

**CITY OF DANA POINT  
AGENDA REPORT**

<b>Reviewed By:</b>	
DH	<u>  X  </u>
CM	<u>  X  </u>
CA	<u>    </u>

**DATE:** APRIL 12, 2006

**TO:** CITY MANAGER/CITY COUNCIL

**FROM:** KYLE BUTTERWICK, DIRECTOR OF COMMUNITY DEVELOPMENT

**SUBJECT:** SECOND READING AND ADOPTION OF REGULATIONS RELATED TO RESIDENTIAL BUILDING HEIGHT (ZTA06-02/LCPA06-02)

**RECOMMENDED ACTION:** That the City Council adopt the attached Ordinance to amend the Zoning Code and Local Coastal Program regulations pertaining to residential building height (Action Document A).

**ISSUES:**

1. Is the proposal consistent with the goals and policies of the Dana Point General Plan?
2. Is the proposal consistent with the Dana Point Local Coastal Program?

**STRATEGIC PLAN IMPLEMENTATION:**

In compliance with the Strategic Plan Initiative to evaluate land issues to ensure the goals, policies and programs of the General Plan reflect the community's vision and mission.

**BACKGROUND/DISCUSSION:**

At a regular meeting held March 22, 2006, the City Council introduced and conducted a first reading of an Ordinance amending the Dana Point Zoning Code and Local Coastal Program regulations pertaining to residential building height. At that meeting, the Council directed staff to make two changes to the Ordinance; 1.) Reduce the maximum allowed building height above a street curb from 15 feet to 14 feet and; 2.) Add a requirement for story pole staking for all new applications utilizing the additional building height that will be afforded to hillside lots. Those changes have been incorporated into the Ordinance amendment.

New, three story development of residentially zoned properties on hillsides will continue to be subject to a case-by-case review of a Site Development Permit by the Planning Commission. The key elements of the Ordinance, including the Council's revisions, are listed below:

- New height limits allowing additional 5 feet in height only for residential structures on hillside properties.

- Clarification adding flexibility to the requirements for setbacks/step backs at upper stories.
- Removes the limits to “habitable space” at the garage level.
- Reduces the maximum allowed building lot coverage standards for single family zones, from 60% to 50%.
- Revises standards for roof decks, disallowing permitted encroachments above height limits, i.e. “dog houses”.
- Allows greater driveway slope gradients to access a garage.
- Additional requirement for a maximum .75 floor area ratio (FAR) for steeply sloping building sites.
- Additional requirement placing a 14 foot limit on the height of residential structures above an upper street or upper property line.
- Installation of story poles as part of an application for a Site Development Permit for three story structures.

**CONCLUSION:**

The proposed Ordinance amendment improves the development standards for residential hillside properties. The proposed ordinance continues to allow the City to review each project on a case-by-case basis and to include conditions based on the unique merits of each project. It is recommended that the City Council approve Zone Text Amendment ZTA06-02 and Local Coastal Program Amendment LCPA06-02.

**NOTIFICATION AND FOLLOW-UP:**

Notification of the proposed ordinance was published in the newspaper in accordance with the noticing requirements. In addition, all affected agencies and interested parties were provided notice of the hearing date. The Council’s action is final unless modified through legal action.

**FISCAL IMPACT:**

No fiscal impact is anticipated.

**ACTION DOCUMENTS:**

**Page No.**

A. <a href="#">Draft Ordinance #06-XX</a> .....	3
<a href="#">Exhibit A – Code Amendment Language</a> .....	8

**SUPPORTING DOCUMENTS:**

None.

**ACTION DOCUMENT A****ORDINANCE NO. 06-XX****AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, FOR A ZONE TEXT AMENDMENT AND LOCAL COASTAL PROGRAM AMENDMENT TO THE CITY OF DANA POINT ZONING CODE REGULATIONS FOR RESIDENTIAL ZONES.**

APPLICANT: Community Development Department  
FILE NUMBER: 0610-15/ZTA06-02/LCPA06-02/Citywide

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

WHEREAS, the City has conducted a review of height variances requested for residential structures located hillside lots; and

WHEREAS, the City desires to modify the height regulations to address the unique constraints posed by hillside lots; and

WHEREAS, the City Council created the Residential Building Height Task Force to make recommendations to the Planning Commission for improvements to the building height regulations for hillside properties; and

WHEREAS, the Planning Commission did, on the 1st of March, 2006, hold a duly noticed public hearing as prescribed by law to consider the recommendations of the Residential Building Height Task Force and voted to recommend the City Council approve the said request; and

WHEREAS, the City Council did, on the 22nd of March, 2006, hold a duly noticed public hearing as prescribed by law to consider said request; and

WHEREAS, as said public hearing, upon hearing and considering all testimony, if any, of all persons desiring to be heard, said Council considered all factors to Zone Text Amendment ZTA06-02 and Local Coastal Program Amendment LCP06-02; and

WHEREAS, the City's proposed amendments are identified as Exhibit A, attached hereto and made a part of this Ordinance.

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

- A) That the above recitations are true and correct.
- B) That based on the evidence presented at the public hearing, the Council adopts the following findings:

Findings:

1. That the public and affected agencies have had ample opportunity to participate in the review of the Ordinance which will require an amendment to the City's Zoning Code (ZTA06-02) and Local Coastal Program (LCPA06-02) and the City Council of the City of Dana Point reviewed the item at a public hearing on March 22, 2006.
2. The amendment proposed is consistent with the Dana Point General Plan and Local Coastal Program.
3. The proposed amendment complies with all other applicable requirements of state law and local ordinances.
4. That the public and affected agencies have had ample opportunity to participate in the Local Coastal Program Amendment (LCPA) process. Notice for the proposed action included a 1/8th page advertisement published in the Dana Point News on March 7, 2006. Notice of the hearing was mailed to affected agencies and interested parties. Notices were also posted on March 8, 2006 at the Dana Point City Hall, the Dana Point Post office, the Capistrano Beach Post office, and the Dana Point Library.
5. That all policies, objectives, and standards of the LCPA conform to the requirements of the Coastal Act, including that the land use plan as amended is in conformance with and adequate to carry out the Chapter Three policies of the Coastal Act.
6. That the Coastal Act policies concerning specific coastal resources, hazard areas, coastal access concerns, and land use priorities have been applied to determine the kind locations, and intensity of land and water uses. The proposed amendment would not result in any modifications to the City's land use plans. Therefore, no changes of intensity of land and water uses would occur.
7. That the level and pattern of development proposed is reflected in the Land Use Plan, Zoning Code, and Zoning Map. No changes to the level and pattern of development would occur as result of the proposed LCPA. Therefore, the LCPA is reflected in the City's existing General Plan, Zoning Code and Zoning Map.
8. That a procedure has been established to ensure adequate notice of interested persons and agencies of impending development proposed after certification of the LCPA. The proposed LCPA would not result in development beyond what is identified in the existing General Plan. Noticing of impending development to occur after certification of the LCPA will be consistent with procedures detailed in the City's Zoning Code.

9. That zoning measures are in place (prior to or concurrent with the LCPA) which are in conformance with and adequate to carry out the coastal policies of the Land Use Plan. The City's existing Zoning Code is in conformance and adequate to carry out the coastal policies of the General Plan.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, is for any reasons held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

PASSED, APPROVED, AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2006.

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LARA ANDERSON, MAYOR

ATTEST:

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ELIZABETH EHRING,  
CITY CLERK

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

I, ELIZABETH EHRING, City Clerk of the City of Dana Point, California, do hereby certify that the foregoing Ordinance No. 06-xx was duly introduced at a regular meeting of the City Council on the 22<sup>nd</sup> day of March, 2006, and was duly adopted and passed at a regular meeting of the City Council on the \_\_\_ day of \_\_\_\_\_, 2006, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

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ELIZABETH EHRING, CITY CLERK

ORDINANCE NO. 06-xx

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

AFFIDAVIT OF POSTING  
AND PUBLISHING

ELIZABETH EHRING, being first duly sworn, deposes, and says:

That she is the duly appointed and qualified City Clerk of the City of Dana Point;

That in compliance with State Laws of the State of California, ORDINANCE NO. 06-XX, being:

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING A ZONE TEXT AMENDMENT ZTA06-02 AND LOCAL COASTAL PROGRAM AMENDMENT LCPA06-02 TO THE CITY OF DANA POINT ZONING CODE REGULATIONS FOR RESIDENTIAL ZONES.**

was published in summary in the Dana Point News newspaper on the \_\_\_\_ day of \_\_\_\_\_, 2006, and the \_\_\_\_ day of \_\_\_\_\_, 2006, and, in further compliance with City Resolution No. 91-10-08-1, on the \_\_\_\_ day of \_\_\_\_\_, 2006, and the \_\_\_\_ day of \_\_\_\_\_, 2006, was caused to be posted in four (4) public places in the city of Dana Point, to wit:

- Dana Point City Hall
- Capistrano Beach Post Office
- Dana Point Post Office
- Dana Point Library

\_\_\_\_\_  
ELIZABETH EHRING  
CITY CLERK  
Dana Point, California

## EXHIBIT A

### To CITY COUNCIL ORDINANCE 06-xx AMENDMENTS TO RESIDENTIAL BUILDING HEIGHT STANDARDS

#### Section 9.05.110 (a)(4) - Measurement of Building Height, to be amended as follows:

(4) Subject to the approval of a Site Development Permit, a residential structure proposed in a hillside condition may be allowed to have three stories in accordance with the following provisions:

(A) For purposes of this Section, a hillside condition shall mean a lot with a topographic slope percentage, as defined in Section 9.75.190, either front to rear or side to side, of twenty (20) percent or greater. The topographic slope percentage shall be calculated by determining the vertical differential between the highest elevation point of the property at the front or rear property line (whichever is higher) and the lowest elevation point along the opposing rear or front property line (which ever is lower) or between the highest elevation point along the higher side property line to the lowest elevation point along the opposing, lower side property line and dividing that vertical differential by the horizontal distance between the two points.

(B) Three story structures shall be designed so that the second story has an average, additional yard setback area of five feet (5') times the total width of the structure at the street elevation and the third story, an average additional yard setback area of ten feet (10') times the total width of the structure at the street elevation. This additional setback area shall occur on the portions of the structure having three stories exposed above grade. Maximum allowed projections into the additional setback areas are as specified in Section 9.05.080 (Projections into Required Yard Areas).

(C) Residential structures having three stories shall be limited to a maximum Floor Area Ratio (FAR) of .75 the area of the lot, excluding garage area. The amount of garage area in excess of that required for minimum compliance with parking standards, as specified in Section 9.35.070, shall be considered part of the floor area when calculating the FAR.

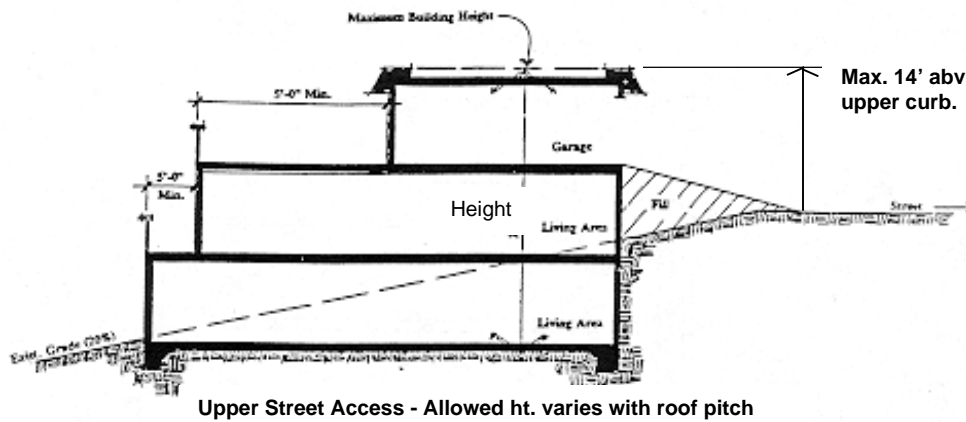
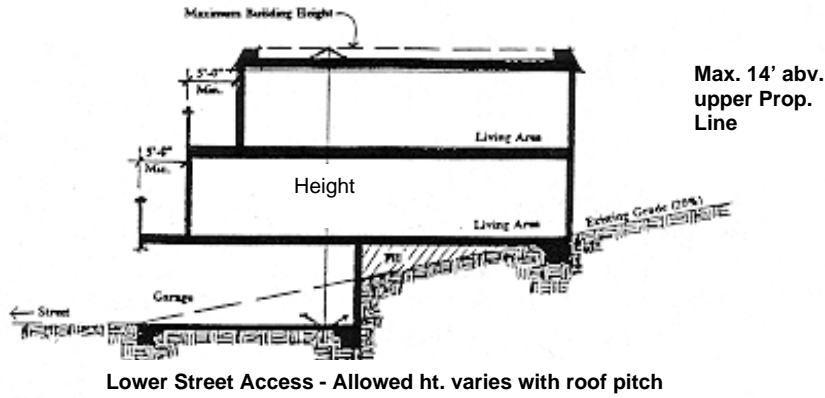
(D) Building height shall be measured as specified in Section 9.05.110 (a)(2), and in no case may the overall height of the structure exceed thirty-three (33) feet or as specified in Section 9.05.110 (a)(7).

(E) The applicant shall demonstrate that the proposed design will result in a reduction in grading and the disruption to existing topography that would be incurred with a standard two-story design on the subject site, pursuant to Section 9.05.110(a)(2), to the satisfaction of the Director of Community Development.

(F) The height of the third story shall not exceed a height of fourteen (14) feet above the upper property line or upper street curb elevation, as measured perpendicular to any point along said line or curb.

(G) Applications for Site Development Permits to allow three story developments on hillside properties shall include story pole staking as described in the City's application requirements for a Site Development Permit.

SECTION 9.05.110(a)(4)  
MEASUREMENT OF BUILDING HEIGHT  
IN HILLSIDE CONDITIONS



(5) Building height for new residential subdivisions shall be measured from finished grade, subject to approval by the Planning Commission.

(6) Additional criteria in determining maximum building height in residential districts are as follows:

Criteria	Height Limit
Roof pitch of 6/12 or greater	28 feet
Roof pitch of 3/12 or greater but less than 6/12	26 feet
Roof pitch of less than 3/12	24 feet

(7) Building height for hillside lots in residential districts is as follows:

Criteria	Height Limit
<b><i>Lots with 20% or greater slope per Section 9.05.110 (a)(4)</i></b>	
Roof pitch of 6/12 or greater	33 feet
Roof pitch of 3/12 or greater but less than 6/12	31 feet
Roof pitch of less than 3/12	29feet

**Section 9.05.230 - Roof Decks, to be amended as follows:**

9.05.230 Roof Decks.

Roof decks are permitted, subject to approval of a Minor Site Development Permit, in any zoning district provided that they meet the following development standards:

(a) In residential districts, the permitted area of all roof decks per dwelling unit may not exceed twenty-five (25) percent of the roof area of the story directly below the deck or three hundred (300) square feet, whichever is less.

(b) In residential districts, the guardrail and other objects, whether permanent or temporary, which rest upon the roof deck such as patio furniture, landscaping, and storage, may not exceed the district's required height limit as specified in Section 9.05.110(a).

(c) The roof deck shall be architecturally compatible with the existing exterior materials and colors of the existing structure, and appear as an integral part of the roof system.

(d) The roof deck area shall be appropriately designed so as not to be visible from all sides of the structure or from the grade below.

Appropriate screening shall be architecturally compatible with and integrated into the existing structure as determined by the Director of Community Development. The solid screening may include roofing, solid parapet walls, or other methods architecturally compatible with the design of the structure.

(e) The deck shall be compatible with the color of the existing roof material or structure, yet it shall not be of a color that would reflect glare onto surrounding properties at a higher elevation.

(f) In residential districts, exterior stairways and other access features such as stairwells or elevators for access to roof decks shall not exceed the residential zoning district's height limit and shall be architecturally integrated into the design of the structure.

(g) All furniture and accessories located on a roof deck shall be secured as necessary to prevent wind damage or dislocation.

**Section 9.35.050(b)(3)– Access, to be amended as follows:**

(3) Driveway Grades:

(A) Entry Driveways:

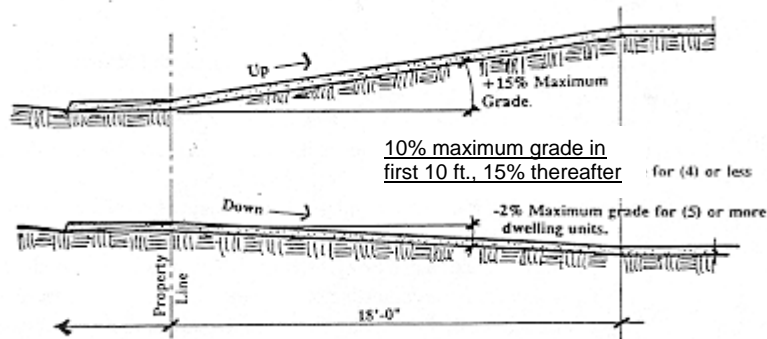
1. Four (4) or less residential dwellings:

Whenever access is taken from a street, alley, or driveway to off-street parking serving four (4) or less dwelling units, the driveway shall have a maximum grade of ten percent (10%), measured along the driveway centerline, for a distance of not less than ten (10) feet from the ultimate street, alley, or driveway right-of-way line and fifteen percent (15%) thereafter. Exhibit 9.35-1 illustrates these specifications.

2. Non-residential land use or 5 or more residential dwellings:

Whenever access is taken from a street, alley or driveway to an off-street parking area serving non-residential land use or five (5) or more dwelling units, the driveway shall have a maximum grade of plus fifteen (15) percent or minus two (2) percent, measured from the street, alley or driveway grade along the driveway centerline for a distance of not less than eighteen (18) feet from the ultimate street, alley, or driveway right-of-way line. Exhibit 9.35-1 illustrates these specifications.

EXHIBIT 9.35-1  
MAXIMUM ENTRY DRIVEWAY GRADES



**A footnote to Section 9.09.030 - Development Standards, shall be added as follows:**

(12) The maximum lot coverage standard for hillside lots, as defined in Section 9.05.110(a)(4)(A), within the RSF7, RSF12 and RSF22 Zoning Districts shall be no greater than fifty percent (50%).