

**CALIFORNIA COASTAL COMMISSION**

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# W15b

Date: January 24, 2025

To: Commissioner and Interested Persons

From: Karl Schwing, Deputy Director  
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Amber Dobson, District Supervisor  
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Subject: Major Amendment Request No. 5-DPT-24-0033-1 (Victoria Boulevard Specific Plan) to the City of Dana Point Local Coastal Program, for Public Hearing and Commission Action at its February 5, 2025, meeting

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## **SUMMARY OF LOCAL COASTAL PROGRAM (LCP) AMENDMENT REQUEST**

The proposed City of Dana Point Local Coastal Program (LCP) Amendment is a new specific plan and site-specific amendment for one 5.5-acre Project site located at 26126 Victoria Boulevard, Dana Point. The proposed Victoria Boulevard Specific Plan sets allowable uses and development standards for one specific project site on the southeast corner of Victoria Boulevard and Sepulveda Boulevard in the southeastern portion of Doheny Village, with the Interstate 5 off-ramp to Pacific Coast Highway to the south. The Amendment would : 1) modify the Land Use Map within the Land Use Element of the General Plan for the site to replace the existing land use designations of “Community Facility” and “Recreation/Open Space” with a newly created land use designation of “Victoria Boulevard Specific Plan”; 2) change the zoning map by amending the zoning designation for the site from “Community Facility” and “Recreation” to a newly created zoning designation of “Victoria Boulevard Specific Plan” (both the Land Use Map and Zoning Map are components of the City of Dana Point Local Coastal Program (LCP), commonly known as the “1996” LCP); and 3) establish the Victoria Boulevard Specific Plan, which would serve both as the Land Use Plan (LUP) and Implementation Plan (IP) for the property located at 26126 Victoria Boulevard, Dana Point, Orange County.

Development is anticipated on the site consisting of a 306-room apartment complex and parking structure, and public park. Forty-six of those units will be affordable and will be subject to a 55-year deed restriction. The anticipated project will need to be consistent with the Victoria Boulevard Specific Plan.

## 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-24-0033-1 with suggested modifications.

The purpose of the amendment is to change the existing land use designations and zoning to support development of housing. The City's Housing Element Goal 1 of the City's General Plan, which is not part of the City's Certified LCP, requires that a variety of residential developments be provided and that it is an adequate supply of housing to meet the existing and future needs of the city. The proposed Specific Plan would provide some required housing and the anticipated development on site would provide for that variety since the project would provide 36 studios, 153 one-bedroom units, 105 two-bedroom units, and 12 three-bedroom units for a total of 306 units. Of those total units, 46 will be affordable subject to a 55-year lease, and as such would be consistent with the City's Housing Element Goal 2 which requires provision of housing affordable to lower-income households. These affordable units will include a minimum of five percent very low-income, five percent low-income, and five percent moderate-income units of the overall unit count.

The Specific Plan is consistent with the Chapter 3 policies of the Coastal Act in that the Specific Plan area is approximately 1 mile from the coast and development will not have any impacts upon public beach access, especially because the development standards for parking onsite will be adequate for the allowed development and requires public on-street parking be provided; the Specific Plan area is also located approximately 40-60 feet above Mean Sea Level, and thus the allowable uses will be safe from coastal hazards; and the location of the Specific Plan area is inland of Coast Highway and at a lower elevation so that coastal visual resources will not be adversely impacted by the proposed height development standards.

However, the Specific Plan did not include protective measures for some coastal resources such as sensitive biological resources and archeological and paleontological resources and therefore, Staff recommends four suggested modifications to ensure that the specific plan is consistent with Chapter 3 of the Coastal Act. Suggested modifications No. 2 and 3 provide procedural clarifications to ensure that the implementation of the specific plan is done properly, while suggested modifications Nos. 1 and 4 are necessary for Coastal Act consistency. Because the LCP amendment proposes both amendments to the certified Land Use Plan (LUP) and the Implementation Plan (IP), the suggested modifications are necessary for the LUP portions of the Specific plan to be consistent with Chapter 3 of the Coastal Act and for the IP portion of the Specific plan to be adequate to carry out the certified LUP.

**Suggested Modification No. 1** includes language requiring Dark-Sky outdoor lighting for the development, which directs lighting to the ground, not up into the sky where it can adversely impact biological resources and contribute to light pollution and will be included as part of any project within the Specific Plan boundaries. **Suggest Modification No. 2** includes language clarifying that any amendment to the Tentative Parcel Map shall require a Coastal Development Permit. **Suggest Modification No. 3** includes language clarifying

that any Amendments to the Victoria Boulevard Specific Plan shall be reviewed and approved by the California Coastal Commission. **Suggested Modification No. 4** includes language to protect any potential Tribal Cultural Resources found on site by imposing requirements to conduct project-specific investigations in accordance with all applicable laws and regulations to identify potentially significant tribal cultural and archaeological resources.

Some of these suggested modifications (No. 1 and No. 4) could require additional conditions on the local City-approved CDP.

As modified, the proposed amendments to the IP are consistent with and adequate to carry out the certified LCP ("1996" LCP). The proposed LUP amendments, if modified as suggested, are consistent with Chapter 3 policies of the Coastal Act. Staff recommends that the Commission approve the amendment with those suggested modifications. The motions and resolutions to accomplish this recommendation are found on **page 7** of this staff report.

**DEADLINE FOR COMMISSION ACTION:** The City submitted the Land Use Plan (LUP) and Implementation Plan (IP) Amendment request on August 27, 2024. The city submitted additional information on October 2, 2024, and the amendment request was deemed by staff to be complete on October 15, 2024. As such, the last date for Commission action on this item is February 27, 2025. Thus, unless the Commission extends the action deadline (it may be extended by up to one year), the Commission has until February 27, 2025, to take a final action on this LCP amendment.

Therefore, if the Commission fails to take a final action in this case (e.g., if the Commission instead chooses to postpone/continue LCP amendment consideration), then staff recommends that, as part of such non-final action, the Commission extend the deadline for final Commission action on the proposed amendment by one year. To do so, staff recommends a YES vote on the motion below this page. Passage of the motion will result in a new deadline for final Commission action on the proposed LCP amendment. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**Motion:** I move that the Commission extend the time limit to act on City of Dana Point Local Coastal Program Amendment Number LCP-5- DPT-24-0033-1 to February 27, 2026, and I recommend a yes vote.

#### **ADDITIONAL INFORMATION**

Copies of the staff report are available on the Commission's website at [www.coastal.ca.gov](http://www.coastal.ca.gov). For additional information, contact Fernie Sy in the South Coast District Office of the Coastal Commission at [ferniesy@coastal.ca.gov](mailto:ferniesy@coastal.ca.gov) (562) 590-5071.

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## **I. PROCEDURAL ISSUES**

### **A. STANDARD OF REVIEW**

The standard of review for the proposed amendment to the certified LUP is consistency with the Chapter 3 policies of the Coastal Act. The standard of review for the proposed amendment to the certified 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, and 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 local coastal program, the public, as well as all affected governmental agencies, including special districts, shall be provided maximum opportunities to participate. Prior to submission of a local coastal program 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.

The City Council adopted LCP Amendment No. LCPA20-002, which amends the General Plan (GPA20-0002) ([Exhibit No. 2](#)) and Zoning Code (ZC24-0001) ([Exhibit No. 3](#)), and adopts the Specific Plan (SP24-0001) ([Exhibit No. 4](#)), which amends the City's Certified LCP, both the LUP and IP. The proposed changes were submitted for Coastal Commission action via City Council Resolution No. 24-06-18-02 ([Exhibit No. 5](#)).

The City Council held two public hearing on the proposed LCP Amendment, on June 18, 2024, and July 2, 2024. The Planning Commission held two public hearings on the proposed LCP Amendment on September 25, 2023, and May 13, 2024.

### **C. PROCEDURAL REQUIREMENTS**

If the Commission certifies the LCP amendment as submitted, no further City Council action will be necessary, and the amendment takes effect. 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

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suggested modifications, then the City Council must consider adopting the suggested modifications and submit 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 Executive Director reports the determination that the City's action in accepting the suggested modifications for LCP Amendment LCP-5-DPT-24-0033-1 is legally adequate. If the City does not adopt the suggested modifications within six months of the Commission's action, then the LCP Amendment remains uncertified and is not effective within the Coastal Zone.

#### **D. DEADLINE FOR COMMISSION ACTION**

The city submitted the Land Use Plan (LUP) and Implementation Plan (IP) Amendment request on August 27, 2024. The city submitted additional information on October 2, 2024, and the amendment request was deemed by staff to be complete on October 15, 2024. As such, the last date for Commission action on this item is February 27, 2025. (See Pub. Res. Code, tit. 14 § 30512(a)). Thus, unless the Commission extends the action deadline (it may be extended by up to one year), the Commission has until February 27, 2025, to take a final action on this LCP amendment.

## **II. MOTIONS AND RESOLUTIONS**

Staff recommends that the Commission, after public hearing, approve the proposed LCP Amendment with suggested modifications. The Commission needs to make four motions on the LUP (Land Use Plan) and IP (Implementation Plan) Amendment in order to act on this recommendation.

### **A. Deny the LUP Amendment as Submitted**

Staff recommends a **NO** vote. Failure of this motion will result in denial of the 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.

**Motion:** I move that the Commission certify LUP Amendment Number LCP-5-DPT-24-0033-1 as submitted by the City of Dana Point.

**Resolution to Deny:** The Commission hereby denies certification of LUP Amendment Number LCP-5-DPT-24-0033-1 as submitted by the City of Dana Point and adopts the findings set forth below on grounds that the amendment as submitted does not conform with, and is inadequate to carry out, the policies of Chapter 3 of the Coastal Act. Certification of the amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that

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would substantially lessen the significant adverse impacts on the environment that will result from certification of the amendment as submitted.

## **B. Certify the LUP Amendment with Suggested Modifications**

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in certification of the LUP Amendment with suggested modifications and the adoption of the following resolution and the findings in this staff report. The motion to certify with suggested modifications passes only by an affirmative vote of a majority of the Commissioners present.

**Motion:** I move that the Commission certify LUP Amendment Number LCP-5-DPT-24-0033-1 as submitted by the of Dana Point if it is modified as suggested in this staff report.

**Resolution to Certify:** The Commission hereby certifies LUP Amendment Number LCP-5-DPT-24-0033-1, if modified as suggested, and adopts the findings set forth below on grounds that the amendment with the suggested modifications conforms with, and is adequate to carry out, the policies of Chapter 3 of the Coastal Act. Certification of the amendment if modified as suggested 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 and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

## **C. Deny the IP Amendment as Submitted**

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in rejection of IP Amendment as submitted and the adoption of the following resolution and findings in this staff report. The motion to reject passes only by an affirmative vote of a majority of the Commissioners present.

**Motion:** I move that the Commission reject IP Amendment Number LCP-5-DPT-24-0033-1 as submitted by the City of Dana Point.

**Resolution to Deny:** The Commission hereby denies certification of IP Amendment Number LCP-5-DPT-24-0033-1 as submitted by the City of Dana Point and adopts the findings set forth below on grounds that the amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Coastal Land Use Plan. Certification of the amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the amendment as submitted.

## D. Certify the IP Amendment with Suggested Modifications

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in certification of the IP Amendment with suggested modifications and the adoption of the following resolution and the findings in this staff report. The motion to certify with suggested modifications passes only by an affirmative vote of a majority of the Commissioners present.

**Motion:** I move that the Commission certify IP Amendment Number LCP-5-DPT-24-0033-1 as submitted by the of Dana Point if it is modified as suggested in this staff report.

**Resolution to Certify:** The Commission hereby certifies IP Amendment Number LCP-5-DPT-24-0033-1, if modified as suggested, and adopts the findings set forth below on grounds that the amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Coastal Land Use Plan. Certification of the amendment if modified as suggested 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 and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

## III. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following modifications to the proposed LCP Amendment, which are necessary to make the requisite Coastal Act and Coastal Land Use Plan (LUP) consistency findings. If the City of Dana Point accepts the suggested modifications within six months of Commission action (i.e., by August 05, 2025), by formal resolution of the City Council, the modified amendment will become effective upon the Executive Director's finding that this acceptance is legally adequate.

Changes to proposed language are shown in **bold underline** and ~~strike-out~~.

**1. Suggested Modification No. 1:** Modify Chapter 4.7 Lighting Guidelines, to add a new guideline as follows:

Chapter 4.7 Lighting Guidelines

...

- **Outdoor lighting shall adhere to Dark Sky outdoor lighting requirements, in which outdoor lighting is directed downward to the ground and not to the sky where it can contribute to adverse impacts to biological resources and light pollution.**



**2. Suggested Modification No. 2:** Modify Chapter 6.5 Tentative Parcel Map, as follows:

An implementing Tentative Parcel Map is being processed through the city concurrently with this Specific Plan. The Tentative Parcel Map will be processed according to the City's standard Tentative Map Review process (Chapter 7.05, Subdivisions, in Title VI, Planning and Zoning, of the City of Dana Point Municipal Code) and California's Subdivision Map Act.

**A Coastal Development Permit is required for a Tentative Parcel Map and any subsequent changes to the Tentative Parcel Map.**

**3. Suggested Modification No. 3:** Modify Chapter 6.4.3 Specific Plan Amendments, to add new sub-section H as follows:

6.4.3 Specific Plan Amendments

...

**H. Any Amendments to the Specific Plan, shall require review and approval from the California Coastal Commission.**

**4. Suggested Modification No. 4:** Add new section 5.14 to Chapter 5 Development Standards, as follows:

**5.14 Archaeological and Paleontological Resource Protection**

**All development within the project site, including remediation, site preparation, grading, and construction shall comply with the following:**

**a. Conduct project-specific investigations in accordance with all applicable laws and regulations to identify potentially significant tribal cultural and archaeological resources.**

**b. Conduct project specific Native American consultation early in the development review process to ensure culturally appropriate and adequate treatment and/or mitigation for tribal cultural resources in accordance with all applicable local, state, and federal regulations and guidelines.**

**c. Site and design proposed development to avoid adverse impacts to archaeological, tribal cultural, and paleontological resources to the maximum extent feasible.**

**d. Evaluate project design alternatives and implement alternatives that would result in the fewest potential resource impacts to archaeological, tribal cultural, paleontological, and coastal resources when avoidance is not feasible.**

**e. During all ground disturbance, a qualified archaeologist and a Native American monitor are required to be present onsite.**

**f. Provide mitigation for adverse impacts to resources where development would adversely impact archaeological, tribal cultural, or paleontological resources. Mitigation measures for impacts to tribal cultural resources shall be developed in coordination with local Native American Tribes.**

## **IV. FINDINGS FOR CERTIFICATION OF THE LCPA AS MODIFIED**

The Commission hereby finds and declares as follows:

### **A. LCP AMENDMENT DESCRIPTION AND BACKGROUND**

The proposed Victoria Boulevard Specific Plan applies to one specific project site, which is a 5.5-acre site located at 26126 Victoria Boulevard on the southeast corner of Victoria Boulevard and Sepulveda Boulevard in the southeastern portion of Doheny Village, with the Interstate 5 off-ramp to Pacific Coast Highway to the south. Currently, the site serves as the Capistrano Unified School District (CUSD) bus yard. The site is currently developed with seven structures and is used by the CUSD Ground Department for operations, maintenance, storage, bus/vehicle wash area, and refueling of school buses and other district vehicles. Only two of the seven structures located at the northwestern and northern portions of the site are currently in operations and utilized by the Grounds Department. The remainder of the site, including the former Tire Storage Building, Mechanic Shop, Transportation Office (previously used as the Serra School house), and refueling area are no longer in operation and are used mainly for storage purposes. CUSD will maintain ownership of the property and approve a 99-year ground lease with the project Applicant to develop the site.

The Doheny Village area is an eclectic area with a combination of commercial, light industrial, and residential mixed uses. The area also has a diverse range of housing types, including multi-family, mobile homes, affordable housing, and live/work units, which is a unique feature within the city. The project site is currently designated as “Community Facility” and “Recreation/Open Space” in the Land Use Element, which is a part of the Land Use Plan. The site is also zoned as “Community Facility” and “Recreation” in the Implementation Plan. The subject site is adjacent to San Felipe de Jesus Catholic Church and Capo Beach Church to the west, multi-family residential uses, institutional uses (such as OCFA and Cox Cable), and Nobis Preschool to the north ([Exhibit No. 1](#)).

The proposed amendment would modify the Land Use Map within the Land Use Element of the General Plan to amend the land use designation of “Community Facility” and “Recreation/Open Space”; create a new land use designation of “Victoria Boulevard Specific Plan” ([Exhibit No. 6](#)); make changes to the zoning map by amending the zoning designation of “Community Facility” and “Recreation” and creating a new zoning

designation of “Victoria Boulevard Specific Plan” ([Exhibit No. 7](#)); and establishing the Victoria Boulevard Specific Plan, which would serve both as the Land Use Plan (LUP) and Implementation Plan (IP) for the property located at 26126 Victoria Boulevard, Dana Point, Orange County.

The Victoria Boulevard Specific Plan would serve both planning and regulatory functions including land use regulations, circulation patterns, public facilities and infrastructure requirements, and development standards. In general, the proposed LCPA would increase density on the site and also allow increased heights to buildings. More specifically under the Specific Plan, development density within the project area would not exceed 55.5 dwelling units per acre, yielding a maximum of 306 dwelling units on the 5.5-acre project site. Of the total unit count, a minimum of five percent very low-, five percent low-, and five percent moderate-income units (yielding a total of no less than 46 affordable units) are required to be provided and distributed throughout the project. Regarding heights, the Specific Plan allows for a maximum building height of 65-feet, with an additional 10-feet permitted for roof-top equipment or architectural projections. Additionally, another 10-feet in height may be permitted for recreational structures.

In order to make any approved development on the site more compatible with the surrounding area, as well as, to create visual interest and promote a pedestrian-friendly streetscape, the Specific Plan includes a “Reduced Building Height Zone” where no portion of the building would exceed a height of 50 feet within 40 feet of the Victoria Boulevard right-of-way, additionally, at least 2/3 of the building facade in this area shall be setback more than 10-feet.

The Specific Plan also provides for a minimum of 1.065 acres of public open space and 0.80 acre of frontage open space in order to provide open space for the public and not just the residents of the housing proposed on the site. Furthermore, frontage along Victoria Boulevard shall be reconfigured to include angled public parking to provide additional parking and a Class 3 bike route. Also, the sidewalk along Victoria Boulevard and Sepulveda Avenue will be a minimum 10-feet wide to accommodate pedestrian and bicycle travel.

There is anticipated development on the project site consisting of a 306-room apartment complex and parking structure. Of the 306 units, 46 units will be affordable, consistent with the requirements of the Specific Plan, as discussed above and each affordable unit will be subject to a 55-year deed restriction. The remaining components of the anticipated development will need to be consistent with the Victoria Boulevard Specific Plan.

## **B. EVALUATION OF THE PROPOSED LCP AMENDMENT**

### **1. LAND USE PLAN**

#### **Standard of Review**

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 30212.5. 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.

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.

**Section 30231. Biological productivity; water quality**

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

**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.

### **Section 30253. Minimization of adverse impacts**

New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.
- (c) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development.
- (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 30244 Archaeological or paleontological resources**

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

### **Development**

As proposed, the LUP Amendment would amend the land use designation of “Community Facility” and “Recreation/Open Space”; create a new land use designation of “Victoria Boulevard Specific Plan,” which would allow increased density in the Specific Plan area, which is with the Doheny Village area. The Doheny Village area is an eclectic area with a combination of commercial, light industrial, and residential mixed uses consisting of multi-family, mobile homes, affordable housing, and live/work units, which is a unique feature within the City. The Specific Plan area is approximately 1 mile from the coast and thus will not have any impacts upon beach access, especially as the anticipated project onsite will be adequately parked and public on-street parking will be provided. The Specific Plan area is also located, approximately 40-60 feet above Mean Sea Level, in an area where flooding is minimal. Also, the location of the Specific Plan area is in an area where visual resources will not be adversely impacted by any anticipated development on the site. As such, the Specific Plan will be consistent with Section 30250 of the Coastal Act since development in the Specific Plan area is within an existing developed areas able to accommodate it and thus will not have significant adverse effects, either individually or cumulatively, on coastal resources. Thus, the proposed LUP Amendment (Specific Plan) can be found consistent with 30250 of the Coastal Act.

### **Biological Resources/Water Quality**

Implementation of the Specific Plan presents an opportunity to improve water quality associated with any future development that may be proposed in the Specific Plan area. Much of the pollutants that enter the ocean come from land-based development. Thus, it is necessary to minimize, to the extent feasible within the Coastal Zone, the cumulative adverse impacts on water quality resulting from incremental increases in impervious surface associated with additional development. For example, the Specific Plan includes a building known as the Grounds Dispatch Building where portable fuel containers and pesticides are stored inside the ground dispatch building. It was determined that a limited surface spill occurred in this area as concentration of Total Volatile Organic Compounds (TVOCs) were detected below regulatory screening levels. To deal with this, the EIR for the anticipated developed requires mediation for the shallow soils. Furthermore, to address this and additional post-construction water quality impacts and to be consistent with Sections 30240 and 30231 of the Coast Act, the Specific Plan requires that new development and significant redevelopment projects must incorporate Low Impact Development (LID)/ site design and source control best management practices (BMPs) to address post-construction storm water runoff management. Additionally, projects that are identified as Priority Projects are required to implement site design/LID and source control BMPs applicable to their specific priority project categories, as well as implement treatment control BMPs where necessary. Also, Priority Projects must develop a project-specific Water Quality Management Plan (WQMP) that describes the menu of BMPs chosen for the project, as well as include operation and maintenance requirements for all structural and any treatment control BMPs.

The Specific Plan contains certain Lighting Guidelines and states that “proper lighting design ... minimizes the impact to nocturnal animals.” However, the Lighting Guidelines do not directly address the impact of uncontrolled lighting on biological resources. Lighting that is not directed downward may adversely impact biological resources such as birds and also results in light pollution. The CEQA documents state that impacts from lighting and glare would be reduced to less than significant levels following conformance Municipal Code Section 9.05.220. As stated above however, no language has been provided in the Specific Plan addressing downward lighting. For the protection of any sensitive biological resources nearby, **Suggested Modification No. 1** requires that any outdoor lighting shall adhere to Dark Sky outdoor lighting requirements, in which outdoor lighting is directed downward to the ground and not to the sky where it can contribute to biological resource impacts and light pollution.

The Coastal Act includes policies to preserve and protect environmentally sensitive habitat areas. As analyzed, the Specific Plan site in 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. The Specific Plan 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. Therefore, as modified, LUP Amendment

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(Specific Plan) will protect biological resources/water quality, consistent with Sections 30240 and 30231 of the Coastal Act.

### **Public Access and Recreation**

The Specific Plan area is not located near the beach or any areas with direct beach access. However, the Specific Plan area fronts Victoria Boulevard, which is a main road that intersects with Doheny Park Road, which traveling south intersects with Pacific Coast Highway which is a major coastal access route. The proposed Specific Plan will not result in adverse impacts to Victoria Boulevard leading to impacts to Doheny Park Road and thus Pacific Coast Highway. Actually, as proposed as part of the anticipated development for the site, Victoria Boulevard shall be reconfigured to include angled public parking to provide additional parking and a Class 3 bike route. The nearest bus stop is located approximately 4,500 feet to the southwest, at the intersection of Del Obispo and Pacific Coast Highway. This bus stop is serviced by Orange County Transportation Authority (OCTA) Routes 1 and 91. Route 1 provides service between Long Beach and San Clemente via the Pacific Coast Highway. Route 91 provides service from between Laguna Hills and San Clemente.

Both public and private open spaces are proposed and may contain outdoor amenitized courtyard space, a rooftop amenity area, corner park and landscaped space, and recreation spaces surrounding the residential project. In addition, the Specific Plan provides for 1.065 acres of public open space and 0.8 acres of frontage open space, as well as a 10-ft wide sidewalk along Victoria Boulevard and Sepulveda Boulevard for the public. The public open space areas shall include amenities suitable for active and passive recreation, including a conceptual public park located at the corner of Victoria Boulevard and Sepulveda Avenue and a conceptual enclosed dog park and public paseos along the southern boundary of the Specific Plan area. The existing Land Use Designation of "Recreation/Open Space" and Zoning designation of "Recreation" will be replaced with the proposed Specific Plan land use and zoning designation and while it may appear to be a loss of an area for public use, it is not because the allowable uses proposed include park space and the development standards require a minimum of 1 acre for public access. The existing use of the site is a bus yard and that use neither provides recreation nor open space available for the public. However, the change to "Victoria Boulevard Specific Plan" for both the land use and zoning actually provides more public use of the site as described above than what currently exists. One acre of the 5-acre site will be open to the public for recreational uses. Thus, the change to Victoria Boulevard Specific Plan enhances public opportunities in the Specific Plan area.

Doheny Village is not an area that is extensively used for beach access parking because the beach is approximately one mile away. The Specific Plan requires off-street parking standards for residential parking at a ratio of 1.5 to 2.5 spaces per unit (depending on the number of bedrooms) and guest parking would be required at a ratio of 0.2 spaces per unit. These parking standards are sufficient to meet the demand and therefore would not result in impacts to Coastal access. Lastly, on-street parking spaces are also required that would be open and available to the public. Therefore, LUP Amendment (Specific Plan) will



not adversely affect public access, consistent with Sections 30210, 30212.5, 30213 and 30252 of the Coastal Act.

### **Environmental Justice**

The proposed Specific Plan 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 “environmental justice communities<sup>1</sup>,” 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.<sup>2</sup> 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 older than those who live farther inland.<sup>3</sup> 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.”<sup>4</sup> 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

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<sup>1</sup> 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.

<sup>2</sup> 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)

<sup>3</sup> 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)

<sup>4</sup> 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.”

justice policies thus bolster the Coastal Commission's mission to protect and enhance the coast for present and future generations.

Although the project's census tract scores low in CalEnviroScreen's<sup>5</sup> overall score, the site is near a freeway and industrial uses, which may impact air quality and could be an environmental justice concern. There are some indicators that could cause some concern when potential low-income residents inhabit the affordable housing units, whom are more economically vulnerable, making it challenging for these residents to cope with existing and potentially future environmental burdens.<sup>6</sup> To address these concerns, the Specific Plan requires "Green" building practices that meet the California Building Energy Efficiency Standards and CALGreen Building Standards (California Code of Regulations Title 24, Parts 6 and 11) to reduce the impact on the environment, decrease energy costs, and create healthier living through improved indoor air quality and safer building materials. Title 24 sets forth building standard requirements including, but not limited to, planning and site design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, waste reduction, indoor air quality and pollutant control, thermal comfort, and provisions for bicycle and electric vehicle parking.

The CUSD property is public land subject to the provisions of the Surplus Land Act, which requires at least 15 percent lower income units. Consistent with the Surplus Land Act, the Specific Plan proposes 15% out of 306 units on site to be affordable, which would be 46 units. The development does offer the potential to increase affordable housing in the coastal zone, which can enhance public access by reducing barriers for low and moderate-income households, fostering social and cultural connections, and supporting a range of workers along the coast. This does support the reduction of Vehicle Miles Traveled. The Coastal Commission's EJ Policy supports equitable access to coastal resources and housing opportunities for all people, including those who are economically disadvantaged. High costs of housing and historical exclusionary policies and practices have limited the ability of environmental justice communities to live, work, or recreate near the coast in many areas. As climate change causes inland temperatures to rise more frequently to dangerous levels, access to coastal areas with cooler weather is increasingly important. Therefore, the LUP Amendment (Specific Plan) adequately addresses coastal access and residential opportunities for communities of concern.

## **Visual Resources**

The LUP Amendment (Specific Plan) would allow for a maximum building height of 65-feet, with an additional 10-feet permitted for roof-top equipment or architectural projections. An additional 10 feet would be permitted for a recreational structure. While these permitted heights may appear to result in visual impacts, the Specific Plan has policies that ensure height and massing of future development within the Specific Plan area is sensitive to the scale of existing streetscapes, especially along Victoria Boulevard.

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<sup>5</sup> CalEnviroScreen is a tool developed by CalEPA's OEHHA that generates a single cumulative impact score by combining 21 different environmental justice indicators to compare census tracts throughout the state.

<sup>6</sup> Although the overall score in CalEnviroScreen 4.0 for the area that contains the project site (6059042201) scored a low percentile, individual pollution indicators such as Diesel, Traffic Density, and Solid Waste Facilities for the site qualify in the top 10th percentile in California.

For example, the Specific Plan states that building masses will be divided into smaller parts to reduce bulk and improve building scale. In addition, in order to make development on the site consistent with the area and to promote a pedestrian friendly streetscape, the Specific Plan includes a “Reduced Building Height Zone” where no portion of the building would exceed a height of 50 feet within 40 feet of the Victoria Boulevard right-of-way, additionally, at least 2/3 of the building facade in this area shall be setback more than 10-feet. While the maximum height of the anticipated development on the site will be approximately 82-feet tall, as a result of mechanical equipment and a recreation room and fitness room on the roof, design measures have been incorporated consistent with the Specific Plan. For example, to avoid any visual massing impacts from these features, the anticipated roof top development will be located to the middle and rear (rear being near the 5 freeway) of the rooftop and would only comprise of two separate buildings instead of one large building overtaking the entire rooftop so that views from Victoria Boulevard and Sepulveda Avenue will not be impacted by a such a significant massing design.

The Specific Plan area is located approximately one mile from the coast and the proposed height will not result in visual impacts. Supporting this is the analysis City staff conducted regarding views to the coast from the southbound travel lanes of Interstate 5 that overlooks the Specific Plan area in Doheny Village area. The proposed amendment would not result in view blockage of the Pacific Ocean seen from the southbound lanes of Interstate 5 since the Specific Plan area is located at a significantly lower elevation than Interstate 5. The height limits proposed under the amendment would not result in view blockage of the Pacific Ocean from this corridor. Pacific Coast Highway (PCH) is a State scenic highway. The project does not impact views from PCH because it is inland of PCH. The 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.

Thus, the proposed LUP Amendment (Specific Plan) conforms with, and is adequate to carry out, the provisions of the primary Chapter 3 visual resources policy of the Coastal Act (30251).

## **2. IMPLEMENTATION PLAN**

### **Standard of Review**

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 serves as the IP.

### **Development**

The LUP includes these policies:

Urban Design Guideline Policy 1.1:

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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.

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)

The proposed IP amendment includes modifying the zoning map by amending the zoning designation of “Community Facility” and “Recreation” and creating a new zoning designation of “Victoria Boulevard Specific Plan.” The specific plan allows for multi-family residential uses on site, increases the allowable density and also allow increased heights for development. The Doheny Village area is an eclectic area with a combination of commercial, light industrial, and residential mixed uses consisting of multi-family, mobile homes, affordable housing, and live/work units, which is a unique feature within the City. As such, the proposed IP amendment would allow development that is compatible with the surrounding Doheny Village area. Currently, development on site is anticipated to consist of a 306 unit apartment complex with a parking garage, which would be consistent with the IP Amendment and the surrounding area, as a mix of residential uses are located within Doheny Village.

A Tentative Parcel Map is identified in the IP as part of any proposed development in Specific Plan area. However, it does not mention that a Coastal Development Permit would be required for such development. Thus, **Suggested Modification No. 2**, provides clarification that a Coastal Development Permit is required for a Tentative Parcel Map and any subsequent changes.

The Specific Plan identifies that local approval is necessary for any amendments to the Victoria Boulevard Specific Plan, but it does not include language about requiring Coastal Commission review and approval for any amendment to the Specific Plan as part of the certified LCP. Thus, **Suggested Modification No. 3**, clarifies that any amendments to the Victoria Boulevard Specific Plan require review and approval from the Coastal Commission. Thus, as modified, the proposed IP Amendment (Specific Plan) conforms with, and is adequate to carry out, development provisions of the City’s certified LUP.

**Public Access and Recreation**

Land Use Element Policy 1.4:

Assure that adequate recreational areas and open space are provided as a part of new residential development to assure that the recreational needs of new residents will not overload nearby coastal recreation areas.

Land Use Element Policy 1.7:

Require comprehensive analysis and mitigation for any proposed General Plan Amendment to ensure that the amendment will result in a desirable

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mixture of land uses meeting the social and fiscal needs of the City and its residents.

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

Urban Design Element Policy 5.4:

Provide commercial areas that are conducive to pedestrian and bicycle circulation. Encourage buildings and exterior spaces that are carefully-scaled to human size and pedestrian activity.

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 amending the zoning designation of “Community Facility” and “Recreation” and creating a new zoning designation of “Victoria Boulevard Specific Plan.” The zone change would essentially allow an increase in density and building height. The proposed Specific Plan area is located within Doheny Village which eclectic area with a combination of commercial, light industrial, and residential mixed uses consisting of multi-family, mobile homes, affordable housing, and live/work units. Also, the Specific Plan area is located near the Village Main Street, and Village Commercial/Residential zoning districts that will allow a mixture of uses and encourage land use patterns that would minimize air pollution and vehicle miles traveled. As discussed above, the specific plan provides for public open space, is mindful of vehicle miles traveled, is located near public transit and enhances bike lanes, requires sufficient off-street parking and will be in conformance with the LUP policies above. Thus, the proposed Specific Plan zoning will contribute to the mix of retail, office and residential uses in the 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 (Specific Plan)

conforms with, and is adequate to carry out, the public access and recreation provisions of the City's certified LUP.

### **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)

A majority of the Specific Plan area is located within the FEMA Flood Zone 'X' per FEMA Flood Insurance Rate Map (FIRM) No. 06059C0508K, which was revised on March 21, 2019. Flood Zone 'X' represents areas of minimum flood hazard. A portion of the site along Sepulveda Avenue is shown to be slightly within or adjacent to FEMA Flood Zone 'A' (no Base Flood Elevation determined). As such, the Specific Plan area is subject to minimal flooding hazard. To address flooding, the city would review an application for a Site Development Permit. Regarding Sea Level Rise, the elevation of the project site is approximately 50 feet below mean sea level rise, and therefore the Specific Plan area is not expected to be affected by Sea Level Rise.

As described previously, the Specific Plan is within the Doheny Village area which 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 (Specific Plan) conforms with, and is adequate to carry out, the natural resource policies of the LUP.

### **Visual Resources**

#### Urban Design Element Policy 1.2:

Improve the visual character of major street corridors.

#### Urban Design Element Policy 1.7:

Initiate a program for public art.

#### Urban Design Element Policy 2.1:

Consider the distinct architectural and landscape character of each community. To the maximum extent feasible, protect special communities

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and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

Urban Design Element Policy 2.5:

Encourage neighborhood street landscaping programs to improve the quality of public spaces in residential areas.

Urban Design Element Policy 4.2:

Realize the opportunity for public open space throughout the City.

Urban Design Element Policy 4.3:

Develop stronger pedestrian, bicycle, and visual linkages between public spaces and to and along the shoreline and bluffs.

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)

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 (Specific Plan) includes development standards that result in the distinct architectural and visual character of the Specific Plan area being enhanced, including along Pacific Coast Highway and Doheny Park Road. 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. For example, in order to make development on the site consistent with the area and to promote a pedestrian friendly streetscape, the Specific Plan includes a "Reduced Building Height Zone" where no portion of the building would exceed a height

of 50 feet within 40 feet of the Victoria Boulevard right-of-way, additionally, at least 2/3 of the building facade in this area shall be setback more than 10-feet. The IP amendment would also include an arts-in-public place policy to provide public art within the Specific Plan area.

The Specific Plan area is located approximately one 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 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 (Specific Plan) 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.

#### Conservation and Open Space Element 8.1:

Require reasonable mitigation measures where development may affect historical, archaeological or paleontological resources. (Coastal Act/30244, 30250)

#### Conservation and Open Space Element Policy 8.2:

Retain and protect resources of significant historical, archaeological, or paleontological value for education, visitor-serving, and scientific purposes. (Coastal Act/30213, 30244, 30250, 30253)

There is some potential for archeological, paleontological, and tribal cultural resources to be located within the Doheny Village area. 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. The City's LUP includes policies that require retainment and protection of archaeological or paleontological resources and require reasonable mitigation where development may impact such resources.

The City requested a review of the Sacred Lands File from the Native American Heritage Commission and the results were negative. The City did reach out to nine (9) Tribal Nations for any comments or for any consultation requests. However, only one responded,



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the Rincon Band of Luiseño Indians, and their only comment was that the project site is not located within their specific Area of Historic Interest. Commission staff also reached out to four (4) Tribal Nations and did receive a request to consult. The requestor noted that this is a sensitive area and recommended that mitigation measures including native monitoring and an inadvertent discovery plan are put in place to minimize the potential impacts on buried cultural resources.

As part of the specific plan, the city requested cultural resource studies which revealed that there are 16 cultural resources within the vicinity of the project area, but none were recorded on the site of the specific plan area. As part of the EIR for the anticipated development, the city included mitigation measures regarding the protection of archaeological or paleontological resources. If tribal cultural resources are encountered during project construction, Mitigation Measure CUL-1 would require all project construction efforts to halt until an archaeologist examines the site, identifies the archaeological significance of the find, and recommends a course of action which must be implemented. The city has stated that compliance with Mitigation Measure CUL-1 would ensure construction and operational activities of the project do not result in substantial adverse impacts to tribal and cultural resources.

In addition, the proposed new Chapter 5.4 Permitted Uses within the Specific Plan requires that development on site obtain a Coastal Development Permit and as such references Section 9.69.050(b)(7)(B) of the certified zoning code that 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.

**Suggested Modification No. 4** would require identification of previous cultural resource studies conducted in the area, conduct Native American consultation, avoid cultural resources to the maximum extent feasible, provide adequate mitigation for impacts that cannot be avoided, and coordinate mitigation measure with local Tribal Nations. The suggested modification would also require that a Native American monitor be present onsite during ground all disturbance. In past tribal consultations with Commission staff, the Tribal Nations have repeatedly requested a Native American monitor be present onsite during ground disturbance for projects in tribally sensitive areas in the LA and Orange County region.

In order to ensure that tribal cultural resources and archeological resources are adequately protected, more specific development standards need to be included in the LCP amendment.

Thus, as modified per **Suggested Modification No. 4**, the proposed IP Amendment (Specific Plan) 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 modified 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-24-0033-1 consists of Land Use Plan and Implementation Plan Amendment.

On June 18, 2024, the City of Dana Point City Council certified EIR (SCH# 2021070304). A number of Mitigation Measures were included in the EIR involving things such as archaeological monitoring, hazardous waste discovery, project implementation, 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 modified, 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 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.