



Post Office Box 461, Dana Point, California 92629 ~ (949) 485-5656

June 16, 2014

Mayor and City Council
City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629

Subject: Coastal Development Permit # CDP13-0018 Appeal, Dana Point Harbor Revitalization, Commercial Core and Embarcadero Marina

Honorable Mayor and Members of the City Council, City of Dana Point:

The leadership of the Dana Point Boaters Association has been closely following Dana Point Harbor redevelopment efforts since 2002, when after careful study we drafted a three page letter to the Dana Point Harbor Planning Commission, the government agency then responsible for soliciting feedback from members of the general public. Back then we provided specific recommendations for both harbor renewal and maintenance improvements, on the land side as well as the water. In due respect to the current management of OC Dana Point Harbor, we wish to first to point out and strongly emphasize our sincere appreciation for the dedication, hard work and tangible results we've witnessed since our first letter went unacknowledged.

By 2006 boater unrest had grown dramatically which in turn triggered the formation of this organization. In March, 2007 the Dana Point Boaters Association incorporated as a California 501 3 (c)(4) nonprofit corporation. By then it was evident that outside commercial interests were heavily involved and in danger of having excessive influence upon the harbor redevelopment planning outcomes. Over the past seven years we've strived to represent recreational boater interests fairly while at the same time working responsibly with fellow harbor redevelopment stakeholders to make harbor revitalization a success for all its many constituencies. There have since been many significant improvements in harbor redevelopment plans, too numerous to recount here.

In this letter I'm documenting a portion of our concerns regarding the Coastal Development Permit # CDP13-0018, now under appeal, subject to your review on June 17th, 2014. This is not the only letter you will receive today from our leadership on this subject.

The Boaters Association wishes to endorse the CDP application as the project has much merit to the community, and frankly has for too many years been stuck in the planning stages. However, here we have critically important concerns which we feel must be addressed first in order for us to support your approval. Mitigation solutions are identified as bullet points below following each of these concerns.

1. The figure of 140 million dollars, inclusive of all harbor redevelopment including complete replacement of all docks, has been widely quoted by County elected and appointed officials for ten years. The actual figure will no doubt be significantly higher. For example, the estimated cost of the boat barn alone, origi-



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nally 15 million dollars, has been publicly quoted by Harbor officials recently to be over 30 million dollars.

Regardless of whether this 140 million dollar number turns out to be approximately correct, a final budget should be available for scrutiny by the general public, inclusive of both sources and uses of funds, prior to construction of the major portion of harbor redevelopment effort represented by this CDP application. Indeed, public airing of a final budget prior to final approval to proceed is both customary and best practice for ANY major government sponsored public works project.

In the case of Dana Point Harbor however, owned in trust by the People of the State of California with The County of Orange acting as the Trustee and the city of Dana Point acting in the critically important local role overseeing land side development planning, this seems especially appropriate. The Dana Point Tidelands Trust, the legally binding state statute, calls out the continuing maintenance of our harbor for commercial and recreational boating purposes. Per the precise language of the trust agreement, commercial development must be constrained such that it is incidental to this overarching goal.

Further, per applicable County statute as well as California State Lands Commission regulations, slip rents, dry storage rates and commercial rents are all to be set at prevailing market rates for a not-for-profit enterprises. Since this is the law, we assume this is the case today. Given all these considerations, approval of the CDP application in its current form (lacking a budget, a financial plan for the project) could easily be considered a violation of public trust.

Should the published figures quoted above be significantly exceeded during actual construction, then it follows that there would be a requirement to increase harbor tenant rents correspondingly, thereby raising these rents beyond market rates. It also follows that the City of Dana Point could be named as an enabling and therefore legally responsible party in subsequent legal action.

- *An appropriate project financing plan for at least this phase of the total harbor revitalization effort, both sources and uses of funds and including contingency for cost overrun, must be available to the general public as well as the City of Dana Point, prior to final approval of this CDP application.*
 - *A final plan which encompasses the entire scope of harbor redevelopment is also desired. Such a plan would of course be less specific, use approximations and costs ranges rather than hard numbers. This too however must be sufficient to determine City of Dana Point due diligence has been performed as to the integrity of the CDP, in particular as related to confirmation of funds needed to build out the boat barn if it is subsequently approved as it is an assumption necessary for CDP approval.*
2. The proposed project completely eliminates the existing parking lot behind the Dick Simon Yachts building. This lot today provides 119 designated boater parking spaces. Boaters renting slips on the 4 Cove docks L, M, N, and O, typically use these spaces as they are closest to their boats. Boaters on docks N and



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O have no practical alternative to this lot. Today this lot is completely filled most all weekends, as are the spaces in the south end of the designated boater parking lot nearer Mariners Village and Mariners Alley.

The CDP application in its current form makes provision for 72 spaces, which is based (apparently, at least coincidentally) on the ratio of .6 times these 119 those existing spaces. ($119 \times .6 = 71.4$)

However the parking space requirement specified by the LCP is based on the number of slips to be serviced, not the number of existing parking spaces. The reality is that there are 168 slips on these 4 docks. At a ratio of .6 parking spaces per slip, the number of parking spaces necessary with the CDP application if all 4 docks, L, M, N and O are considered then 101 parking slips should be provided by reconstruction. ($.6 \times 168 \text{ slips} = 100.8$) But if only the slips on last 3 docks are considered, M, N and O, then these 122 slips yield a requirement of 74 not 72. ($.6 \times 122 = 73.2$)

More importantly and regardless of the actual number, the CDP application causes for the location of these 72 spaces is to be moved twice during the construction project to increasing distances that make provisioning unfairly difficult.

The current Local Coastal Program (LCP) under which guidelines the CDP was drafted explicitly states that boaters are to receive preferential treatment. Therefore making these mitigations necessary:

- One of the outcomes of the proposed reconstruction is 690 additional parking spaces within a new two-story parking structure. This parking structure is planned to be built on existing dry boat storage land. The land area within the existing Embarcadero Marina is to be significantly reduced to accommodate this structure. *The CDP must explicitly call out the specific locations of designated recreational boater parking in the lower deck of the parking structure closest the water.*
 - It is well known that the Guest docks at the other end of the Cove side near the Sailing and Events center are to be moved “eventually”, per commitments made during over a dozen harbor Boater Focus Group meetings and documented in various project publications and documents. *The CDP application must be revised to explicitly reference the movement of the existing guest docks to docks N and O, before access to the existing parking lot adjacent to these docks is eliminated. (Guest boaters come to the harbor on their boats and so typically do not require vehicle parking.) This CDP application must also be revised to stipulate that the required additional CDP application to the California Coastal Commission will be sought and approved, as necessary for this re-purposing of these docks to occur, prior to execution of any construction contract associated with this CDP application.*
3. According to this CDP application, *If the boat barn is actually built* (a separate California Coastal Commission CDP submission and approval process is required, at an initiation date in the future not yet been disclosed), then the total of 516 storage surface spaces, for boats and their trailers, which officially existing today will be replaced by 105 spaces with boats with trailers and 390 spaces for boats without trailers. The result will be a total of 495 spaces after construction of the boat barn. But during the construction requested by the current CDP application, the availability figure actually falls to near zero.



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Indeed, at certain points during the construction this CDP proposes that all dry boat storage within the harbor be completely eliminated.

- *The upper deck of the proposed parking structure must be dedicated to dry boat structure during construction.*
 - *A permanent access ramp suitable for tow vehicles with trailers must be provided to afford direct access from/to the Embarcadero Marina.*
4. According to this CDP application, *if the proposed boat barn is not proposed, approved and built*, then only 105 dry storage spaces total will be available on permanent basis upon completion of construction according to the CDP application. If the land surface area the boat barn would occupy were used instead for dry storage, as we have been advised by OC DPH would be the case, then that the total number of permanently available dry storage spaces would climb back to 225 to 230.

That's right, if the boat barn is not built, the official number of permanently available dry boat storage spaces will go from 516 today (the number of spaces is actually is higher due to boats now stored in other locations within the Embarcadero including the boat yard) to a maximum of only 230.

This is reduction of dry boat storage spaces available within Dana Point Harbor greater than 55 percent.

- *We reluctantly conclude that a final decision on the boat barn must occur prior to approval of the current CDP application.*
- *If the boat barn is not to be built then an alternative must be identified. If a feasible alternative is not found then the scope of the reconstruction must be scaled back to accommodate more boats.*

Thank you for your consideration and understanding of the critical nature of these recreational boating concerns. In closing we wish to again assure you of our strong desire to see the harbor redevelopment effort finally reach a successful conclusion, as rapidly as due diligence permits.

We must however also reiterate the consequences of poor planning are both extremely severe and irreversible. We therefore feel it is most important to make sure all aspects of this milestone project are properly attended to prior to your final approval to proceed. Lacking that, it is also almost a certainty that there will be further delays as a result of appeal to the California Coastal Commission.

Most respectfully,

Rodger Beard
President
Dana Point Boaters Association