercial and professional services in order to reduce vehicle trips and to create a more pedestrian orientated development pattern;
- 3) Legalize existing non-conforming marine uses and would also establish marine uses as an allowable use that would foster their use;

City of Dana Point LCP Amendment No.
LCPA 5-DPT-21-0059-5
(Doheny Village)

- 4) Allow development only in developed areas, thereby avoiding or minimizing impacts to coastal resources; and
- 5) Protect and preserve visual resources even though existing visual resources are already a significant distance from the coast (approximately ¼ mile) and existing intervening topography, structures and vegetation already primarily block public coastal views through and from the area to the landforms of the Headlands, coastal bluffs, and the Pacific Ocean.

The standard of review for the proposed amendment to the IP is conformance with and adequacy to carry out the provisions of the City's certified LUP. As analyzed by Commission staff, the IP amendment would do the following and thus be consistent with the LUP:

- 1) Includes development standards, special development standards and special use standards for Doheny Village that encourage unified commercial and neighborhood commercial centers formed from the intertwining of mixed-use development;
- 2) Not impede future development from developing visitor-serving and recreational facilities and as such, maintain and enhance public access to the coast;
- 3) Proposed zoning designations would provide for a mixture of retail, office and residential uses in the same area and as a result of this mixture, reduce vehicle miles traveled, energy consumption and encourage alternative modes of transportation, including walking, bicycling, and transit use;
- 4) Avoid impacting existing public accessways and areas open to the public;
- 5) Provide that new development remains subject to the provisions of the Floodplain Overlay District and include policies that address flooding;
- 6) Avoid adversely impacting any sensitive habitat areas;
- 7) Impose standards pertaining to density, heights, parking requirements, landscaping, etc., that would result in development that improves the visual character of the area; and
- 8) Includes reference to existing zoning policies in the Dana Point Zoning Code regarding the protection of archaeological or paleontological resources.

Doheny Village includes a mobile home park (Beachwood Mobile Home Park) that provides housing that is more affordable than elsewhere in the city. The LCP Amendment proposes to increase the density from 10 dwelling units per acre to a maximum of 50 dwelling units per acre for the mobile home park site. During the local process, members of the public raised concerns that the increased density allowance for the mobile home park will increase the likelihood of the site redeveloping with a higher density and less affordable residential use.

However, the IP amendment addresses affordable housing by providing standards including a requirement that new construction provide a minimum percentage of affordable units in compliance with the Mello Act and including a Housing Incentive Overlay. The Housing Incentive Overlay provides an opportunity to increase housing density on

identified sites and in turn an opportunity to increase affordable housing in Dana Point, especially in the Doheny Village area.

Furthermore, the City's General Plan Housing Element (which is not a part of the certified LCP) includes policies (Policies 2.6 and 4.5) to address affordable housing, such as a requirement for spending in-lieu fees collected from contributing development to support affordable housing in the Coastal Zone per the Mello Act by requiring the replacement of any existing affordable housing occupied by lower or moderate income households. Thus, while this LCP Amendment might lay groundwork for other development to replace the mobile home park at this site, the City's affordable housing policies will ensure that affordable units are not adversely impacted by the proposed density limit increase for the site.

The amendment has also been analyzed pursuant to environmental justice concerns related to the inequitable distribution of public access and recreation benefits in California broadly and Dana Point specifically. Commission staff has determined that the proposed amendment addresses coastal access and coastal recreational opportunities for underserved communities by including and retaining the affordable housing policies discussed above that increase residential density for development in Doheny Village, require that new development provide a percentage of affordable units, and include a Housing Incentive Overlay. Though there are some lingering concerns, this amendment's inclusion of affordable housing policies for Doheny Village address environmental justice in a manner not present in the existing LCP.

As submitted, the City's amendment to the LUP Land Use Element conforms with, and is adequate to carry out, the Chapter 3 Policies of the Coastal Act. In addition, as submitted, the City's amendment to the Zoning Code and Zoning Map (IP) conforms with, and is adequate to carry out, the requirements of the City's certified LUP as amended. The resolutions and motions begin on **Page 7**. The findings for approval of the LCP Amendment begin on **Page 8**.

ADDITIONAL INFORMATION

Further information on the City of Dana Point LCP Amendment LCP-5-DPT-21-0059-5 may be obtained from Fernie Sy, Coastal Program Analyst, at (562) 590-5071. If you wish to comment on the proposed amendment, please do so via regular mail (directed to the South Coast District Office) or email (by emailing southcoast@coastal.ca.gov) by 5pm on Friday, February 3, 2021.

TABLE OF CONTENTS

SUMMARY OF LCP AMENDMENT REQUEST 1

SUMMARY OF STAFF RECOMMENDATION..... 2

I. PROCEDURAL ISSUES..... 6

A. Standard of Review..... 6

B. Public Participation..... 6

C. Procedural Requirements..... 6

D. Deadline for Public Participation 7

II. MOTIONS AND RESOLUTIONS 7

A. Approve the Land Use Plan Amendment As Submitted 7

B. Implementation Plan Amendment Certification As Submitted 8

III. FINDINGS FOR CERTIFICATION OF THE LCPA AS SUBMITTED 8

A. LCP Amendment Description and Background 8

B. Consistency Analysis 11

C. California Environmental Quality Act (CEQA) 24

EXHIBITS

Exhibit 1 – Location Map and City of Dana Point Post – LCP Certification Permit and Appeal Jurisdiction Map

Exhibit 2 – City of Dana Point Ordinance 21-03 (General Plan Amendment GPA20-0001)

Exhibit 3 – City of Dana Point Ordinance 21-04 (Zone Text Amendment ZTA20-0001 & Zone Change ZC20-0001)

Exhibit 4 – Location of Proposed Doheny Village Land Use Designations

Exhibit 5 – Location of Existing Doheny Village Land Use Designations

Exhibit 6 – Clarifications pertaining to General Plan Amendment GPA20-0001

Exhibit 7 – Federal Emergency Management Agency (FEMA) Flood Zones Map for Doheny Village and Surrounding Area

Exhibit 8 – Views of the coast from the Southbound lanes of Interstate 5 and Doheny Park Road

I. PROCEDURAL ISSUES

A. STANDARD OF REVIEW

The standard of review for the proposed amendment to the LCP LUP is consistency with the Chapter 3 policies of the Coastal Act. The standard of review for the proposed amendment to the LCP IP is conformance with and adequacy to carry out the provisions of the LUP.

The City of Dana Point presently has two (2) groups of documents that serve as its certified LCP, one commonly known as the Dana Point Specific Plan Local Coastal Program or '1986' LCP and the other commonly known as the '1996' LCP. In this instance, the applicable LCP is the '1996' LCP, which consists of three (3) elements of the City's General Plan (the Land Use Element, Urban Design Element, and Conservation Open Space Element) which serves as the LUP, the City's Zoning Code which serves as the IP.

B. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in LCP development. It states: "During the preparation, approval, certification, and amendment of any LCP, the public, as well as all affected governmental agencies, including special districts, shall be provided maximum opportunities to participate. Prior to submission of an LCP for approval, local governments shall hold a public hearing or hearings on that portion of the program, which has not been subjected to public hearings within four years of such submission."

Section 30503 of the Coastal Act requires local governments to provide the public with the maximum amount of opportunities to participate in the development of the LCP Amendment prior to submittal to the Commission for review. The City held numerous meetings including study sessions, community workshops between 2018 and 2021 and a Planning Commission hearing on July 12, 2021, and City Council hearings on July 20, 2021, and August 9, 2021, with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

C. PROCEDURAL REQUIREMENTS

Pursuant to Section 13551 of Title 14 of the California Code of Regulations, the City resolution for submittal may specify that an LCP Amendment will either require formal local government adoption after the Commission approval, or that it is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30519. Here, if the Commission certifies the LCP Amendment as submitted, no further City Council action will be necessary. The City's submittal resolution indicates that the ordinances will only become final after certification by the Commission, but no formal action is required. Should the Commission deny the LCP Amendment, as submitted, without suggested modifications, no further action is

required by either the Commission or the City, and the LCP Amendment is not effective. Should the Commission deny the LCP Amendment, as submitted, but then approve it with suggested modifications, then the City Council may consider accepting the suggested modifications and submitting them by resolution to the Executive Director for a determination that the City's acceptance is consistent with the Commission's action. The modified LCP Amendment will become final at a subsequent Commission meeting if the Commission concurs with the Executive Director's Determination that the City's action in accepting the suggested modifications approved by the Commission for LCP Amendment LCP-5-DPT-21-0059-5 is legally adequate. If the City does not accept the suggested modifications within six months of the Commission's action, then the LCP Amendment remains uncertified and not effective within the Coastal Zone.

D. DEADLINE FOR COMMISSION ACTION

The City submitted the LCP Amendment request on September 3, 2021. After a request for additional information, the amendment request was deemed by staff to be complete on October 26, 2021. The 90th working day after the October 26, 2021, complete submittal filing date was March 8, 2022. The Commission granted a one-year extension at its December 15, 2021, meeting. As such, the last date for Commission action on this item is March 8, 2023. (See Pub. Res. Code § 30511(a).)

II. MOTIONS AND RESOLUTIONS

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings.

A. APPROVE THE LAND USE PLAN AMENDMENT AS SUBMITTED

Motion: *I move that the Commission certify the Land Use Plan Amendment No. LCP-5-DPT-21-0059-5 as submitted by the City of Dana Point.*

Staff recommends a **YES** vote. Passage of the motion will result in certification of the Land Use Plan Amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

Resolution to Certify the Land Use Plan Amendment:

The Commission hereby certifies the Land Use Amendment No. LCP-5-DPT-21-0059-5 as submitted by the City of Dana Point and adopts the findings set forth below on grounds that the amendment conforms with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment 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 plan on the environment, or 2) there are no further feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

B. IMPLEMENTATION PLAN AMENDMENT CERTIFICATION AS SUBMITTED

Motion: *I move that the Commission reject the Implementation Plan Amendment No. LCP-5-DPT-21-0059-5 for the City of Dana Point as submitted.*

Staff recommends a **NO** vote. Failure of the motion will result in certification of the Implementation Plan Amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

Resolution to Certify Implementation Plan as Submitted:

The Commission hereby certifies the Implementation Plan Amendment No. LCP-5-DPT-21-0059-5 as submitted and adopts the findings set forth below on grounds that the Implementation Plan Amendment conforms with and is adequate to carry out the provisions of the certified Land Use Plan as amended, and certification of the Implementation Plan Amendment will meet the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Plan Amendment.

III. FINDINGS FOR CERTIFICATION OF THE LCPA AS SUBMITTED

The Commission hereby finds and declares as follows:

A. LCP AMENDMENT DESCRIPTION AND BACKGROUND

The proposed City of Dana Point LCP Amendment is for the Doheny Village Zoning District Update which applies to the Doheny Village area within the Capistrano Beach neighborhood located in the City of Dana Point. Doheny Village consists of approximately 80 acres bounded by the City of San Juan Capistrano and Interstate 5 (1-5) on the north, the 1-5 off-ramp to Pacific Coast Highway (PCH) on the east, PCH on the south, and the Southern California Regional Rail Authority/Orange County Transportation Authority

City of Dana Point LCP Amendment No.
LCPA 5-DPT-21-0059-5
(Doheny Village)

railroad right-of-way on the west. Doheny Village is entirely within the Coastal Zone and partially located within the Appeals Jurisdiction of the California Coastal Commission ([Exhibit 1](#)).¹

The City states that the purpose of this amendment is to preserve and enhance the eclectic combination of commercial, light industrial, and residential mixed uses in the Doheny Village area.

The amendment will do the following:

1) The “Mixed Use Designation” category found in the Land Use Element, which is a component of the City’s General Plan, as well as the City’s LUP shall be amended to modify the existing “Commercial/Residential” land use designation with changes to land use designations, development intensity, and residential density standards and to add new land use designations of “Commercial/Main Street” and “Commercial/Industrial” (GPA21-001) ([Exhibit 2](#)). More specifically, the City’s modifications include amending land use designations, development intensity, and residential density allowances. In addition, an existing Map, Figure LU-8, will be replaced with Figure LU-8a and an existing table (Table LU-8) will be revised ([Exhibit 6](#)).

The existing land use designations for the project area are Community Commercial, Commercial/Residential, Community Facility, and Recreation/Open Space ([Exhibit 5](#)). The land use designation for the area currently identified as Community Commercial will be replaced with Commercial/Industrial and Commercial/Main Street land use designations ([Exhibit 4](#)). All other existing land use designations will remain.

The existing Commercial/Residential land use designation requires that the primary use be commercial, and residential is only allowed for mixed use development. Existing standalone residential uses are allowable activities, but standalone residential density cannot be increased, and any change of use must include commercial as the primary use. As modified, the Commercial/Residential land use would allow residential as a standalone use, floor area ratios have been eliminated, and residential development intensity is increased to 30 dwelling units per acre and 50 dwelling units per acre for parcels greater than 10 acres in size. The areas proposed for the Commercial/Residential land use makes up the largest portion of the Doheny Village area ([Exhibit 4](#)). This land use is not applicable anywhere outside of Doheny Village.

¹ As shown on page 2 of this exhibit, a portion of the Doheny Village area is located within the Commission’s Appeal Jurisdiction and a portion is identified Potential Public Trust Land. Prior to transfer of this area from Commission jurisdiction to City jurisdiction as requested by the City pursuant to Section 30613 of the Coastal Act in the late 1980’s/early 1990’s, the area was identified as Potential Public Trust Land due to it being potential former tidelands. Identification of this area as Potential Public Trust Land does not refer to ownership of the land area, but only pertains to jurisdiction purposes. At the lower left of the map under the “Appeal Jurisdiction (P.R.C. §30613)” heading it further clarifies this area by stating: “This area includes lands where the Commission has delegated original permit jurisdiction to the local government for areas potentially subject to the public trust but are filled, developed and committed to urban use.”

As proposed, Commercial/Main Street land use provides for a mixture of residential, retail, and service uses in the same building or same parcel. The land use does not include floor area ratio requirements for non-residential development. Residential density is limited to 10 dwelling units per net acre for properties located south of Victoria Boulevard and west of Doheny Park Road and 30 dwelling units per net acre is allowed for mixed use projects that combine residential with commercial retail or office uses located north of Victoria Boulevard and east of Doheny Park Road. The Commercial/Main Street land use is primarily applied to properties adjacent to Doheny Park Road. These sites were previously designated as Community Commercial. This land use is not applicable anywhere outside of Doheny Village.

As proposed, Commercial/Industrial land use provides for a mixture of commercial, office, and light industrial uses. The standard intensity and maximum intensity of development is a floor area ratio of 0.75:1 and 1.5:1, respectively. Commercial/Industrial designated sites are all located along the western border of Doheny Village. These sites were previously designated as Community Commercial. This land use is not applicable anywhere outside of Doheny Village.

2) The Zoning Code, which is part of the IP, will be amended by adding a new chapter, Chapter: Ch. 9.14 Doheny Village District (ZTA20-0001)), which also includes a new Exhibit, Exhibit A Housing Incentive Overlay, and amending the Zoning Map to include three new zoning districts: “Village Commercial/Industrial (V-C/I)”, “Village Main Street (V-M/S)”, and “Village Commercial/Residential (V-C/R)” ([Exhibit 3](#)). The amendment would also include allowed uses, development standards (i.e., lot size, setback, density, open space, landscaping requirements, etc.), special development standards (i.e., maximum density, housing incentive overlay, accessory uses and structures, parking requirements, and art-in-public-places program, etc.), and special use standards (i.e., pertaining to manufacturing uses, caretaker’s residence, storage yard uses, temporary uses, potential specific plan, etc.).

The existing Capistrano School District Bus Yard is located within the Doheny Village area at the intersection of Victoria Boulevard and Sepulveda Avenue ([Exhibit 1](#)). It is currently used as a maintenance and bus yard for the school district. An environmental impact report (EIR) for a Specific Plan (Victoria Boulevard Specific Plan) for the site and for an onsite project (Victoria Boulevard Apartments) was prepared by Michael Baker International, dated July 2021. The Local Public Review Period recently opened on January 20, 2023, and ends on March 6, 2023. The Victoria Boulevard Apartments (project) involves the demolition of the existing Capistrano Unified School District (CUSD) bus yard and development of a three- to five-story, 365-unit apartment complex with an attached six-story (seven level) parking structure and associated amenities in accordance with the proposed Victoria Boulevard Specific Plan (Specific Plan). The proposal would require a separate application, requiring a General Plan Amendment, Zone Change, LCP Amendment, Development Agreement, EIR, and all associated entitlement permits including a Coastal Development Permit, Site Development Permit, and Tentative Parcel Map. If the Specific Plan is not approved, the Doheny Village LCP Amendment proposes to maintain the existing land use of Community Facility and Recreation/Open Space and

the existing zoning for the site, which is Community Facilities and Recreation Zoning Districts.

After submittal of the LCP Amendment, Commission staff identified some inconsistencies pertaining to proposed changes to the Land Use Element and the City provided minor corrections to the LCP Amendment submittal. In the narrative description for the Commercial/Residential use, a sentence pertaining to allowed compatible uses was struck out meaning that it would be removed from the narrative description. However, the language to be struck out was not part of the certified version of the LCP and thus should not have been part of the use description, even though it was being struck out with the proposed amendment. City staff clarified that the language actually should not have been struck out, but instead included as part of the proposed language for the amended Commercial/Residential use in the Land Use Element ([Exhibit 6](#)). City staff also clarified that Figure LU-5 Doheny Village, which identifies the proposed land use designation areas, should correctly be identified as Figure LU-8a: Doheny Village ([Exhibit 6](#)). Lastly, in conjunction with the previous figure clarification, City staff identified that minor changes needed to be made to the existing Table LU-8 found in the Land Use Element that corresponds to the proposed Land Use Element changes ([Exhibit 6](#)). These corrections were all minor in nature and have been incorporated into the subject LCP Amendment submittal.

B. CONSISTENCY ANALYSIS

FINDINGS FOR APPROVAL OF THE LUP AMENDMENT, AS SUBMITTED

The standard of review for the proposed amendment to the LUP is consistency with the Chapter 3 policies of the Coastal Act.

The following Chapter 3 policies are applicable to the proposed amendment and state, in part:

Section 30210. Access; recreational opportunities; posting

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 30212. New development projects

(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, or, (3) agriculture would be adversely affected. 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.

Section 30212.5. Public facilities; distribution

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 30213. Lower cost visitor and recreational facilities; encouragement and provision; overnight room rentals

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

Section 30222. Private lands; priority of development purposes

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 30234. Commercial fishing and recreational boating facilities

Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.

Section 30234.5. Economic, commercial, and recreational importance of fishing

The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.

Section 30240. Environmentally sensitive habitat; adjacent developments

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Section 30250. Location, existing developed area

(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

where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

(b) Where feasible, new hazardous industrial development shall be located away from existing developed areas.

(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

Section 30251. Scenic and visual qualities

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. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30252. Maintenance and enhancement of public area

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, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Development

As proposed, the LUP Amendment would modify the Commercial/Residential land use designation to remove the requirement that these sites include commercial as the primary use and would allow for stand-alone residential use with no commercial land use. One of the strongest legislative mandates of the Coastal Act is the provision of lower cost visitor and recreation facilities and visitor serving commercial uses (Coastal Act Policies 30213 and 30222). In the case of the proposed LUP revision, the existing standards for the Commercial/Residential land use do not require visitor serving commercial uses. Instead, general commercial uses including live/work units, artisan manufacturing, small scale

business activities, retail, and office are currently allowed and are proposed to remain as allowable uses. Furthermore, the City identified that there are numerous existing developments within the areas designated for Commercial/Residential that are already developed with standalone residential, including the Beachwood Mobile Home Park, 1930s historic homes, and multi-family units built in the 1980s. The intent of the changes is, in part, to legalize these existing, nonconforming residential uses. Thus, the proposed modification to the Commercial/Residential land use designation will not alter the amount of area designated or reserved for visitor-serving commercial uses. Thus, the Commission finds the proposed change consistent with Sections 30213, 30222 and 30250 of the Coastal Act.

Public Access and Recreation

None of the areas proposed for redesignation include any beach area or areas with direct beach access. However, Camino Capistrano/Doheny Park Road is a major east/west coastal access route, providing access to Coast Highway and Doheny State Beach. The proposed land use changes will allow for increased residential development intensity which could result in increased traffic on the coastal access route. However, both the Commercial/Residential and Commercial/Main Street land use designations encourage development of housing near sources of employment or commercial and professional services to reduce vehicle trips and to create a more pedestrian orientated development pattern. As a result, the amendment would facilitate pedestrian and transit activity between these uses and minimize the use of coastal access roads. Further, Doheny Village is not an area that is extensively used for beach access parking. Therefore, the proposed changes will not adversely affect public access, consistent with Sections 30210, 30212, 30212.5, and 30252 of the Coastal Act.

Environmental Justice

The proposed amendment raises environmental justice concerns related to the inequitable distribution of public access and recreation benefits in California broadly and Dana Point specifically. Throughout California's history, low-income communities, communities of color, and other marginalized populations, generally referred to here as "underserved communities²," have faced disproportionate social and physical barriers that disconnect them from coastal access and recreational opportunities. Equitable coastal access and recreation opportunities for all populations has not been realized due to historic and social factors, such as discriminatory land use and economic policies and practices.³ Spatial analysis of 2010 Census data shows a majority of Californians (70.9%) live within 62 miles of the coast, but populations closest to the coast are disproportionately white, affluent, and

² In this staff report, the terms "underserved communities" and "environmental justice communities" are used interchangeably with the term "communities of concern." All these terms refer to low-income communities, communities of color, and other populations with higher exposure and/or sensitivity to adverse project impacts due to historical marginalization, discriminatory land use practices, and/or less capacity to mitigate adverse impacts.

³ Robert Garcia & Erica Flores Baltodano, Free the Beach! Public Access, Equal Justice, and the California Coast, Stanford Journal of Civil Rights and Civil Liberties. Pages 143 (2005)

City of Dana Point LCP Amendment No.
LCPA 5-DPT-21-0059-5
(Doheny Village)

older than those who live farther inland.⁴ Ensuring maximum and equitable public access to the California coastline (as required by Coastal Act Sections 30210 and 30213) is consistent with the environmental justice principles reflected in the Coastal Act. Section 30604(h) states: “when acting on a coastal development permit, the issuing agency, or the commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state.”⁵ The Commission adopted an environmental justice policy in March 2019, committing to consider environmental justice principles, consistent with Coastal Act policies, in the agency’s decision-making process and ensuring coastal benefits are accessible to everyone. In approving the policy, the Commission recognizes that equitable coastal access is encompassed in, and protected by, the public access policies of Chapter 3 of the Coastal Act. Taking an environmental justice approach to coastal policy requires a fundamental re-thinking of who is connected to the coast, and how.

Historic inequalities, as well as California’s growing population, changing demographics, socio-economic forces, judicial decisions, and policy choices continue to shape development patterns and population shifts that widen the disparity gap. Not only is equitable access to the coast for all Californians essential, so is protecting coastal natural resources for future generations. People become engaged in the protection of the coast when they have a connection with the coast. Robust public access and environmental justice policies thus bolster the Coastal Commission’s mission to protect and enhance the coast for present and future generations.

During the local approval process for this amendment, some public members raised concerns regarding affordable housing. This neighborhood hosts a number of mobile homes that are relatively low-cost and are known to house some employees of nearby hotels. Throughout the process, City Staff has met with community representatives forty-two (42) times and created a working group to address potential concerns, create guiding principles, and support the development of Doheny Village. The proposed amendment addresses coastal access and coastal recreational opportunities for communities of concern by including policies into the IP of the City’s LCP that increase residential density for development in Doheny Village and also includes policies that require new development provide a percentage of affordable units.⁶ Moreover, the amendment includes a Housing Incentive Overlay which is applicable to three sites in Doheny Village: 1) Big 5/Smart and Final Shopping Center at 34101 Doheny Park Road, 2) Ganahl Lumber at 34162 Doheny Park Road (moving out and relocating to San Juan Capistrano in 2023), and 3) a vacant lot on Domingo Avenue owned by Capo Beach Church. The Housing Incentive Overlay requires that if residential units are proposed: 1) a minimum of 50% of the building floor area, excluding parking, must be residential; 2) a minimum density of 20 dwelling units per acre is required; and 3) a maximum of 35 dwelling units per acre could

⁴ 39 Reineman, et al., Coastal Access Equity and the Implementation of the California Coastal Act, Stanford Environmental Law Review Journal, v. 36. Pages 96-98. (2016)

⁵ Government Code Section 65040.12(e) defines environmental justice as “the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.”

⁶ IP Policies 9.14.030 and 9.14.040(a) and 9.14.040(b).

be allowed as an incentive. As a result, the Housing Incentive Overlay provides an opportunity to increase housing and in turn an opportunity to increase affordable housing in Dana Point, especially in the Doheny Village area.

Finally, although not part of the City's LCP, their General Plan's Housing Element does address affordable housing through the spending of in-lieu fees to support affordable housing in the Coastal Zone and the enforcement of the Mello Act. Nevertheless, this does not guarantee that the units replaced by Mello Act will be located in Doheny Village, which may be a concern for low-income residents. As submitted, the LCP Amendment adequately addresses coastal access and residential opportunities for communities of concern. This amendment's inclusion of affordable housing policies for Doheny Village address environmental justice in a manner not present in the existing LCP.

Commercial Marine Uses

The protection of commercial marine related uses and businesses that support these uses, such as commercial fishing and recreational boating, is an important aspect of the Coastal Act. West of Doheny Road are existing legally non-conforming marine related uses. The proposed LUP Amendment would redesignate that area to Commercial/Industrial ([Exhibit 4 and 5](#)). Some of the existing marine related businesses include surfboard shaping and manufacturing and boat/watercraft assembly and repair. Under this designation, these types of marine-related businesses would be allowed, so the existing uses would be consistent with the proposed land use designation and any future marine related uses would be consistent with the land use designation as well. With this new land use designation, the existing marine related uses, which are important uses protected by the Coastal Act, would be able to remain and not need to be phased out or removed. Thus, the proposed LUP Amendment conforms with, and is adequate to carry out, the provisions of the Chapter 3 commercial marine use policies of the Coastal Act (30234 and 30234.5).

Natural Resources

The Coastal Act includes policies to preserve and protect environmentally sensitive habitat areas. As analyzed, the Doheny Village area is not located within an environmentally sensitive habitat area as it is predominantly urbanized with residential, commercial, and industrial development and surrounded by urban uses. Coastal Act Section 30250 requires development to be located within existing developed areas where it will not have significant adverse impacts upon coastal resources. The Doheny Village area is urbanized and primarily built out and any development proposed in this area would be proposed in existing developed areas. No land use changes are proposed which could adversely impact any sensitive habitat areas. Additionally, all existing LUP goals and policies pertaining to protection of sensitive coastal resources, which the Commission has previously found acceptable, will remain unchanged. Therefore, since development would be proposed in a developed area and there are no coastal resources in the project area that would be impacted by future new development; the proposed LUP Amendment conforms with, and is adequate to carry out, the provisions of the Chapter 3 natural resource protection and location of development policies of the Coastal Act (30240 and 30250).

Visual Resources

Future development is not anticipated to involve significant landform alteration since the area is already relatively level and has already been extensively developed. The LUP Amendment would allow for maximum development with heights ranging from 35-40 feet. However, for development (specifically Visitor-Commercial/Residential) north of Victoria Boulevard, the maximum height limit is 50-feet and for development south of Victoria Boulevard, the maximum height limit is 40-feet. Any height greater than 35-feet is subject to approval of a Site Development Permit. The Doheny Village area is located approximately ¼ mile from the coast and existing intervening topography, structures and vegetation already primarily block public coastal views through and from the area to the landforms of the Headlands, coastal bluffs, and the Pacific Ocean. Supporting this is the analysis City staff conducted regarding views to the coast from the southbound travel lanes of Interstate 5 that overlooks the Doheny Village area and from the southbound travel lanes of Doheny Park Road ([Exhibit 8](#)). As shown on this exhibit, the proposed amendment would not result in view blockage of the Pacific Ocean seen from the southbound lanes of Interstate 5 since the Doheny Village area is located at a significantly lower elevation than Interstate 5. The land use height limits proposed under the amendment would not result in view blockage of the Pacific Ocean from this corridor. This exhibit also shows that there is already existing topography, structures and vegetation that impedes any views of the coast. Thus, the proposed LUP Amendment conforms with, and is adequate to carry out, the provisions of the primary Chapter 3 visual resources policy of the Coastal Act (30251).

FINDINGS FOR APPROVAL OF THE IP AMENDMENT, AS SUBMITTED

The standard of review for the proposed amendment to the IP is conformance with and adequacy to carry out the provisions of the City's certified LUP. The City's Zoning Code and Zoning Map serves as the IP.

Development

The following policies and goals are part of the certified LUP, which is the standard of review for this IP amendment, and are particularly relevant to promoting Visitor Serving Uses:

Urban Design Guideline Policy 2.1:

Consider the distinct architectural and landscape character of each community. To the maximum extent feasible, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses. (Coastal Act/30251)

Urban Design Guideline Policy 4.6:

Preserve and maintain existing public accessways, and existing areas open to the public, located within visitor serving developments in the coastal zone. (Coastal Act/30210/30212)

Urban Design Guideline Policy 4.7:

Prohibit the conversion to exclusively private use of existing visitor-serving developments open to the public within the coastal zone. (Coastal Act/30210/30213)

Land Use Element Policy 10.1:

Develop regulations to protect and encourage local serving retail and office use adjacent to residentially designated areas. Promote the overlap between visitor and resident serving retail uses by encouraging retail goods and services which serve both market segments in transition areas, such as those designated "Community Commercial," located between primary visitor serving areas and areas designated for residential use as shown on the Land Use Diagram. (Coastal Act/30222)

The proposed IP Amendment includes the inclusion of a new chapter, Ch. 9.14 Doheny Village District, including three new zoning districts: Village Commercial/Industrial, Village Main Street, and Village Commercial/Residential, which will be comprehensively integrated into the City's Municipal Code. This new chapter includes development standards, special development standards and special use standards for Doheny Village that fosters mixed-use development, which would encourage unified commercial and neighborhood commercial centers. Typical visitor/commercial uses are allowed in all three of the new zoning districts as permitted or conditionally permitted uses. Specifically, commercial recreation uses are a permitted use in all three districts, hotels are a permitted use in the Village Commercial Recreation and the Village Main Street districts, motels are a permitted use in the Village Main Street district, recreational uses are a permitted use in the Village Commercial/Residential and are a conditionally permitted use in the other two districts, and restaurants are a permitted use in all three districts. As a result, the amendment would not impede future development of visitor and recreation facilities, and would maintain and enhance public access to the coast consistent with the visitor serving provisions of the LUP.

Doheny Village is home to varying housing types, including single and multi-family, and mobile homes. To encourage the construction of additional residential units, the amendment includes higher densities for residential development. The amendment provides for residential uses with a density ranging from 10, 30, and 50 dwelling units per acre. Doheny Village includes a mobile home park (Beachwood Mobile Home Park) that provides housing that is more affordable than elsewhere in the city. For this mobile home park, the IP Amendment proposes to increase the density from 10 dwelling units per acre to 50 dwelling units per acre. During the local process, members of the public raised concerns that the increased density limits for the mobile home park property will increase the likelihood of the site redeveloping with higher density residential use. The mobile homes are one of the more affordable areas to live in the City and redevelopment would likely result in higher priced rentals or condos.

The IP Amendment addresses affordable housing by providing standards, including a requirement that new construction provide a minimum percentage of affordable units in

compliance with the Mello Act and including a Housing Incentive Overlay (9.14.040(a) and 9.14.040(b)). Furthermore, the City's General Plan Housing Element (which is not a part of the certified LCP) includes policies to address affordable housing. Specifically, Policy 2.6 of the Housing Element requires spending of in-lieu fees collected from contributing development to support affordable housing in the Coastal Zone in accordance with the Mello Act. Goal 4 of the housing element identifies the preservation of existing housing stock as an important objective. Also, Policy 4.5 requires that the Mello Act be enforced by requiring the replacement of any existing affordable housing occupied by lower or moderate income households. Thus, while a mobile home park may not be the long term use at the site, the City's affordable housing policies will ensure that affordable units are not adversely impacted by the proposed density limit increase for the site.

Public Access and Recreation

The following policies are part of the certified LUP and are particularly relevant to promoting public access and recreation:

Land Use Element Policy 1.6:

The development of unified or clustered commercial centers and neighborhood commercial centers rather than continued development of strip commercial shall be encouraged to minimize significant adverse individual or cumulative impacts on public access. (Coastal Act/30250, 30252)

Land Use Element Policy 3.6:

Encourage patterns of development necessary to minimize air pollution and vehicle miles traveled. (Coastal Act/30250)

Conservation and Open Space Element Policy 5.2:

Locate multiple family developments close to commercial areas to encourage pedestrian rather than vehicular travel

Conservation and Open Space Element Policy 5.4:

Provide commercial areas that are conducive to pedestrian and bicycle circulation.

Urban Design Element Policy 6.6:

Encourage mixed-use development in selected areas of Doheny Village

Land Use Element Policy 7.4:

Promote the development of land uses in the Doheny Village area that provide employment opportunities for the community including offices, marine-oriented industrial uses, and other commercial or light industrial business activities or community facilities.

Land Use Element Policy 10.2:

Encourage a full range of resident-serving land uses throughout the City to meet the resident demand for goods and services.

Land Use Element Policy 10.3:

Encourage resident-serving uses within walking distance of areas designated on the Land Use Diagram for residential use, where possible, to minimize the encroachment of resident serving uses into visitor-serving areas, to minimize the use of primary coastal access roads for non-recreational trips, and to minimize energy consumption and vehicle miles traveled by encouraging the use of public transportation. (Coastal Act/30222, 30252, 30253)

The proposed IP Amendment includes a Village Main Street, and Village Commercial/Residential zoning district that will allow a mixture of uses and encourage land use patterns that would minimize air pollution and vehicle miles traveled. The Village Main Street zoning will accommodate mixed-use buildings with neighborhood serving retail, service and other uses on the ground floor and commercial or residential uses above nonresidential space and the Village Commercial/Residential zoning will accommodate a mixture of commercial, office, and residential uses in the same building, parcel and area. Thus, the proposed zoning designations in the IP Amendment will provide for a mixture of retail, office and residential uses in the same area and as a result of this mixture will reduce vehicle miles traveled, reduce energy consumption, and encourage alternative modes of transportation, including walking, bicycling, and transit use. Existing public accessways and areas open to the public will not be impacted by the amendment. Thus, the proposed IP Amendment conforms with, and is adequate to carry out, the public access and recreation provisions of the City's certified LUP.

Commercial Marine Uses

The following policy is part of the certified LUP and is particularly relevant to promoting and protecting commercial marine uses:

Land Use Element Policy 2.5:

Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry. (Coastal Act/30234)

Under the new Village Commercial/Industrial zoning, uses such as marine-related businesses would be allowed, and also existing marine related uses located west of Doheny Park Road would be allowed to remain on site. Thus, the proposed IP Amendment conforms with, and is adequate to carry out, the provisions of the City's certified LUP.

Natural Resources

The following policies are part of the certified LUP and are particularly relevant to promoting and protecting natural resources:

Land Use Element Policy 1.1:

Develop standards for building intensity, including standards for ground coverage, setbacks, open space/landscaping, maximum dwellings per acre, floor area ratios, size and height restrictions.

Land Use Element Policy 1.2:

Establish maximum intensities of development for each of the various land use categories.

Land Use Element Policy 4.2

Consider the constraints of natural and man-made hazards in determining the location, type and intensities of new development. (Coastal Act/30240, 30253)

The Doheny Village area is potentially subject to flooding as portions of the area are located within the Floodplain Overlay District, which are areas that are subject to periodic inundation which may result in loss of life and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. Based on Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM) portions of Doheny Village Areas are designated Zone A and Zone AO Flood Zones ([Exhibit 7](#)). The proposed Doheny Village Zoning District chapter provides that new development remains subject to the provisions of the Floodplain Overlay District and includes policies that address flooding. The floodplain Overlay District promotes the public health, safety, and general welfare and seeks to minimize public and private losses due to flood conditions in specific areas by providing methods and provisions to do so.

As described previously, the Doheny Village area is urbanized and primarily built out and any development proposed in this area would be proposed in existing developed areas. No IP changes are proposed which could adversely impact any sensitive habitat areas. Additionally, all existing LUP goals and policies pertaining to protection of sensitive coastal resources, which the Commission has previously found acceptable, will remain unchanged. Thus, IP Amendment conforms with, and is adequate to carry out, the natural resource policies of the LUP.

Visual Resources

The following policies are part of the certified LUP and are particularly relevant to enhancing and protecting visual resources:

Urban Design Element Policy 1.2:

Improve the visual character of major street corridors.

Urban Design Element Policy 1.3:

Make focused improvements at major City entrance points such as landscaped open space and signage.

Urban Design Element Policy 1.4:

Preserve public views from streets and public places. (Coastal act/30251)

Urban Design Element Policy 1.7:

Initiate a program for public art.

Urban Design Element Policy 2.2:

Adopt development standards and design guidelines for commercial areas that reflect the individual character of each community.

Urban Design Element Policy 4.6:

Ensure land uses within designated and proposed scenic corridors are compatible with scenic enhancement and preservation. (Coastal Act/30251)

Land Use Element Policy 4.8:

Encourage the reasonable regulation of signs to preserve the character of the community. (Coastal Act/30251)

Urban Design Element Policy 6.1:

Improve Pacific Coast Highway and Doheny Park Road as aesthetic entrance boulevards to the City.

Urban Design Element Policy 6.2:

Unify new commercial development through design concepts for consistent building setbacks, landscaping architecture and signage.

Urban Design Element Policy 6.3:

Increase Doheny Village's economic vitality and its contribution to the City's economic development goals.

Land Use Element Policy 7.1:

Promote the Doheny Village area as a major shopping and business center in the community.

Land Use Element Policy 7.2:

Improve the appearance of the area through revitalization activities such as landscape design and pedestrian amenities.

Land Use Element Policy 7.3:

Develop design guidelines that assure that development will be consistent in terms of scale and character. (Coastal Act/30251)

Land Use Element Policy 7.7:

Prepare a Specific Plan for revitalization of the Doheny Village area. The Specific Plan should involve extensive public input.

The proposed IP Amendment includes development standards, allowed uses, special development standards and special use standards that result in the distinct architectural and visual character of Doheny Village being enhanced, including along Pacific Coast Highway and Doheny Park Road. These standards also encourage unified commercial and neighborhood commercial centers and mixed-use developments. Future development adherence to the proposed IP Amendment, such as to density, heights, parking requirement, landscaping, etc., would result in development that improves the visual character of the area. The amendment would also include an arts-in-public place policy to provide public art within the Doheny Village area.

The Doheny Village area is located approximately ¼ mile from the coast and existing intervening topography, structures and vegetation already block public coastal views through and from the area to the landforms of the Headlands, coastal bluffs, and the Pacific Ocean, which are designated by the Urban Design Guidelines (a component of the City's LUP) as important scenic resources. As analyzed and discussed previously, views of the coast will not be impacted by the proposed amendment as these views are already impacted as described, and the proposed height limits would not further impact public views. Even though views are already impacted, the Doheny Village height standards included in the IP Amendment ensure any potential impacts to scenic coastal resources are minimized and that scenic corridors are protected. Thus, the proposed IP Amendment conforms with, and is adequate to carry out, the visual resources protection provisions of the City's certified LUP.

Historical, Archaeological or Paleontological Resources

The following policy is part of the certified LUP and is particularly relevant to protecting historic, archaeological, and paleontological resources:

Urban Design Element Policy 8.1:

Require reasonable mitigation measures where development may affect historical, archaeological or paleontological resources.

There is potential for archeological, paleontological, and tribal cultural resources to be located within the Doheny Village area. In fact, based on past consultations with tribal representatives with connection to the area, there is high potential for tribal cultural resources to exist throughout the new Doheny Village zoning district, which could be

impacted by development that is contemplated and could be authorized following certification of the subject LCP amendment. As such, the EIR includes mitigation measures regarding the protection of archaeological or paleontological resources. In addition, the proposed new Chapter 9 Doheny Village zoning district in the IP includes reference to existing zoning policies in the certified Dana Point Zoning Code regarding the protection of cultural, archaeological, and paleontological resources. For example, Section 9.69.050(b)(7)(B) of the certified zoning code requires that a Coastal Development Permit application for any site(s) adjacent to, containing or potentially containing cultural resources, include an archaeological and/or paleontological survey prepared by a licensed archaeologist/paleontologist. Therefore, given the cultural sensitivity of the area and high potential for tribal cultural resources to exist within the district, the City must require survey(s) be provided in association with any CDP application for development in this district that could impact such resources (e.g. any projects involving ground disturbance) and should meaningfully consider the results and input from Native American tribes to avoid, or at a minimum, minimize and mitigate impacts to potential resources. Thus, the proposed IP Amendment conforms with, and is adequate to carry out, the historic, archaeological, and paleontological resource protection provisions of the City's certified LUP.

C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

As set forth in Section 21080.9 of the California Public Resources Code, the California Environmental Quality Act (CEQA) exempts local governments from the requirement of preparing an EIR in connection with its activities and approvals necessary for the preparation and adoption of an LCP. The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. (14 CCR § 15251(f).) Nevertheless, the Commission is required in approving an LCP submittal to find that the LCP conforms with the provisions of CEQA, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. The City of Dana Point LCP Amendment LCP-5-DPT-21-0059-5 consists of Land Use Plan and Implementation Plan Amendment.

On July 20, 2021, the City of Dana Point City Council certified EIR (SCH# 2020030428). A number of Mitigation Measures were included in the EIR involving things such as archaeological monitoring, hazardous waste discovery, best available vehicle miles travelled measures, etc.

The Commission finds that, for the reasons discussed in this report, the proposed LUP/IP amendment, as submitted, is in conformity with, and adequate to carry out the Chapter 3 Policies of the Coastal Act and the Land Use Policies of the City's certified LUP. The Commission finds that approval of the LCP Amendment, as submitted, will not result in significant adverse environmental impacts within the meaning of CEQA. Certification of the LCP as submitted complies with CEQA because: 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects

City of Dana Point LCP Amendment No.
LCPA 5-DPT-21-0059-5
(Doheny Village)

of the plan on the environment, and 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts which the LCP Amendment may have on the environment. The Commission finds that the proposed LCP Amendment if modified as suggested will be consistent with Section 21080.5(d)(2)(A) of the Public Resources Code.