
**CITY OF DANA POINT
PLANNING COMMISSION
REGULAR MEETING MINUTES**

July 6, 2005
7:04-11:26 p.m.

City Hall Offices
Council Chamber (#210)
33282 Golden Lantern
Dana Point, CA 92629

CALL TO ORDER – Chairwoman O'Connor called the meeting to order.

PLEDGE OF ALLEGIANCE – Todd Litfin led the Pledge of Allegiance.

ROLL CALL

Commissioners Present: Commissioner Norman Denton, Chairwoman April O'Connor, Commissioner Greg Powers, Vice-Chairman J. Scott Schoeffel, and Commissioner Steven Weinberg

Staff Present: Kyle Butterwick (Director), Todd Litfin (Assistant City Attorney), John Tilton (City Architect/Planning Manager), Kurth Nelson (Project Planner), Brenda Chase (Senior Planner), Erica Williams (Senior Planner), Robert Kain (Permit Coordinator), and Bobbi Ogan (Planning Secretary)

A. APPROVAL OF MINUTES

ITEM 1: **Minutes of the regular Planning Commission Meeting of June 15, 2005.**

ACTION: **Motion made (Weinberg) and seconded (Powers) to approve the Minutes of the regular Planning Commission Meeting of June 15, 2005. Motion carried 4-0-1. (AYES: O'Connor, Powers, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: Denton)**

B. PUBLIC COMMENTS

There were no Public Comments.

C. CONSENT CALENDAR

ITEM 2: General Plan Consistency Finding (GPC05-01); City of Dana Point, Capo Beach Storm Drain Easement.

Applicant: City of Dana Point, Public Works Department

Recommendation: That the Planning Commission adopt the attached draft Resolution finding that the acquisition of an easement for the Capistrano Beach Storm Drain is consistent with the City's General Plan.

ITEM 3: A request for Historical Resource Designation; 24440 Santa Clara.

Applicant: Lynn Muir
Owner: Steven Cary
Location: 24440 Santa Clara

Request: To designate a single-family residence located at 24440 Santa Clara as a historical structure and place the residence on the Dana Point Historic Resource Register.

Environmental: This project is categorically exempt (Class 31 – Section 15331 – Historical Resource Restoration/Rehabilitation) from the provisions of the California Environmental Quality Act (CEQA) because it consists of preservation of an existing historical single-family residence.

Recommendation: That the Planning Commission adopt the attached draft Resolution designating the single-family residence located at 24440 Santa Clara as a locally significant historical structure.

ACTION: Motion made (Schoeffel) and seconded (Weinberg) to approve the Consent Calendar. Motion carried 5-0. (AYES: Denton, O'Connor, Powers, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: None)

Commissioner Weinberg recused himself from the following item at 7:07 p.m.

D. PUBLIC HEARINGS

ITEM 4: (Continued from the regular Planning Commission meeting of June 15, 2005) Coastal Development Permit CDP03-21 and Mitigated Negative Declaration for the development of a portion of a 14.66 acre vacant lot at 32354 Caribbean Drive, with a 19,448 square foot, two-story, single-family residence that includes 5,864 square feet of basement area; a two-story 3,742 square foot, detached theatre/bowling alley; a 400 square foot detached observatory and; a detached, 820 square foot caretaker's residence with Site Development Permit SDP03-60M to allow retaining walls as high as

21 feet to stabilize the slope adjacent to Caribbean Drive and to create vehicular access, building pads, and outdoor living areas for property located in the Residential Single Family (RSF-2) and Open Space (OS) Zones.

Applicant: Fleetwood Joiner, Fleetwood Joiner and Associates, Inc.
Owners: Lapar Partnership; Lawrence and Pary Simpson
Location: 32354 Caribbean Drive

Request: A Mitigated Negative Declaration, Coastal Development Permit, and Site Development Permit for the development of a portion of a 14.66 acre vacant lot with a 19,448 square foot, two-story, single-family residence that includes 5,864 square feet of basement area; a two-story 3,742 square foot, detached theatre/bowling alley; a 400 square foot detached observatory and; a detached, 820 square foot caretaker's residence with retaining walls as high as 21 feet to stabilize the slope adjacent to Caribbean Drive and to create vehicular access, building pads, and outdoor living areas for property located in the Residential Single Family 2 (RSF 2) and Open Space (OS) Zones.

Environmental: A Mitigated Negative Declaration (MND) has been prepared for the project in accordance with Section 15070 of the California Environmental Quality Act (CEQA) for the Commission's review and adoption. The MND was circulated to the State Clearinghouse for 30 days on February 7, 2005. A notice of intent to adopt negative declaration was posted with the County Clerk and on the site on the same day, and published in the newspaper on February 6, 2005. The review period ended March 8, 2005. Two comment letters were received in response to the circulation of the MND and are attached as Supporting Documents for the Commission's consideration.

Recommendation: That the Planning Commission take the following actions:

- 1) Adopt the attached Resolution adopting a Negative Declaration for the project; and
- 2) That the Planning Commission adopt the attached Resolution approving Coastal Development Permit CDP03-21 and Site Development Permit SDP03-60M.

Kyle Butterwick (Director) stated that the purpose of the continuance from the last meeting was to allow the applicant and staff time to review and prepare responses to a number of questions that were introduced by both members of the Planning Commission and residents of this neighborhood. He added that a representative from Zeiser Kling who performed the third party review on behalf of the City was available this evening to answer any questions. He stated that the staff report for this project has not changed and that staff is recommending approval of the project.

Thomas Stewart (Architect – Laguna Beach) introduced the team of consultants who were present at the meeting on behalf of the homeowner.

Kevin Trigg (Geofirm - San Clemente) provided a PowerPoint presentation on the three (3) landslides that had been documented on the property. He stated that the primary focus of their study was on the access road and the handling of landslides one and two. He added that the second part of the study was focused on landslide three and how that would be addressed and dealt with and the third party of their study was focused on the residence and the proper development of that site. He explained that the easiest way to remove the problem areas would be to remove the landslide and replace it with compacted fill. He stated that the factors of safety will be increased as a result of the construction that is proposed. He added that they do plan to do more study on this site and when they get to the grading plan review level of development, more drilling and analysis will take place to ensure that the findings of this study are correct and consistent with the conditions of the property.

Charlie Eaton (Retaining Walls Company – Escondido) provided PowerPoint slides of the proposed crib block walls. He stated that the walls would be fully plantable and is graffiti resistant. He added that they would receive soil information from the geologist, the structural engineer would do the structural design for this specific site. He stated that the design would be reviewed by the geologist for any corrections prior to submittal to the City.

Carlos Alba (ACE Civil Engineering – Mission Viejo) felt that with the numerous conditions for drainage, that the proposed project would improve the existing conditions on the property.

Bob Moore (Dana Point) stated that he was opposed to the project as presented. He added that his concerns were the volume of earth to be removed, the cut that will be required, and the ground water coming from the base of the property.

Salvatore DiMascio (Dana Point) felt that the proposed project made no sense because of the homes that are located above and below the site. He stated that he did not support the development.

Richard Dombrow (Dana Point) felt that the project was inappropriate and out of character with the neighborhood. He stated that the environment would be harmed by the construction of this project.

Kenneth Braun (Dana Point) stated that if the development of the property would stabilize the slope and correct the drainage, then he would support the project.

Lars Wiedermann (Dana Point) stated that his main concern was further destabilization of the slope and how it would affect his home. He added that he did not support the proposal.

Jim Lenthall (Dana Point) felt that there was inadequate notification of this project and that the residents have had little time to react to the proposal. He stated that the other retaining walls needed for the development of the property were not addressed. He added that they would like to see something done with this property but felt that a 30,000 square foot project was not appropriate..

Polly Sloan (Dana Point) stated that she was concerned about the water and rocks that come from this property onto the road. She added that she would like to see something aesthetically pleasing. She felt that the size of the proposed development was out of character with their neighborhood.

Mike Mata (Dana Point) stated that he was concerned about the date of the studies that were performed for this development. He asked if the City would be able to recoup the costs for the wear and tear on the public streets caused by the construction and what could be done about the additional construction traffic on the street. He felt that there should be a security requirement.

Arnold Applebaum (Dana Point) stated that he had reviewed the project file and that he was concerned with the inconsistencies he found. He felt that drainage was a major problem for this site and that the retaining wall that was proposed would be inadequate.

Stuart Hilborn (Dana Point) stated that no one was supporting this project and felt that staff was only supporting the project so that the erosion on Caribbean would be corrected at the risk of the surrounding homes. He asked the Planning Commission to deny the project.

Linda Rappaport (Dana Point) stated that she had serious concerns about the geologic issues.

Lynn Muir (Dana Point) stated that he supported the project and that he couldn't understand how people could stop other people from developing their property which is their right.

Kevin Trigg (Geofirm – San Clemente) *provided the following in response to the questions raised by the residents. He stated that the springs should not be capped because you want the water out, not allow it to build up hydrostatic pressure. He added that the retaining walls for the house will be designed to re-establish the lateral load and place it against the hill as if the rock was there. He stated that the home that is proposed has far more void space and more volume than the hillside and the mass that will be removed. He added that the net effect is essentially a loss of load on the pad area and the slope supporting the pad area.*

Matt Rogers (Zeiser Kling) provided comments on the third party review that he did on behalf of the City.

Chairwoman O'Connor closed the Public Hearing.

Kyle Butterwick (Director) stated that as part of the City's environmental review process that there was a very involved biological analysis of this property and that analysis did disclose significant environmental areas that will be the subject of preservation. He added that there is a standard procedure that requires a construction staging plan to be submitted to the City and that there would be a pre-construction meeting would be required to coordinate the construction staging. He stated that bonds would be placed with the City for the repair of the street and that construction fencing would be required.

John Tilton (City Architect/Planning Manager) stated that the sensitive habitat would be clearly fenced and marked. He added that 75 percent of the fifteen (15) acre site will remain undisturbed by development. He stated that the curb and gutter and the street along the frontage of the property will be replaced whether there is damage or not.

Chairwoman O'Connor recessed the meeting at 8:42 p.m.

Chairwoman O'Connor reconvened the meeting at 8:50 p.m.

Commissioner Powers felt that the project would not be too large for the property. He stated that the property should be developed and agreed with the condition for retaining walls to be built prior to issuance of any permits. He added that a condition should be added precluding the construction crews from parking on the public street or storing construction materials on the street.

Vice-Chairman Schoeffel stated that he was satisfied with the information that was received at tonight's meeting. He added that the project complies with zoning for the property and that he would support the project.

Chairwoman O'Connor stated that the proposed development meets all requirements of the Zoning Code. She felt that there was a balance of the environmental concerns with this proposal. She stated that she would support the project.

Commissioner Denton stated that it was important that 75 percent of the site would remain natural. He added that he would support the project.

ACTION: **Motion made (Schoeffel) and seconded (Denton) to adopt Resolution 05-07-06-28 approving a Mitigated Negative Declaration and corresponding Mitigation Monitoring Program for Coastal Development Permit CDP03-21 and Site Development Permit SDP03-60M. Motion carried 4-0-1. (AYES: Denton, O'Connor, Powers, Schoeffel NOES: None ABSENT: Weinberg ABSTAIN: None)**

ACTION: Motion made (Schoeffel) and seconded (Denton) to adopt Resolution 05-07-06-29 approving Coastal Development Permit CDP03-21 and Site Development Permit SDP03-60M subject to the inclusion of a new condition regarding construction parking on Caribbean Drive. Motion carried 4-0-1. (AYES: Denton, O'Connor, Powers, Schoeffel NOES: None ABSENT: Weinberg ABSTAIN: None)

Commissioner Weinberg returned to the meeting at 9:25 p.m.

ITEM 5: Coastal Development Permit CDP04-15 and Site Development Permit SDP04-52 to allow the demolition of an existing single-family residence and tennis court on two (2) adjoining lots with a corresponding lot line adjustment to allow the construction of a new two (2) story, 5,257 square foot single-family residence with 441 square feet of attached garage space and a 731 square foot detached office and garage located in both the Residential Beach Road (RBR 12) Zoning and Floodplain Overlay (FP-3) Districts at 35475 and 35481 Beach Road.

Applicant: Mark Warren
Owners: Steve and Diane Muller
Location: 35475 and 35481 Beach Road

Request: A Coastal and Site Development Permit to allow the demolition of an existing single-family residence and tennis court on two (2) adjoining lots with a corresponding lot line adjustment to allow the construction of a new two (2) story, 5,257 square foot single-family residence with 441 square feet of attached garage space and a 731 square foot detached office and garage within the Floodplain FP-3 Overlay District.

Environmental: This project is categorically exempt (Class 3 – section 15303 – New Construction) from the provisions of the California Environmental Quality Act (CEQA) because the project involves the construction of a new, single-family residence not in conjunction with the construction of two or more such dwelling units.

Recommendation: That the Planning Commission adopt the attached draft Resolution approving Coastal Development Permit CDP04-15 and Site Development Permit SDP04-52.

Kurth Nelson (Project Planner) reviewed the staff report.

Chairwoman O'Connor opened the Public Hearing.

Mark Warren (Architect – Laguna Beach) stated that this was the last project that Chris Abel had designed before he died. He added that he was available for any questions.

Chairwoman O'Connor closed the Public Hearing.

ACTION: Motion made (Schoeffel) and seconded (Powers) to adopt Resolution 05-07-06-30 approving Coastal Development Permit CDP04-15 and Site Development Permit SDP04-52. Motion carried 5-0. (AYES: Denton, O'Connor, Powers, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: None)

ITEM 6: Coastal Development Permit CDP05-08 and Site Development Permit SDP05-31 to allow for the demolition of an existing single-family residence and the construction of a new two (2) story, single-family residence within the RBR 18 Zoning District and the Floodplain FP-3 Overlay District at 35291 Beach Road.

Applicant: Stan Schrofer, Stan Schrofer & Associates
Owner: Ray Taccolini
Location: 35291 Beach Road

Request: Approval of a Coastal Development Permit and Site Development Permit to allow for the demolition of an existing single-family residence and the construction of a new two (2) story, 3,605 square foot single-family residence with an attached 544 square foot, two (2) car garage within the RBR18 Zoning District and the Floodplain FP-3 Overlay District.

Environmental: This project is categorically exempt (Class 3 – Section 15303 – New Construction) from the provisions of the California Environmental Quality Act (CEQA) because the project involves the construction of a new single-family residence not in conjunction with the construction of two or more of such dwelling units.

Recommendation: That the Planning Commission adopt the attached draft Resolution approving Coastal Development Permit CDP05-08 and Site Development Permit SDP05-31.

Brenda Chase (Senior Planner) reviewed the staff report.

Chairwoman O'Connor opened the Public Hearing.

Stan Schrofer (Architect – San Clemente) stated that he was available for any questions.

Chairwoman O'Connor closed the Public Hearing.

ACTION: Motion made (Schoeffel) and seconded (Powers) to adopt Resolution 05-07-06-31 approving Coastal Development Permit CDP05-08 and Site Development Permit SDP05-31. Motion carried 5-0. (AYES: Denton, O'Connor, Powers, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: None)

ITEM 7: Coastal Development Permit CDP05-10 to allow an addition and remodel to an existing single-family residential dwelling that would result in an increase of more than ten percent (10%) of the internal floor area of the dwelling. The subject site is located in the Residential Single Family (RSF 7) Zone and is addressed as 23691 Sidney Bay.

Applicant: Dominic Pak
Owner: Ray J. Ayala
Location: 23691 Sidney Bay

Request: A Coastal Development Permit to allow the addition and remodel of a total of 1,610 square feet to the first and second floor; 700 square feet will be added to the first floor to create a new bedroom, bathroom, laundry area, entry and kitchen; 910 square feet will be added to the second floor to establish a new bedroom, bathroom and game room. The proposed addition will consist of approximately 70% of the existing internal floor area, which exceeds the 10% exemption, thus requiring a Coastal Development Permit.

Environmental: The proposed project qualifies as Class 1 (Section 15301) pursuant to the applicable provisions of the California Environmental Quality Act (CEQA) in that the project involves an addition to an existing structure not resulting in an increase of 50 percent of the floor area prior to the addition, or 2,500 square feet whichever is less.

Recommendation: That the Planning Commission adopt the attached draft Resolution approving Coastal Development Permit CDP05-10.

Erica Williams (Senior Planner) reviewed the staff report.

Chairwoman O'Connor opened the Public Hearing.

Ed Crook (Dana Point) stated that he was concerned about privacy with the new design and the number of windows that would be facing his property. He added that he was opposed to the project.

Evelyn Crook (Dana Point) read a letter from Sue Edison who couldn't attend the hearing.

Dominic Pak (Project Manager – La Habra) stated that the project was designed within an open area twenty-feet from the property line between a public street and one neighbor. He added that the windows that were proposed were necessary to satisfy the building code.

Chairwoman O'Connor closed the Public Hearing.

ACTION: Motion made (Schoeffel) and seconded (Weinberg) to adopt Resolution 05-07-06-32 approving Coastal Development Permit CDP05-10. Motion carried 5-0. (AYES: Denton, O'Connor, Powers, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: None)

ITEM 8: A Coastal Development Permit CDP05-13 and Site Development Permit SDP05-38M to allow an addition to an existing non-conforming single-family residence and retaining walls over 30-inches in height on a property located within the Coastal Overlay District at 325 Monarch Bay Drive.

Applicant/

Owner: Kip Arnette

Location: 325 Monarch Bay Drive

Request: Request for a Coastal Development (CDP05-13) and a Site Development Permit (SDP05-38M) to allow a 197 square foot addition to an existing, non-conforming single-family residence and retaining walls in excess of 30-inches.

Environmental: This project is Categorically Exempt (Class 1 – Section 15301 – Existing Facilities) from the provisions of the California Environmental Quality Act (CEQA) because it consists of an addition to an existing structure that will not result in an increase of more than 50 percent of the floor area of the structure before the addition, or 2,500 square feet.

Recommendation: That the Planning Commission adopt the attached draft Resolution approving Coastal Development Permit CDP05-13 and Site Development Permit SDP05-38M.

Robert Kain (Permit Coordinator) reviewed the staff report.

Chairwoman O'Connor opened the Public Hearing.

Richard Hanson (Architect – Dana Point) stated that he was available to answer any questions.

Chairwoman O'Connor closed the Public Hearing.

ACTION: Motion made (Schoeffel) and seconded (Weinberg) to adopt Resolution 05-07-06-33 approving Coastal Development Permit CDP05-13 and Site Development Permit SDP05-38M. Motion carried 5-0. (AYES: Denton, O'Connor, Powers, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: None)

ITEM 9: Coastal Development Permit CDP05-01 and a Variance V05-01 to allow for the demolition of an existing detached garage and the construction of a new 3-car garage with a 1,200 square foot second dwelling unit. A Variance is also requested to allow less than the required 20-foot driveway. The subject property is located in the Residential Single Family (RSF 4) Zone and the Coastal Overlay District appeals area at 24711 El Camino Capistrano.

Applicant: Robert Nichols
Owner: Rosemary Brown
Location: 24711 El Camino Capistrano

Request: Coastal Development Permit to allow for the demolition of an existing detached garage and the construction of a new 3-car garage with a 1,200 square foot second dwelling unit in conjunction with a Variance to allow less than the required 20-foot driveway.

Environmental: The project is categorically exempt, Section 15303 (Class 3 – New Construction or Conversion of Small Structures) in that the project is a construction of a second dwelling unit garage and Section 15305 (Class 5 – Minor Alteration in Land Use Limitations) in that the project requires a Variance to the rear yard setback requirement pursuant to the applicable provisions of the California Environmental Quality Act (CEQA).

Recommendation: That the Planning Commission adopt the attached draft Resolution approving Coastal Development Permit CDP05-01 and Variance V05-01.

Robert Kain (Permit Coordinator) reviewed the staff report.

Chairwoman O'Connor opened the Public Hearing.

Bob Nichols (Dana Point) stated that the proposed project would move the garage back from the street helping it conform to adjacent properties. He added that the property owners wanted to preserve the tree for the Blue Herons. He stated that an arborist won't be able to help them preserve the tree because it is dying and asked for Condition 26 to be removed.

Natalie Cohen (Tustin) felt that the second dwelling unit would change the character of the street from single-family homes to multiple units and that she was opposed to the project.

Fred Neuman (Dana Point) stated that he wanted to preserve the tree and felt that the provision regarding the need for an arborist should be expanded to include "through out construction". He felt that the second dwelling unit would change the character of the neighborhood.

Cortland Ray (Dana Point) stated that he was concerned that the street was turning into multiple residences on lots that weren't meant to be multiple. He added that the second dwelling units were turning into rentals and felt that there was a lack of enforcement. He asked for the Variance to be denied.

Chairwoman O'Connor closed the Public Hearing.

Chairwoman O'Connor stated that she didn't support the Variance.

Kyle Butterwick (Director) stated that an additional condition could be included requiring a deed restriction making the second dwelling unit subject to the affordability requirements.

Commissioner Weinberg felt that a condition should be added for the deed restriction. He stated that he wanted the tree protected throughout construction and felt that a condition should be included that requires an arborist to be present during the excavation for footings.

ACTION: Motion made (Weinberg) and seconded (Denton) to adopt Resolution 05-07-06-34 approving Coastal Development Permit CDP05-01 and Variance V05-01 with amendment. Motion carried 4-0-1. (AYES: Denton, Powers, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: O'Connor)

E. PUBLIC MEETINGS

There were no Public Meetings.

F. OLD BUSINESS

ITEM 10: Commission discussion regarding televising Planning Commission meetings. (Continued from the regular Planning Commission meeting of June 1, 2005)

Commissioner Denton stated that only the meetings on the Town Center should be televised and felt that there was no benefit for televising the regular Planning Commission meetings. He added that the Public Comment portion of the meeting will become more popular and felt that the meetings would become political if they were televised.

Vice-Chairman Schoeffel felt that televising the Planning Commission meetings would give the public access to the process and would be a good outlet for public education on how their government works. He stated that he has had many people express to him that they would like to see the meetings televised.

Commissioner Powers stated that to allow transparency in government, people have been asking, and the Town Center were his reasons for televising the meetings.

Chairwoman O'Connor felt that only the important issues should be televised, not every Planning Commission meeting. She stated that she wanted to keep the Planning Commission non-political.

Commissioner Weinberg stated that the City can't just televise the Planning Commission once in a while, that every meeting should be televised because it is hard to know what will be educational to the populace-at-large.

ACTION: Motion made (O'Connor) and seconded (Denton) to recommend that the City Council only televise the Planning Commission meetings that address only city-wide issues. Motion failed 2-3. (AYES: Denton, O'Connor NOES: Powers, Schoeffel, Weinberg ABSENT: None ABSTAIN: None)

ACTION: Motion made (Schoeffel) and seconded (Weinberg) to recommend that the City Council televise all regular and special Planning Commission meetings. Motion carried 3-2. (AYES: Powers, Schoeffel, Weinberg NOES: Denton, O'Connor ABSENT: None ABSTAIN: None)

G. NEW BUSINESS

There was no New Business.

H. STAFF REPORTS

There were no Staff Reports.

I. COMMISSIONER COMMENTS

There were no Commissioner Comments.

J. ADJOURNMENT

Chairwoman O'Connor announced that the *next regular* meeting of the Planning Commission would be held on Wednesday, July 20, 2005, beginning at 7:00 p.m. (or as soon thereafter) in the Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

The meeting adjourned at 11:26 p.m.

/s/ April O'Connor

April O'Connor, Chairwoman
Planning Commission