2.0 GENERAL RESOURCE PROTECTION POLICIES

Dana Point Harbor is located entirely within the Coastal Zone as defined by the California Coastal Act of 1976. The primary purposes of the Coastal Act are to protect, maintain and where feasible, enhance and restore the natural and scenic qualities of coastal resources; assure an orderly and balanced use and conservation of coastal zone resources; maximize public access consistent with conservation principles and constitutionally protect private property rights; assure priority for coastal-dependent and coastal-related development; and, encourage state and local government cooperation concerning planning and development. The Coastal Act ensures the conservation of coastal resources through the implementation of a series of coastal resources planning and management policies.

The Coastal Act requires local governments to prepare Local Coastal Programs for areas located within the Coastal Zone. Local Coastal Programs are comprised of the relevant portions of a local government's general plan, zoning ordinances, zoning district maps and other implementing actions, which, when taken together meet the requirements of and implement the provisions and policies of the California Coastal Act at the local level.

The following general policies shall provide the framework for interpreting the Land Use Plan (LUP) components for the Dana Point Harbor Revitalization Plan:

1. Where policies within the LUP overlap, the policy that is the most protective of the coastal resources shall take precedence;

2. Where there are conflicts between the policies set forth in this LUP and those set forth in any element of the City of Dana Point General Plan Elements, other adopted plans, programs or existing ordinances, the policies of this LUP shall take precedence; and

3. In the event of any ambiguities or conflicts not resolved by (1) or (2) above or by other provisions of the Dana Point Harbor Revitalization Plan and District Regulations, the policies of the California Coastal Act shall guide interpretation of this LUP.

2.1 COASTAL / MARINE RESOURCE

2.1.1 Scope

This section identifies LUP policies for marine resources, water quality management, flood control and hydrology. The Dana Point Harbor District Regulations (Part II) sets forth more detailed plans, regulatory requirements and responsibilities that implement these policies.

2.1.2 Policies

GENERAL MARINE RESOURCES

1. Marine resources shall be maintained, enhanced and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Use of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific and educational purposes. (Coastal Act Section 30230)

2. Coastal water areas suited for water-oriented recreation activities shall be protected for such uses. (Coastal Act Section 30220)

3. Shoreline or ocean protective devices such as revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls and other such construction that alters shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or adverse impacts on local shoreline sand supply and minimize adverse impacts on public use of sandy beach areas. (Coastal Act Section 30210-12, 30235)

4. Preserve, maintain, enhance and where feasible restore marine resource areas and coastal waters. Special protection shall be given to areas and species of special biological or economic significance. Restore general water quality and biological productivity as necessary to maintain optimum populations of marine organisms and for the protection of human health. (Coastal Act Section 30230)

5. Maintain and where feasible, restore the biological productivity and the quality of coastal waters, creeks and groundwater, appropriate to maintain optimum populations of marine organisms and to protect human health. Measures including, but not limited to minimizing the adverse effects of waste water discharges, controlling runoff, preventing the depletion of ground water supplies, preventing substantial interference with surface water flow, maintaining vegetation

buffer areas protecting riparian habitats, minimizing alteration of natural streams and street sweeping, shall be encouraged. (Coastal Act Section 30231)

6. The biological productivity and quality of coastal waters, streams, wetlands, estuaries and lakes and the restoration of optimum populations of marine organisms shall be ensured by, among other means, minimizing adverse effects of waste water discharges. Any specific plans and/or planned development district policies and specific development proposals, site plans and subdivision maps shall control runoff, prevent depletion of ground water supplies and substantial interference with surface water flow, encourage waste water reclamation, maintain natural vegetation buffer areas that protect riparian habitats and minimize alteration of natural streams. (Coastal Act Section 30231)

7. Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems. (Coastal Act Section 30233)

8. The diking, filling or dredging of open coastal waters, wetlands, estuaries and lakes shall only be permitted in accordance with Section 30233 of the Coastal Act. (Coastal Act Section 30233)

9. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific and educational purposes. (Coastal Act Section 30230)

10. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

11. The non-motorized craft launching area and picnic and park area within Baby Beach shall remain, but the configuration may be modified to accommodate mitigation for water quality-related improvements.

12. Construction phasing for the reconstruction and reconfiguration of the marina docks shall minimize the loss or disruption of the existing docks to the extent feasible and may involve the use of temporary floating, staging and/or imported prefabricated docks to minimize construction time.

13. Renovations to the Marina channels shall emphasize improved access to the water and circulation of boat traffic in the Harbor.

14. Channel side-tie docks (in Planning Areas 8, 11 and 12) may be added to facilitate construction and temporary docking facilities during the reconfiguration of the docks in the East and West Marinas (Planning Areas 9 and 10).

WATER QUALITY MANAGEMENT

1. Protect water quality by seeking strict quality standards and enforcement with regard to water imported into the County and the preservation of the quality of water in the groundwater basin, streams, estuaries and the ocean. (Coastal Act Section 30231)

2. Coordinate with the appropriate Regional Water Quality Control Board, the County of Orange and other agencies and organizations in the implementation of the National Pollution Discharge Elimination System Permits (NPDES) regulations to minimize adverse impacts on the quality of coastal waters. (Coastal Act Section 30231)

3. Protection against the spillage of crude oil, gas, petroleum products or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur. (Coastal Act Section 30232)

4. The City shall promote watershed-wide water quality analysis and planning efforts the results of which will be considered during permitting. Watershed analysis and planning efforts should include:

    - Identifying priority watersheds where there are known water quality problems and where development pressures are greatest;
    - In priority areas, assessing land uses that degrade coastal water quality;
    - Analyzing suitability of project location, site designs and storm water management plans for all new development using the watershed analysis information;
    - Promoting regional protection of natural drainage, riparian, wetland resources;

- Promoting regional infiltration techniques for storm water management;
- Ensuring new development does not adversely impact watershed features, including springs, streams (including ephemeral streams), rivers, ponds, estuaries, wetlands and drainage ways that have habitat value (including constructed) within the coastal watershed;
- Evaluating all proposed canalization projects for potential benefits and/or adverse impact on downstream water quality; and
- Ensuring full public participation in the plan's development.

5. Promote pollution prevention and elimination methods that minimize the introduction of pollutants into coastal waters and the generation of polluted runoff and nuisance flows.

6. Development shall not result in the degradation of the water quality of coastal surface waters including the ocean, coastal streams, or wetlands and of groundwater basins. To the maximum extent feasible, ensure that pollution from urban runoff not be discharged or deposited such that it adversely impacts groundwater, the ocean, coastal streams or wetlands.

7. Development shall be designed to minimize to the maximum extent feasible, the introduction of pollutants that may result in significant impacts to surface waters, groundwater, or coastal waters. In order to meet these requirements, applicants shall prepare a post-development phase drainage and pollutant runoff control plan that incorporates a Best Management Practice (BMP) or the combination of BMP's best suited to reduce pollutant loading to the maximum extent feasible. BMP's may include site design, source control and treatment control BMP's.

8. All structural BMP's shall be inspected, cleaned and repaired as necessary to ensure proper function.

9. Promote infiltration of runoff, including storm water and nuisance flow runoff, to protect the natural hydrologic cycle. Incorporate site drainage and landscape designs that minimize increases in peak runoff by promoting infiltration, filtration and attenuation over landscaped areas or through permeable surfaces. Where possible, include infiltration BMP's (e.g., permeable pavements, dry wells, etc.) and apply techniques consistently over drainage areas. Where infiltration of runoff would exacerbate geologic hazards, include equivalent BMP's that do not require infiltration.

10. New development shall minimize, where feasible, the development footprint and directly connected impervious surfaces, as well as the creation of and increases in impervious surfaces.

11. New development shall protect the absorption, purification and retention functions of natural systems that exist on the site. Where feasible, drainage plans shall be designed to complement and utilize existing drainage patterns and systems, conveying drainage from the developed areas of the site in a non-erosive manner. Disturbed or degraded natural drainage systems should be restored, where feasible.

12. New development shall be sited and designed on the most suitable portion of the site while ensuring protection and preservation of natural and sensitive site resources by providing for the following:
    - Protecting areas that provide important water quality benefits, areas necessary to maintain riparian and aquatic biota and/or that are susceptible to erosion and sediment loss;
    - Analyzing the natural resources and hazardous geological constraints of planning areas and individual development sites to determine locations most suitable for development;
    - Promoting clustering of development on the most suitable portions of a site taking into account geologic constraints, sensitive resources and natural drainage features;
    - Preserving and protecting riparian corridors, wetlands and buffer zones;
    - Minimizing disturbance of natural areas, including significant trees, native vegetation and root structures;
    - Using natural drainage as a design element, maximizing the preservation of natural contours and native vegetation; and
    - Limiting land disturbance activities such as clearing and grading, limiting cut-and-fill to reduce erosion and sediment loss and avoiding steep slopes, unstable areas and erosive soils.

13. Management practices that enhance infiltration and help maintain the natural hydrologic cycle will be preferred except where site conditions make the use of enhanced infiltration unsafe. In these instances other management practices that provide similar water quality protection shall be used.

14. Commercial development shall incorporate BMP's designed to minimize or avoid the runoff of pollutants from structures, landscaping, parking and loading areas.

15. Restaurants shall incorporate BMP's designed to minimize runoff of oil and grease, solvents, phosphates, suspended solids and other pollutants to the storm drain system.

16. Gasoline and marine repair facilities shall incorporate BMP's designed to minimize runoff of oil and grease, solvents, car battery acid, coolant, gasoline and other pollutants to storm water system.

17. Storm drain stenciling and signage shall be provided for new storm drain construction in order to discourage dumping into drains.

18. New development shall include construction phase erosion control and pollution runoff control plans. For example, such plans may include controls on timing of grading, BMP's for storage and disposal of construction materials, or design specifications of sedimentation basins.

19. New development that requires a grading/erosion control plan shall include landscaping and re-vegetation of graded or disturbed areas.

20. The use of efficient irrigation practices and native or drought-tolerant non-invasive plants to minimize the need for fertilizer, pesticides, herbicides and excessive irrigation will be recommended.

FLOOD CONTROL AND HYDROLOGY

1. Retain, protect and enhance local drainage courses, channels and creeks in their natural condition, where feasible and desirable, in order to maximize their natural hydrologic functioning so as to minimize adverse impacts from polluted storm water run-off. (Coastal Act Section 30231)

2. Control erosion during and following construction through proper grading techniques, vegetation replanting and the installation of proper drainage and erosion control improvements. (Coastal Act Section 30243)

3. Require the practice of proper soil management techniques to reduce erosion, sedimentation and other soil-related problems. (Coastal Act Section 30243)

4. Lessen beach erosion by minimizing any natural changes or man-caused activities which would reduce the replenishment of sand to the beaches. (Coastal Act Section 30235)

5. Whenever feasible, the material removed from erosion control and flood control facilities may be placed at appropriate points on the shoreline in accordance with other applicable provisions of the Local Coastal Program and where feasible mitigation measures have been provided to minimize adverse environmental effects. Aspects that shall be considered before issuing a Coastal Development Permit for such purposes are the method of placement, time of year of placement and sensitivity of the placement area. (Coastal Act Section 30233)

6. Identify flood hazard areas and provide appropriate land use regulations, such as but not limited to the requirement that new development shall have the lowest floor, including basement, elevated to or above the base flood elevation, for areas subject to flooding in order to minimize risks to life and property. (Coastal Act Sections 30235, 30253)

7. Construction of seawalls, cliff retaining walls and other protective devices shall only be permitted when required to serve coastal dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to mitigate adverse impacts on local shoreline and supply.

2.1.3 Project Design Features and Requirements

1. Future waterside improvements to the east and west of the breakwaters (Planning Areas 8, 11 & 12) shall be reconstructed within the seaward footprint of the existing structures except as necessary to provide for public safety or public access. Construction activities taking place below the mean higher high water (MHHW) mark shall prepare a focused marine biological survey to determine if sensitive species are present.

2. The Dana Point Harbor Department shall require that standard BMP's be utilized in order to ensure no impacts to water quality or the marine environment are minimized and include:
   - Erosion to be controlled by landscaping (leave existing vegetation in place where possible), paving and drainage structures;
   - Berms (sand bags) around all construction sites to catch run-off;
   - Roads of gravel to minimize dirt being tracked into and out of the project site;
   - During wet weather, Harbor basin inlets shall be protected by placing a wire mesh and gravel filter to intercept debris and soil runoff; and

- Appropriate housekeeping activities to minimize the potential for pollutants from material storage or construction activities.

3. New building design will include storm water collection systems (e.g., roof-top drainage directed into storm sewer system).

4. Parking areas will be designed to direct surface run-off away from the Harbor Marinas.

5. Prior to the issuance of any grading permits, the following drainage studies shall be submitted to the County for approval:
   a. A drainage study of the project, including diversions, off-site areas that drain onto and/or through the project and justification of any diversions; and
   b. When applicable, a drainage study evidencing that proposed drainage patterns will not overload existing storm drains; and
   c. Detailed drainage studies indicating how the project grading, in conjunction with the drainage conveyance systems including applicable swales, channels, street flows, catch basins, storm drains and flood water retarding will allow building pads to be safe from inundation from rainfall runoff which may be expected from all storms up to and including the theoretical 100-year flood.

6. Prior to the issuance of any grading permits, the Dana Point Harbor Department shall:
   a. Design provisions for surface drainage; and

   b. Design all necessary storm drain facilities extending to a satisfactory point of disposal from the proper control and disposal of storm runoff.

7. The Dana Point Harbor Department shall obtain coverage under the NPDES Statewide Stormwater Permit for General Construction Activities from the State Water Resources Control Board. Evidence of receipt of permit approval must be presented prior to issuance of a grading permit.

8. Prior to the issuance of any grading or building permits, the Dana Point Harbor Department shall demonstrate compliance under California's General Permit for Stormwater Discharges Associated with Construction Activity by providing a copy of the Notice of Intent (NOI) submitted to the State Water Resources Control Board and a copy of the subsequent notification of the issuance of a Waste Discharge Identification (WDID) Number or other proof of filing. Projects subject to this requirement shall prepare and implement a Stormwater Pollution

Prevention Plan (SWPPP). A copy of the current SWPPP shall be kept at the project site and be available for review on request.

9. Prior to the issuance of any grading or building permit, the Dana Point Harbor Department shall prepare an Erosion and Sediment Control Plan (ESCP) to demonstrate compliance with local and state water quality regulations for grading and construction activities. The ESCP shall identify how all construction materials, wastes, grading or demolition debris and stockpiles of soil, aggregates, soil amendment, etc. shall be properly covered, stored and secured to prevent transport into local drainages or coastal waters by wind, rain, tracking, tidal erosion or dispersion. The ESCP shall also describe how the applicant will ensure that all Best Management Practices (BMP's) will be maintained during construction of any future public right-of-ways. A copy of the current ESCP shall be kept at the project site and be available for County review on request.

10. Prior to the issuance of any grading or building permit (whichever comes first), the Dana Point Harbor Department shall prepare a Water Quality Management Plan (WQMP) and/or a project-specific amendment specifically identifying Best Management Practices (BMP's) that will be used on-site to control predictable pollutant runoff. The WQMP shall follow the model WQMP prepared by the County of Orange Flood Control District, July 1, 2003. This WQMP shall identify, at a minimum, the routine structural and non-structural measures specified in the current Drainage Area Management Plan (DAMP). The WQMP may include one or more of the following:
    - Discuss regional water quality and/or watershed programs (if available for the Harbor);
    - Address Site Design BMP's (as applicable) such as minimizing impervious areas, maximizing permeability, minimizing directly connected impervious areas, creating reduced or "zero discharge" areas and conserving natural areas;
    - Include the applicable Routine Source Control BMP's as defined in the DAMP; and
    - Demonstrate how surface runoff and subsurface drainage shall be managed and directed to the nearest acceptable drainage facility (as applicable), via sump pumps if necessary.

11. Prior to the issuance of any grading or building permits (whichever comes first), the Dana Point Harbor Department shall include in the WQMP the following additional Priority Project information:
    - Include post-construction Structural Treatment Control BMP(s) as defined in the DAMP; and

- Include a conceptual Operation and Maintenance (O&M) Plan that (1) describes the long-term operation and maintenance requirements for the post-construction Treatment Control BMP(s); (2) identifies the entity that will be responsible for long-term operation and maintenance of the referenced Treatment Control BMP(s); and (3) describes the proposed mechanism for funding the long-term operation and maintenance of the referenced Treatment Control BMP(s).

12. Prior to the issuance of a certificate of use and occupancy, the Dana Point Harbor Department shall demonstrate compliance with the WQMP, including:
    - Demonstrate that all structural Best Management Practices (BMP's) described in the applicable WQMP for the project have been implemented, constructed and installed in conformance with the approved plans and specifications;
    - Demonstrate that the Dana Point Harbor Department has complied with all non-structural BMP's described in the WQMP;
    - Submit for review and approval an Operations and Maintenance (O&M) Plan for all structural BMP's for attachment to the WQMP; and
    - Demonstrate that copies of the projects approved WQMP (with attached O&M Plan) are available for each of the incoming occupants.

13. During the design phase, the Dana Point Harbor Department shall prepare an assessment of the potential impacts of inundation from a tsunami on the existing and proposed building structures along the seawall.

14. During the design phase, the Dana Point Harbor Department shall prepare an assessment of the potential wave run-up from a seiche or tsunami near the Harbor during a major seismic event.

15. During the design phase, the Dana Point Harbor Department shall study the potential impacts of flooding of San Juan Creek on the existing or proposed structures along the seawall.

2.1.4 Coastal Act Consistency

Section 30001.5 of the California Coastal Act provides that the goals of the State for the Coastal Zone include:

(a) Protect, maintain and where feasible enhance and restore the overall quality of the Coastal Zone environment and its natural and artificial resources;

(b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state;

(c) Maximize public access to and along the coast and maximize public recreational opportunities in the Coastal Zone consistent with sound resources conservation principles and constitutionally protect rights of property owners;

(d) Assure priority for coastal-dependent and coastal-related development over other development on the coast; and

(e) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses in the Coastal Zone.

Coastal Act §30006.5 provides:

The Legislature further finds and declares that sound and timely scientific recommendations are necessary for many coastal planning, conservation and development decisions and that the commission should, in addition to developing its own expertise in significant applicable fields of science, interact with members of the scientific and academic communities in the social, physical and natural sciences so that the commission may receive technical advise and recommendations with regard to its decision making, especially with regards to issues such as coastal erosion, geology, marine biodiversity, wetland restoration, the question of sea level rise, desalination plants and the cumulative impact of coastal zone developments.

Coastal Act §30007 provides:

The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.

Coastal Act §30231 provides:

> *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries and lakes appropriate to maintain optimum populations of marine organisms and for 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 water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats and minimizing alteration of natural streams.*

Coastal Act §30233 provides, in part:

> *(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative and where feasible mitigation measures have been provided to minimize adverse environmental effects and shall be limited to the following:*
>
> *(1) New or expanded port, energy and coastal-dependent industrial facilities, including commercial fishing facilities.*
> *(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas and boat launching ramps.*
> *(4) In open coastal waters, other than wetlands, including streams, estuaries and lakes new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*
> *(5) Incidental public service purposes, including but not limited to burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
> *(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
> *(7) Restoration purposes.*
> *(8) Nature study, aquaculture or similar resource dependent activities.*
>
> *(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation . . .*

Originally, the Harbor was an open coast, mixed sand and rocky beach located between the Dana Point Headlands and San Juan Creek. The area provided favorable habitat for fish and invertebrates and the sand beach served as roosting and nesting habitat to shorebirds. In 1971, a breakwater was constructed and the Harbor was dredged to achieve a relatively uniform subsurface terrain and thereby changing the type of habitat available for marine organisms. These modifications have largely created artificial habitats that support a wide diversity of biological communities, principally deep-water habitat for fish due to the emplacement of bulkheads, riprap for shoreline breakwaters and pier pilings.

Dana Point Harbor is located in the City of Dana Point that is within the Dana Point hydrologic sub-area of the San Juan hydrologic unit, which is within the San Diego Basin. More specifically, the Harbor lies within the Dana Point Coastal Streams Watershed with its main tributary being Salt Creek that ultimately drains to the Pacific Ocean. The 6-square-mile watershed is almost fully developed and includes portions of the cities of Dana Point, Laguna Beach, Laguna Niguel and San Juan Capistrano. Remaining undeveloped areas include open space within the Aliso and Wood Canyons Regional Park in the upper watershed and the Salt Creek Corridor Regional Park in the eastern part of the watershed. Also included in the watershed are a number of coastal drains that discharge to the Pacific Ocean through Dana Point Harbor. A few small, unnamed drainages and larger tributaries (Arroyo Salado Creek and San Juan Canyon Creek) join Salt Creek as it makes its way through the watershed.

Adjacent land uses are the Dana Point Headlands, restaurant and residential uses immediately north of the Harbor on the bluffs, which use off-site drainage mitigation techniques and terrace drains, respectively. The Harbor is located east of the Old Cove Marine Preserve and west of Doheny State Beach. These areas serve as habitat for several marine species of flora and fauna that are under special protection for their biological resource significance.

Facilities that collect drainage from existing off-site commercial and residential development, as well as portions of the Street of the Golden Lantern, Cove Road, Santa Clara Avenue, the Street of the Blue Lantern, Dana Point Harbor Drive and Scenic Drive are conveyed to the Pacific Ocean via a series of various sized storm drains. Most of the runoff from the off-site areas above the Harbor is collected within the existing storm drain system in the Street of the Golden Lantern and Cove Road. Off-site surface water is conveyed by a series of existing V-ditches that are located at the back of (north of) the Harbor parking lots, at the base of the bluffs. Between there and the outlet location, the pipe accepts runoff form various inlets located in the Harbor parking lots and Dana Point Harbor Drive. A minor portion of the sheet flow runoff origination from Dana

Point Harbor Drive enters the Harbor from Casitas Place, the Street of the Golden Lantern and Embarcadero Place is collected within the street curb and gutters and is conveyed into the regional (County) storm drain facilities that traverse underneath the Harbor facilities.

Within Dana Point Harbor, most of the on-site runoff from the parking lots and facilities enters a series of drain inlets and catch basins prior to discharging into the Pacific Ocean via the Harbor. Some of these systems tie into the County of Orange storm drains running underneath the Harbor, while others discharge directly into the Harbor Marinas through smaller pipe outfalls. Rooftop drainage from the existing buildings is typically collected by a series of 4- to 6-inch pipes and confluence into a larger pipe for discharge.

The Dana Point Harbor modifications have changed the type of habitat available for marine organisms. These modifications have created artificial habitats, which support a wide diversity of biological communities. Because of dredging and filling, very little sandy-beach and shallow-water habitats remain. Benthic (at the bottom of a body of water) habitat has also been altered. However, the deep-water habitat for fish has expanded because of the emplacement of bulkheads, riprap for shoreline breakwaters and pier pilings. The riprap provides refuge and foraging habitat for fish and birds and the protected, open waters of the Harbor maintain a diverse fish community that in turn provides food for several species of birds.

The Marine Resource policies of the Coastal Act are intended to protect the marine environment and recognize the economic, commercial and recreational importance of fishing activities and the facilities that provide them. To this end, the policies require that uses of coastal waters, streams, wetlands, estuaries and lakes be carried out in a manner that will restore and sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific and educational purposes. The policies require protection against the spillage of crude oil, gas, petroleum products or hazardous substances in relation to any development or transportation of such materials. The policies require implementation of strict environmental protection practices during any necessary diking, filling or dredging of open coastal waters, wetlands, estuaries and lakes to reduce any significant disruption of habitats and water circulation. The policies also require that standards for maintaining the quality of water through the implementation of erosion control and flood control facilities are achieved. The potential impact on Harbor and marina biota associated with the potential future dock reconfigurations will be evaluated once a specific design for the dock modifications is identified. The marina and slip improvements may range from dock and column renovations to phased replacement and / or reconstruction of docks and

columns. Sedimentation and water quality impacts will be addressed through site-specific permitting requirements. The Harbor generally lacks inner harbor unique benthic species (e.g., eel grass). Additionally, on-going maintenance that is carried out by the County includes periodically dredging the Harbor. This maintenance activity is designed to maintain a navigable waterway and is subject to separate regulatory agency permitting process.

In compliance with Coastal Act Policies to improve water quality, the Dana Point Harbor Revitalization Plan will enhance the biological productivity of the coastal waters through the upgrading of utility systems and treatment of runoff. Enhancements to the water quality within Dana Point Harbor will be implemented through the incorporation of state-of-the-art Best Management Practices (BMPs). Additionally, as part of the on-going Clean Beaches Initiative, diversions are contemplated for the drainages adjacent to the Baby Beach area. All dry-weather runoff or low-flow runoff that previously sheet flowed or drained into the storm drain system and directly from the Harbor will be treated by a series of pre-treatment and treatment BMPs. The implementation of a full range of BMPs including non-structural and on-site structural BMPs is proposed with the revitalization of the Commercial Core area and will reduce the total amount of pollutants in the storm water runoff.

Numerous BMPs have been incorporated into the design of the Dana Point Harbor Revitalization Plan in order to reduce pollutant loading into the Harbor and includes the maintenance of storm drain stenciling and signage for new storm drain construction in order to discourage dumping of waste and other materials into the drains. Other design features include the requirement for preparation of a comprehensive Water Quality Management Plan (with progressive amendments as new revitalization projects throughout the Harbor are identified) and Storm Water Pollution Prevention Plans in compliance with National Pollution Discharge Elimination System permits. Each Coastal Development Permit will require the implementation of state-of-the-art strategies to reduce the effects of pollutants on coastal water quality.

Water quality and conservation will also be addressed by diverting low-flow "nuisance" runoff to the sanitary sewer system for treatment where feasible, thereby avoiding dry weather flows being introduced into beach areas or the Harbor in general. The Dana Point Harbor Revitalization Plan also proposes to continue to expand a public awareness program focused on maintaining water quality standards by limiting the use of fertilizers and pesticides and performing routine maintenance of grease interceptors for restaurants and storm water treatment technologies.

To reduce beach erosion, the Dana Point Harbor Revitalization Plan proposes the repair and renovation of the existing quay wall slope panels by filling voids and gaps and by placing a tie-back system of anchor rods where necessary to provide for the improved longevity of recreational uses and address any existing seismic safety concerns.

2.2 PHYSICAL RESOURCE POLICIES

2.2.1 Scope

This section sets forth the geotechnical policies for the LUP and includes technical information related to mitigation of geologic hazards and implementation of the Dana Point Harbor Revitalization Plan.

2.2.2 Policies

1. Geotechnical studies for developments that are proposed on or adjacent to coastal or inland bluff tops and where geological instability may be suspected are required. (Coastal Act Section 30253)

2. Applications for grading and building permits will be reviewed for adjacency to, threats from and impacts on geologic hazards arising from seismic events, tsunami runup, landslides, beach erosion or other geologic hazards such as expansive soils and subsidence areas. In areas of known geologic hazards, a geologic report shall be required. Mitigation measures will be required where necessary.

2.2.3 Project Design Features and Requirements

1. Creation of the Festival Plaza and Pedestrian Promenade along the waterfront's edge provides for an extended structural setback from the bulkhead area.

2. All new structures and the Commercial Core area parking deck will be supported with piles to provide adequate resistance to long-term settlement if recommended.

3. Foundation setback requirements will be implemented for proposed Harbor improvements as specified in the geotechnical report. Setback distances will reflect geologic and structural engineering evaluations of the site and recommendations included in the geotechnical report, subject to the review and approval of the County of Orange.
4. Prior to the issuance of a grading permit, a geotechnical report shall be submitted to the County for approval and shall include the information and be in the form as required by the Orange County Grading Code and Manual.

5. If cranes and pile-driving equipment are required, adequate setbacks shall be observed from bulkhead areas to prevent failures due to increased lateral loads.

6. Conformance with the latest Uniform Building Code and County Ordinances can be expected to satisfactorily mitigate the effect of seismic groundshaking. Conformance with applicable codes and ordinances shall occur in conjunction with the issuance of building permits in order to ensure that over excavation of soft, broken rock and clayey soils within sheared zones will be required where development is planned.

7. Engineering design for all structures shall be based on the probability that new structures will be subjected to strong ground motion during the lifetime of development. Construction plans shall be subject to the County review and shall include applicable standards, which address seismic design parameters.

8. Mitigation of earthquake ground shaking shall be incorporated into the design and construction in accordance with Uniform Building Code requirements and site-specific design.

9. Construction work preformed within public roadways or public properties adjacent to the Harbor will require compliance with specifications presented in the latest edition of Standard Specifications for Public Works Construction (the Greenbook).

10. Further investigation and detailed characterization of the existing fill conditions is required to identify the extent of the potential for liquefaction and include:
    - Recommended new building setback distances from the quay wall ranging from 2 to 3 times the height of the bulkhead will for localized liquefaction and lateral spreading failure to several times the height of the revetment slope and bulkhead system for global seismic instability, to be considered during the planning and design phases of the project;
    - Supporting proposed structures on deep foundations extending into bedrock;
    - Stiffened floor slab designs;
    - Total or partial removal of the potentially liquefiable soils and replacement with compacted fill; and
    - Soil remediation and site improvement.

2.2.4 Coastal Act Consistency

Dana Point Harbor is located within the northwest-trending Peninsular Ranges in southern California. The Peninsular Ranges province is an elongated area characterized by parallel fault-bounded mountain ranges and intervening valleys. The province extends southward from the Transverse Ranges at the northern side of the Los Angeles basin southward into Mexico. The Dana Point Harbor also lies at the southernmost end of the San Joaquin Hills, which are a northwest trending topographically high area that extends southward from the City of Newport Beach to Dana Point.

The Harbor is a coastal reentrant (cove) protected by the Headlands at Dana Point. The protected cove owes its existence to differing resistance to wave erosion of the two bedrock formations exposed along a fault in the steep coastal bluff. Bedrock units include the Capistrano Formaion and the San Onofre Breccia, both of which are exposed in the sea cliffs behind the Harbor, which are separated by the Dana Cove Fault. The weaker Capistrano Formation has been preferentially eroded, creating Dana Cove. More youthful sediments have been deposited in the Harbor, including colluvium, alluvium, beach deposits, landside debris, talus and artificial fill placed during the original construction of Harbor facilities in the 1970's.

Potential soil-related constraints and hazards shall be assessed by a geotechnical report that includes an evaluation of potentially expansive soils and recommendations for construction procedures and/or design criteria to minimize the effect of these soils on the proposed Dana Point Harbor Revitalization Plan. Additionally, adherence to the Dana Point Harbor District Regulations Chapter 3, including compliance with Uniform Building Code requirements, as well as County of Orange Grading Manual and Building Codes will ensure public health and safety standards are achieved.

2.3 CULTURAL RESOURCE POLICIES

2.3.1 Scope

This section sets forth the LUP's archaeological and paleontological resource policies and how such resources will be preserved, protected and/or documented.

2.3.2 Policies

1. Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required. (Coastal Act Section 30244)

2.3.3 Project Design Features and Requirements

1. Prior to the issuance of any grading permit, the Dana Point Harbor Department shall ensure that a County-certified archaeologist has been retained to observe grading activities and salvage and catalogue archaeological resources as necessary. The archaeologist shall be present at the pre-grade conference, shall establish procedures for archaeological resource surveillance and shall establish in cooperation with the applicant, procedures for temporarily halting or redirecting work to permit the sampling, identification and evaluation of the artifacts as appropriate. If the archaeological resources are found to be significant, the archaeological observer shall determine appropriate actions, in cooperation with the Dana Point Harbor Department for exploration and/or salvage.

2. If human remains are encountered during earth removal or disturbance activities, the contractor shall cease all further earth disturbance until the County Coroner has made a determination of the origin and disposition pursuant to Public Resources Code Sections 5097.98 and 5097.99, relative to Native American remains. If the remains are determined to be prehistoric, the Coroner shall notify the Native American Heritage Commission.

2.3.4 Coastal Act Consistency

The Dana Point Harbor area is part of the territory occupied by the Juaneño Native American group when the Spanish arrived in A.D. 1769. Ethnographic descriptions of the Juaneño are often given in terms of their neighbors to the south, the Luiseño, but also point to a separate ethnic identify.

The Paleontology Literature and Records Review obtained from the San Bernardino County Museum indicate that the Harbor area is underlain by sediments of the Capistrano Formation and marine terrace deposits. The Capistrano Formation has yielded fossil remains of foraminifera, echinoids and marine vertebrates, including sharks and whales. The marine terrace deposits have yielded marine invertebrate fossils (molluscs, crustaceans, and echinoids) and marine vertebrate fossils (sharks, rays, and bony fish).

The historical property data file at the South Central Coastal Information Center at California State University, Fullerton, currently lists 28 properties in the vicinity of the City of Dana Point that have been evaluated for their potential historical significance. Four archaeological sites have been documented within one-half mile of Dana Point Harbor, however none of the sites are located in or directly adjacent to the existing or

proposed Harbor facilities. In the unlikely event that archaeological or paleontological resources are identified during grading or construction activities, adherence to the Dana Point Harbor District Regulations Chapter 3 will ensure their appropriate management.

2.4 VISUAL AND SCENIC RESOURCE POLICIES

2.4.1 Scope

This section provides the LUP policies to protect and enhance the visual resources in and around Dana Point Harbor.

2.4.2 Policies

1. Protect and enhance existing public views to the ocean through open space designations and innovative design techniques. (Coastal Act Section 30251)

2. Preserve significant natural features as part of new development. Permitted development shall be sited and designed to minimize the alteration of natural landforms. Improvements adjacent to beaches shall protect existing natural features and be carefully integrated with landforms. (Coastal Act Section 30240, 30250, 30251, 30253)

3. Preserve Dana Point's bluffs as a natural and scenic resource and avoid risk to life and property through responsible and sensitive bluff top development, including, but not limited to, the provision of drainage which directs runoff away from the bluff edge and towards the street, where feasible and restricting irrigation and use of water-intensive landscaping within the setback area to prevent bluff erosion. (Coastal Act Sections 30251, 30253)

4. Bluff repair and erosion control measures such as retaining walls and other similar devices shall be limited to those necessary to protect existing structures in danger from erosion to minimize risks to life and property and shall avoid causing significant alteration to the natural character of the bluffs. (Coastal Act 30251, 30253)

5. Development and activity of any kind beyond the required bluff top setback will be constructed to insure that all surface and subsurface drainage will not contribute to the erosion of the bluff face or the stability of the bluff itself.

6. No development will be permitted on the bluff face. Drainpipes will be allowed only where no other less environmentally damaging drain system is feasible and the drainpipes are designed and placed to minimize impacts to the bluff face, toe and beach. Drainage devices extending over the bluff face will not be permitted if the property can be drained away from the bluff face.

2.4.3 Project Deign Features and Requirements

1. The appearance of long, continuous row structures will be avoided through the provision of open spaces, varied roof treatments, staggered exterior building facades and incorporation of a variety of building designs, materials and colors.

2. All signage shall be of a consistent architectural style. Commercial signage shall be externally illuminated and lighting sources shall be hidden by vegetation or installed flush with the grade. Signage shall be designed to complement the architecture of the buildings.

3. Existing aboveground utilities will be removed and placed underground wherever and whenever possible.

4. All fences and walls within the Harbor area will be designed to have a minimum impact on coastal and scenic views from public areas. Enclosures used to shelter outside eating areas will be designed using clear materials with awnings or covers that are integrated into the architectural design of the buildings.

5. Architectural and building articulation will have a form that complements the Harbor area and natural setting, when viewed from within the Harbor or the surrounding area (both from land and sea). High, uninterrupted wall planes are to be avoided.

6. All accessory buildings and structures will be consistent with the main structure in materials, color palette, roof pitch and form.

7. All roof-mounted mechanical equipment and communication devices that are visible from the Harbor will be hidden behind building parapets or screening materials from both ground level and elevated areas to the extent feasible. Ground-level mechanical equipment, storage tanks and other similar facilities shall be screened from view with dense landscaping and/or walls of materials and finishes compatible with the adjacent areas. In addition, service, storage, maintenance, utilities, loading and refuse collection areas will be located

generally out of view of public right-of-ways and uses adjacent to the development area.

8. All new solid waste (refuse / trash collection areas) will be screened from public view.

9. The design and layout of the future developments shall be consistent with the approved Dana Point Harbor Revitalization and preserve views of the bluff area.

10. The Dana Point Harbor Revitalization Plan provides for the protection of the Bluffs (PA 7) by restricting the siting of any structures adjacent to the bluffs with the exception of drainage control structures and recreational structures (e.g., picnic areas, etc.).

11. Textured paving will be used to identify lookouts, pathway crossings and edge treatments. All landscape areas will be planted consistent with the Revitalization Landscape Plan to preserve and enhance distant ocean views.

12. In areas that abut PA7, a landscape buffer will be maintained. All plant material will be native, non-invasive and drought tolerant species to provide a transition between natural and ornamental areas.

13. The planting of trees within the Dana Point Harbor Revitalization Plan will provide a visually soft and natural backdrop while framing and protecting significant public view opportunities.

14. Vertical landscape elements and setbacks between buildings are incorporated into the design to break up building massing.

15. Street and parking lot lighting shall be positioned to enhance vehicular and pedestrian safety. Lighting shall be concentrated on intersections and pedestrian crosswalks and shall be directed downward.

16. Architectural elements (including roof overhangs, awnings, dormers, etc.) will be integrated into the building design to shield windows from the sun and reduce the effects of glare.

17. The project will utilize minimally reflective glass and other materials used on the exteriors of the buildings and structures will be selected with attention to minimizing reflective glare.

18. Roof-mounted solar panels, metal panels and skylights should incorporate non-reflective materials and be designed to point away from roadways.

19. All exterior lighting will be designed and located to avoid intrusive effects on the adjacent uses atop the bluffs and Doheny State Beach. New light fixtures will be designed to direct light on-site and away from other areas.

20. The parking deck design shall include a light well that separates the upper deck area, allowing light and/or installation of landscaping elements to enhance the visual appearance of the structure.

21. Contractors shall install landscaping, equipment for irrigation and improvements in all areas of the Harbor in accordance with the following:
    a. Detailed Plan – Prior to the issuance of any building permit(s), a detailed landscape plan showing the detailed irrigation and landscaping design shall be submitted to the Dana Point Harbor Department. Plans shall show the detailed irrigation and landscaping design, the County Standard Plans for landscape areas, adopted plant palette guides, applicable scenic and plan requirements, water conservation measures (contained in Board of Supervisors Resolution No. 90-487 – Water Conservation Measures and Resolution 90-1341 – Water Conservation Implementation Plan).
    b. Installation Certification – Prior to issuance of final certificates of use and occupancy, said improvements shall be installed and shall be certified by a licensed landscape architect or licensed landscape contractor, as having been installed in accordance with the approved detailed plans. Said certification including irrigation management report for each landscape irrigation system and any other required implementation report determined applicable shall be submitted to the Dana Point Harbor Department.

22. Prior to issuance of any grading permit, a Construction Staging Plan shall be prepared. The contractor's construction equipment and supply staging areas shall be established away from existing marina operations to the extent feasible. The plan shall specify the following:
    a. During construction and grading, the contractor shall keep the site clear of all trash, weeds and debris.
    b. The grading contractor shall not create large stockpiles of debris or soils, but shall seek to place smaller piles adjacent to each other to minimize visual impacts.

23. Prior to issuance of a grading permit for new development, screened construction fencing shall be provided around the construction area to temporarily screen views of the construction site.

24. All new landscaped areas in the Harbor shall be planted in accordance with the Revitalization Plan Master Landscape Plan and approved planting palette. The Master Landscape Plan shall be subject to review and approval by the Dana Point Harbor Department.

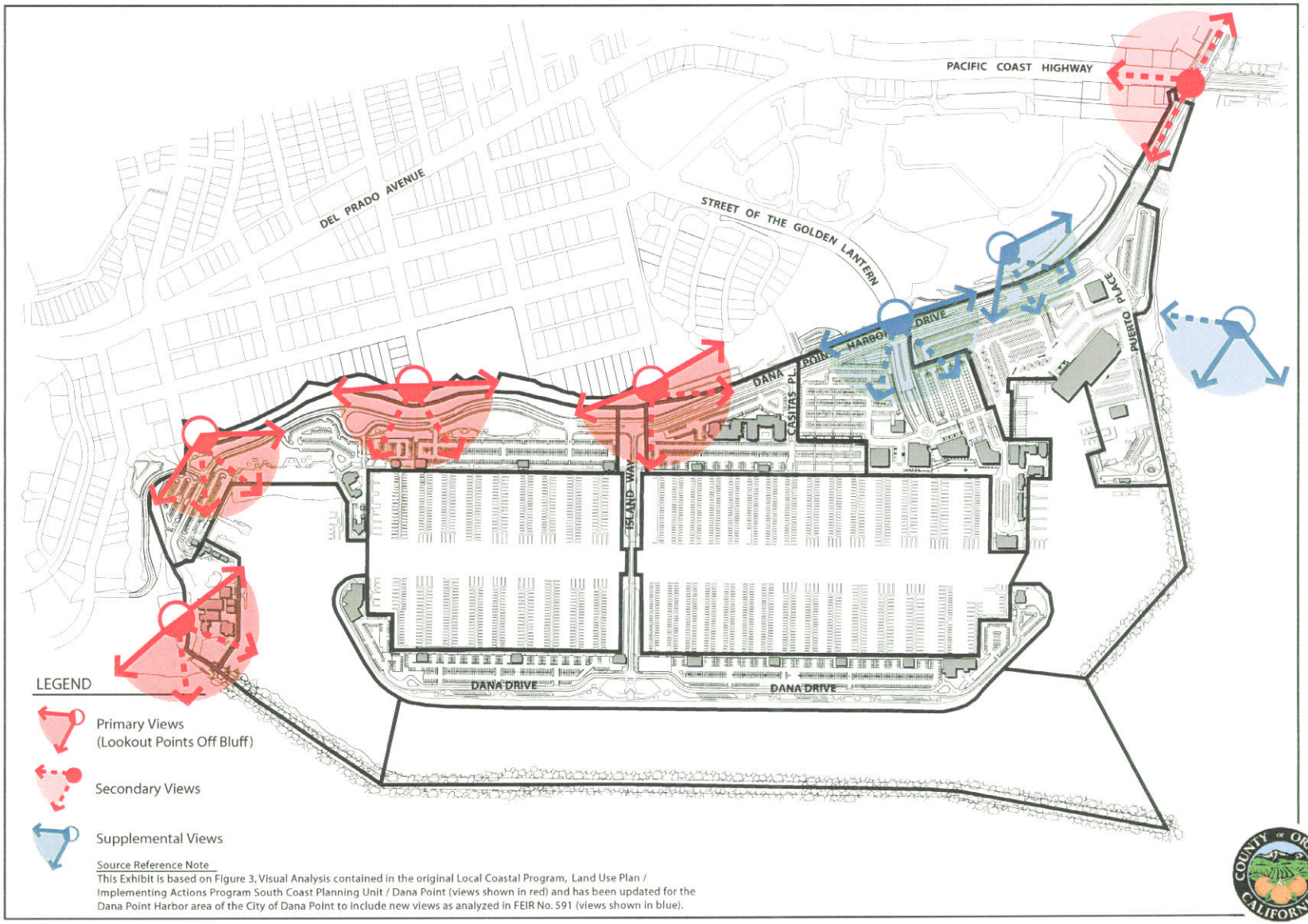
2.4.4 Coastal Act Consistency

Coastal Act §30251 provides, in part:

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

Dana Point Harbor's natural setting borders the Pacific Ocean, principally marked by the Headlands and coastal bluffs. The Headlands is one of the most prominent features of the southern California coastline between Point Loma (in San Diego County) and the Palos Verdes Peninsula (in Los Angeles County). Scenic resources of the City of Dana Point and Dana Point Harbor include vistas and panoramas of the Pacific Ocean and distant views of the Southern California coastline. Primary and secondary views are identified on Exhibit 2-1, *Dana Point Harbor View Corridors.*

Views of the Dana Point Harbor area from Pacific Coast Highway (PCH) are limited as a result of development on and along the coastal bluffs. However, the eastern portion of Dana Point Harbor is partially visible from PCH across Doheny State Beach, including the eastern jetty and portions of the shipyard area of the Harbor. Structures within Dana Point Harbor are partially obstructed by existing eucalyptus trees. Within the Harbor, views from Street of the Golden Lantern consist primarily of commercial buildings, parking areas and landscaping within the existing Mariner's Village and commercial center.



Dana Point Harbor

REVITALIZATION PLAN & DISTRICT REGULATIONS

Supplemental Text

Exhibit 2-1

DANA POINT HARBOR VIEW CORRIDORS

11-2007

Dana Point Harbor Drive serves as a portion of the northerly boundary of the Harbor, providing vehicular access to all the facilities. The existing Harbor area is fully developed, being comprised of buildings of varying heights, surface parking areas, meandering walkways, large open space grass areas that include various types of picnicking facilities, boat slips, docks and other urbanization features.

Implementation of the Dana Point Harbor Revitalization Plan will cause alteration of views from the Street of the Golden Lantern and those areas to the northwest will be altered as a result of the consolidation of the commercial and retail uses along the waterfront, the parking deck and landscape improvements. The reconfiguration of the commercial land uses will also potentially allow additional opportunities to view the marinas with the creation of the Festival Plaza that aligns with the main Harbor entrance from the Street of the Golden Lantern. Views from the public parks located north of the Harbor along the bluffs will be altered by the implementation of the dry boat storage facility.

Current uses within the Harbor area produce light and glare typical of a small-craft Harbor, with relatively limited high-intensity lighting and small amounts of metallic surfaces on existing facilities. Existing on-site light sources include parking lot lighting, interior lighting from the assemblage of buildings that comprise the Commercial Core, security lighting and flood lighting at the boat docks. Occasional special events require temporary lighting, typically placed in the parking lot areas. Glare generation in the Harbor is predominantly a nighttime event. With the exception of the Ocean Institute, there are no buildings that have large glass or polished surfaces.