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

September 11, 2007
7:01-9:20 p.m.

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

CALL TO ORDER – Chairwoman Fitzgerald called the meeting to order.

PLEDGE OF ALLEGIANCE – Alternate Commissioner Dec led the Pledge of Allegiance.

ROLL CALL

Commissioners Present: Commissioner Michelle Brough, Commissioner Ed Conway, Vice-Chairman Norman Denton, Chairwoman Liz Anderson Fitzgerald, Commissioner J. Scott Schoeffel, and Alternate Michael Dec

Staff Present: Kyle Butterwick (Director), John Tilton (City Architect/Planning Manager), Todd Litfin (Assistant City Attorney), Erica Demkowicz (Senior Planner), Kurth Nelson (Project Planner), and Denise Jacobo (Planning Secretary)

A. APPROVAL OF MINUTES

ITEM 1: **Minutes of the regular Planning Commission Meeting of August 14, 2007.**

ACTION: **Motion made (Denton) and seconded (Conway) to approve the Minutes of the regular Planning Commission Meeting of August 14, 2007. Motion carried 5-0. (AYES: Brough, Conway, Denton, Fitzgerald, Schoeffel NOES: None ABSENT: None ABSTAIN: None)**

ITEM 2: **Minutes of the regular Planning Commission Meeting of August 28, 2007.**

ACTION: **Motion made (Denton) and seconded (Brough) to approve the Minutes of the regular Planning Commission Meeting of**

August 28, 2007. Motion carried 5-0. (AYES: Brough, Conway, Denton, Fitzgerald, Schoeffel NOES: None ABSENT: None ABSTAIN: None)

B. PUBLIC COMMENTS

There were no requests to speak.

C. CONSENT CALENDAR

There were no items on the Consent Calendar.

D. PUBLIC HEARINGS

ITEM 3: A PROPOSAL TO ADOPT A SIGN PROGRAM FOR PROPERTY LOCATED AT 34164 PACIFIC COAST HIGHWAY: SIGN PROGRAM PERMIT SPP07-02.

Applicant/ Tamara Fenner/RHL Design Group
Owner: Chevron Products Company
Location: 34164 Pacific Coast Highway (APN 682-273-09)

Request: Approval of a Sign Program for Chevron Service Station located at 34164 Pacific Coast Highway.

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 a minor alteration of an existing structure involving no expansion of use.

Recommendation: That the Planning Commission adopt the attached draft Resolution approving Sign Program Permit SPP07-02 for Chevron Service Station located at 34164 Pacific Coast Highway (Attachment 1).

Erica Demkowicz (Senior Planner) presented the staff report.

Chairwoman Fitzgerald opened the Public Hearing

Tamara Fenner (Lake Elsinore – Applicant) stated that she was available to answer any questions.

Chairwoman Fitzgerald closed the Public Hearing

ACTION: Motion made (Denton) and seconded (Schoeffel) to adopt Resolution 07-09-11-27 approving Sign Program SPP07-02 for the Chevron Service Station. Motion carried 5-0. (AYES: Brough, Conway, Denton, Fitzgerald, Schoeffel NOES: None ABSENT: None ABSTAIN: None)

ITEM 4: COASTAL DEVELOPMENT PERMIT (CDP06-10) TO ALLOW THE CONSTRUCTION OF A 5,456 SQUARE FOOT, TWO STORY SINGLE-FAMILY DWELLING AND A 1,070 SQUARE FOOT DETACHED GARAGE WITH A 1,196 SQUARE FOOT SECOND DWELLING UNIT WITH A BLUFF EDGE SETBACK OF 25 FEET AND A MINOR SITE DEVELOPMENT PERMIT (SDP07-12(M)) AND VARIANCE (V07-06) TO ALLOW BUILDING HEIGHT TO BE MEASURED FROM ATOP AS MUCH AS 5.75 FEET OF FILL AS OPPOSED TO 2.5 FEET OF FILL LOCATED AT 24692 EL CAMINO CAPISTRANO.

Applicant/ Dominy + Associates Architects
Owner: Tom and Maria Vegh
Location: 24692 El Camino Capistrano; (APN 682-203-05)

Request: Approval of a Coastal Development Permit to allow the construction of a 5,456 square foot, two story single-family dwelling and a 1,070 square foot detached garage/1,196 square foot second dwelling unit with a bluff edge setback of 25 feet and a Minor Site Development Permit and Variance to allow building height to be measured from atop as much as 5.75 feet of fill as opposed to 2.5 feet of fill located at 24692 El Camino Capistrano.

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 CDP06-10, Variance V07-06, and Minor Site Development Permit SDP07-12(M).

Kyle Butterwick (Director) introduced this item and indicated that the staff report this evening would include considerable detail due to the complexity of the project.

Kurth Nelson (Project Planner) presented the staff report.

John Tilton (City Architect/Planning Manager) described several alternative designs that would avoid the variance; first, allow the fill credit only for the garage portion for the site and rely on sump pumps for drainage; second, reduce ceiling heights in the home to eight (8) feet; and lastly, not allow development of half the site toward the bluff.

Todd Litfin (Assistant City Attorney) concluded that he would cover legal concerns regarding public correspondence received. He stated that the findings for the Coastal Development, the Site Development Permits and the Variance are all discretionary actions and the City has the legal ability to make the discretionary decision. He added that CEQA classifies this as a Class 3 exemption, and states within the definition for this exemption “as allowed in urbanized areas on a single family residence or second dwelling unit attached to a residential unit.” He stated that a height variance finding on fill is allowed for a variance procedure. He also added that setback deviation, and allowance to go 25 feet within the coastal bluff to allow construction within that area, public safety is safeguarded and allowance to go up to a 25 foot level is a minor deviation. He added lastly, the proposed granny flat, (second dwelling on the same lot as other residences) is allowed since the project involves a single-family dwelling.

Kyle Butterwick (Director) stated that second residential units are not uncommon and are addressed within the City’s Zoning Code and General Plan.

Chairwoman Fitzgerald opened the Public Hearing.

Thomas Vegh (San Juan Capistrano - Owner) stated that nothing proposed should adversely impact the continued enjoyment of the neighbors. He added that a great deal of time was spent on the street elevation during design to minimize the impact of a concrete driveway. He added that over the last few days it became apparent that the story poles on the lot may be misleading about the actual scale and shape of the house which has generated misunderstanding about the design. He respectfully asked that the commission support the staff’s report and approve their request.

Lew Domini (Del Mar –Architect/Applicant) distributed an updated handout and provided a small model of the home to illustrate the design setbacks. He reported that the story poles are inaccurate in terms of what they depict. He stated that the corners depicted are actually at the edge of the eaves, not correctly showing the building footprint to be 14 feet from the west property line, and 12 feet from the east property line. He stated that the story poles are 5 feet from the property at the corner of the eaves where there’s a large overhang, thereby misrepresenting the structure. He also stated that there’s one little corner that hits the twenty foot setback; the rest of it is another three feet back which is another 15% on a front yard setback.

Carl Schrenk (Mission Viejo – Applicant’s Geologist) stated that the proposed site drainage is necessary for the gross accessibility of the site to reduce the erosion and potential problems with the mechanical device which oftentimes fails. He added that that the setback of 25 feet was required to do a stability analysis based on safety and was found adequate for acceptance through the City.

Stephen Coonitz (Laguna Beach – Applicant’s Attorney) stated that he was present to address some legal concerns related mainly to two objections and stated that the Planning Commission does have authority to approve a second dwelling unit or granny unit on the property and, that the Planning Commission does have the authority to approve the Variance under consideration. The owners of the property are properly applying for both units at the same time and they can’t build the second unit without building the first unit. As to the variance application, the zoning code allows for the granting of variances.

Paul Douglas (Dana Point – Applicant’s Representative) stated that this lot is 226 feet deep and the additional fill requested is certainly justified to allow positive drainage flow to the street. He added that pumps are not 100% reliable. He stated that Condition #16 of the staff report states that Best Management Practices, (BMP) for urban runoff encourages positive drainage. He stated that the variance is to simply provide better drainage. He stated that the story poles are confusing, the neighbors did not have the time to review the plans or geology reports. He requested that if the commission sees fit, and feels compelled, he was open to a continuance so he could meet with the neighbors within the next two weeks.

Gary Brookshire (Dana Point) stated that he got to see the plans, and he appreciated the architecture of the design and gives his approval of the project.

Annie Stoeckmann (Dana Point) asked everyone in her neighborhood to object to the applicant’s request. She added that she had serious concerns of losing the beautiful tree lined street and quaint neighborhood look. She added that the concerns she has may be based on some exaggerations by consultants. She was pleased to see the applicants offer to meet with the residents. She also welcomes a home built on the lot to complete the beautiful street, and sees how prudent it would be to meet with the owners to discuss their project before any final plans are approved.

Paul Konapelsky (Dana Point) stated that the notice went out on Friday, before Labor Day weekend, and was read Monday of last week, and the story poles went up on Tuesday. He asked the Commission to understand that there was not sufficient time to review what is being done. He stated that he has legal issues with the granny flat because it has no depiction whatsoever or any consistency with the rest of the neighborhood.

Fred Neuman (Dana Point) stated that he lives down the street and has a view of the ocean over other two story houses in the neighborhood. He stated that he relies on the code for his protection and for protection of the applicant, and once you go out of it you're denying his property rights. He stated that a variance to block his view cannot be used in this situation.

Andrea Neuman (Dana Point) stated that she objects to the project. She also presented a powerpoint slideshow to address her concerns. She stated that because of the second dwelling unit she would be looking at a 24 foot wall from her breakfast nook. She added concerns about parking, noise, security, and safety concerns about keeping this neighborhood at an appropriate density.

Judith Hoon (Dana Point) stated that the building is outrageous and a bit much. She stated the building is going to eclipse her view of the sun and the moon.

Ross Teasley (Dana Point) stated that it's a nice design, but does not fit into the neighborhood. Neighbors didn't know there was a proposal for the building until very recently. He asked the Commission to deny the variance request and ask the owner to go back and revisit the proposal and comply with the rules.

Cortland Ray (Dana Point) felt troubled when he received his public notice on Wednesday after Labor Day, the story poles were misdirected and the plans were not available. He stated more care should be put on the thought process given to El Camino Capistrano residents and wants to see a home that fits the neighborhood. He asked that the plans be further evaluated and not grant approval of the variance this evening as submitted. He encourages the owners to meet and work out the issues.

Bob Theel (Dana Point) stated that he has met with the Paul Douglas and Tom Vegh to discuss the project. He stated that his comments were limited to the way the project addressed the street of El Camino Capistrano. He stated that the applicant/owner does not seem to understand or fully appreciate that El Camino Capistrano is a special street, its environment gives pleasure to those who walk it, jog it, and drive it. He stated that he likes the design of the building; it is exciting and parts are delightful from where he can see it, but the organization of the project elements do not recognize the special environment along El Camino Capistrano. He stated that the elements of the house fit an RSF4 zone but not the streetscape of the neighborhood.

Melvin Hoefflinger (Dana Point) stated that he owns the property directly next door to the property owner. He stated that he met with the owner/applicant and had two hours to look over the plans. He stated that the rear where the stakes are missing there is going to be a six foot difference between where the pool and deck are which is going to look directly into the privacy of his yard.

Bob Nichols (Dana Point) stated that he owns the house to the west side of the property building. He stated that after looking at the plans and talking to the applicant, he is in favor of the house even though it would block the view to the east. He added that in this particular street there have been two houses that use mechanical devices to send the water to the street. He stated, although the geologist said they break down all the time, in twenty years he's never had a breakdown, because it's maintained. He added that to suddenly say that the safety of the bluff is needed, by flowing the water to the street, is a concept that's phenomenal.

Chairwoman Fitzgerald closed the Public Hearing.

Chairwoman Fitzgerald recessed the meeting at 8:50 p.m. and reconvened the meeting at 9:01 p.m.

Commissioner Schoeffel felt gratified to see people care enough about their neighbors and have thoughtful concerns. He felt there was a good case at this point for a variance. He considered the project, as represented by Mr. Douglas, was stated fairly in view of the legal issues. He added that the project applicant himself acknowledged in his testimony some misperceptions about the impact of this project. He encouraged the neighbors to get together in the spirit of cooperation. He added that two weeks is a considerable time frame and recommended a motion for a continuance of the hearing.

Commissioner Conway encouraged the applicant and the neighbors to get together. He added that he would move for a continuance.

Vice-Chairman Denton agreed with his two fellow commissioners that it makes a lot of sense given that there was a holiday, and the story poles do not represent the home accurately. He acknowledged the fact that the developer offered to put this on the table for two weeks to be able to make this project fit and make it work. He supported the motion and urged his fellow commissioners to do so.

Commissioner Brough concurred with her fellow commissioners that, although the project variance and site development permit may be legally supportable, she agrees that it would make more sense to get together as a neighborhood and hopefully end where the new neighbors will be welcomed.

Chairwoman Fitzgerald was moved by comments made by Mr. Douglas at the podium that he believed they had a lot of work to do with the neighbors and she liked that attitude and encouraged it.

There was a consensus of the Planning Commission to continue this item to the regular Planning Commission meeting of September 25, 2007.

E. PUBLIC MEETINGS

There were no Public Meetings.

F. OLD BUSINESS

There was no Old Business.

G. NEW BUSINESS

There was no New Business.

H. STAFF REPORTS

Kyle Butterwick (Director) provided a status report on the Town Center Parking Management Plan noting that the City Council at their last meeting approved a Request for Proposals to seek consultants to prepare the study.

I. COMMISSIONER COMMENTS

There were no Commissioner Comments.

J. ADJOURNMENT

Chairwoman Fitzgerald announced that the *next regular* meeting of the Planning Commission would be held on Tuesday, September 25, 2007, 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 9:20 p.m.

Norman Denton, Vice-Chairman
Planning Commission