

CITY OF DANA POINT
AGENDA REPORT

Reviewed By:	
DH	X
CM	X
CA	X

DATE: JANUARY 11, 2006

TO: CITY MANAGER/CITY COUNCIL

FROM: KYLE BUTTERWICK, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: AMENDMENT TO SITE DEVELOPMENT PERMIT SDP99-61(II) TO ALLOW AN ENTRY GATE AT THE BAL HARBOUR COMMUNITY

RECOMMENDATION: That the City Council take action to:

APPROVE THE REQUEST TO AMEND SITE DEVELOPMENT PERMIT SDP99-61(II) TO ALLOW AN ENTRY GATE AT THE BAL HARBOUR COMMUNITY.

ISSUES: A request to allow an entry gate at the Bal Harbour Community was approved by the City Council on November 30, 2005.

DISCUSSION:

The Bal Harbor Community submitted an application requesting an amendment to an existing development permit (SDP99-61(II)) which allowed for the construction of the Bal Harbor Development. Approval of the 43 unit residential development in October 1999, included a motion by the City Council that vehicular gates would not be permitted. The City Council considered the application at a noticed public hearing on November 30, 2005 and requested staff to return with a Resolution approving the amendment. Action Document A includes the draft Resolution for the Council's consideration.

CONCLUSION:

As requested by the City Council on November 30, 2005, a draft Resolution approving the amendment is provided as Action Document A.

ACTION DOCUMENTS:

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ACTION DOCUMENT A**RESOLUTION NO. 06-01-11-XX****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING AN APPLICATION TO AMEND SITE DEVELOPMENT PERMIT SDP99-61(II) TO ALLOW AN ENTRY GATE AT THE BAL HARBOUR COMMUNITY.**

The City Council for the City of Dana Point does hereby resolve as follows:

WHEREAS, the Applicant has made an application to amend Site Development Permit SDP99-61(II) to permit a vehicular entry gate at the Bal Harbour Community; and

WHEREAS, said verified application constitutes a request as provided by Title 7 of the Dana Point Municipal Code; and

WHEREAS, the subject property is governed under the provisions of the Dana Point Zoning Code, which contains provisions related to new development; and

WHEREAS, the entitlement for the Bal Harbour Community included a condition that gates would not be permitted and an amendment to the Site Development Permit would be required; and

WHEREAS, the City Council did, on the 30th day of November, 2005, hold a duly noticed public meeting as prescribed by law to consider said request; and

WHEREAS, at said public meeting, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, said City Council approved the application to amend SDP99-61(II).

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Dana Point as follows:

- A) The above recitations are true and correct.
- B) Based on evidence presented at the public hearing, the City Council adopts the following Findings and approves the amendment to Site Development Permit SDP99-61(II) subject to the following Findings and Conditions.

Findings

1. That this project is Categorical Exempt (Class 3 – Section 15303 – New Construction of Small Structures) from provisions of the California Environmental Quality Act because it consists of construction of a vehicular entry gate.
2. That the action proposed is consistent with the Dana Point General Plan and Dana Point Zoning Code.
3. The site is suitable for the proposed vehicular gate.
4. The site and structural design are appropriate for the site and function of the proposed use.
5. That the vehicular gate would not prohibit access to public trails which exist within the Bal Harbour Community.

Conditions of Approval

1. Approval of this application is for an amendment to Site Development Permit SDP99-61(II) to allow construction of a vehicular access gate at the Bal Harbour Community located at the terminus of Capistrano by the Sea.
2. Approval of this application is valid for a period of twenty-four (24) months from date of determination. If use approved by this action is not established within such period of time, the application shall be terminated and shall thereafter be null and void.
3. This application is approved as a precise plan for location and design of uses, structures, features, and materials shown on approved plans. Relocation, alteration, or addition to any use, structure, feature, or material not specifically approved will nullify this approving action. If changes are proposed regarding location or alteration of a use or structure, an amendment to this permit shall be submitted for approval by the Director of Community Development. If the Director of Community Development determines the proposed change complies with provisions, spirit and intent of this approval action, and the action would have been the same for the amendment as for the approved plot plan, he/she may approve the amendment without requiring a new public hearing.
4. Failure to abide by and faithfully comply with any and all conditions attached to granting this permit shall constitute grounds for revocation of said permit.
5. The Applicant and Owner, and their successors, heirs, and assigns, shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any claim, action, or proceeding against the City, its agents, officers, or

employees to attack, set aside, void, or annul the approval granted by this Resolution, which action is brought within the appropriate statute of limitations period.

The Applicant and Owner, and their successors, heirs, and assigns, shall further defend, indemnify and hold harmless the City, its officers, agents, and employees from any and all claims, actions, or proceedings against the City, its agents, officers, or employees arising out of or resulting from negligence of the applicant or the applicant's agents, employees, or contractors.

6. The Applicant and Owner, and their successors in interest shall be fully responsible for knowing and complying with all conditions of approval, including making known the conditions to City staff for future governmental permits or actions on the project site.
7. The Applicant and Owner, and their successors in interest shall be responsible for payment of all applicable fees.
8. The Applicant shall obtain a building permit and/or grading permit for proposed improvements.
9. The Applicant shall submit two (2) sets of construction documents that include the following: Building Plans (3 sets); Structural Calculations; Energy Calculations; Soils/Geology Report; and, Drainage Plan. All documents prepared by a professional shall be wet-stamped and signed.
10. The construction document shall identify the location of signage which would indicate that trails are accessible to the public.
11. Conditions of Approval shall appear on submitted drawings.
12. The Applicant shall submit three (3) sets of building plans directly to the Orange County Fire Authority for review and approval. A fire sprinkler system is required.
13. Buildings shall comply with the most recently adopted local and State Building Code regulations, including 2001 CBC Series, and shall comply with State amendments for energy conservation.
14. Signage indicating trails are accessible to the public shall be installed prior to finalizing the project.
15. The Bal Harbour Community shall not preclude public parking along the Community's private streets (on Capistrano by the Sea) located outside the proposed gate location, except as necessary and required by the Orange County Fire Authority.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Dana Point, California, held on this 11th day of January, 2006.

Lara Anderson, MAYOR

ATTEST:

Elizabeth Ehring, City Clerk

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF DANA POINT)

I, Elizabeth Ehring, City Clerk of the City of Dana Point, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 06-01-11-XX adopted by the City Council of the City of Dana Point, California, at a regular meeting thereof held on the 11th day of January, 2006, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Elizabeth Ehring
City Clerk