

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

May 14, 2012
6:00 – 7:06 p.m.

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

CALL TO ORDER – Vice-Chairman Newkirk called the meeting to order.

PLEDGE OF ALLEGIANCE – Commissioner April O'Connor led the Pledge of Allegiance.

ROLL CALL

Commissioners Present: Commissioner Liz Claus, Vice-Chairman Gary Newkirk, Commissioner April O'Connor, and Commissioner Tarquin Preziosi

Commissioner(s) Absent: Chairman Norman Denton

Staff Present: Kyle Butterwick (Director), John Tilton (City Architect/Planning Manager), Jennifer Farrell (Deputy City Attorney), and Denise Jacobo (Planning Secretary)

A. APPROVAL OF MINUTES

ITEM 1: Minutes of the regular Planning Commission Meeting of April 23, 2012.

ACTION: Motion made (O'Connor) and seconded (Claus) to approve the Minutes of the regular Planning Commission Meeting of April 23, 2012. Motion carried 4-0-1. (AYES: Claus, Newkirk, O'Connor, Preziosi NOES: None ABSENT: Denton ABSTAIN: None)

B. PUBLIC COMMENTS

There were no Public Comments.

C. CONSENT CALENDAR

There were no items on the Consent Calendar.

Vice-Chairman Newkirk moved Item 4 to be heard prior to Item 2 of the Public Hearings.

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

May 14, 2012
6:00 – 7:06 p.m.

PAGE 2

D. PUBLIC HEARINGS

ITEM 4: Coastal Development Permit CDP12-0007 and Minor Site Development Permit SDP12-0008(M) to allow the construction of new, detached structures including, but not limited to, outdoor living areas, landscaping, a pool/spa as well as retaining walls at 11 Breakers Isle. *(Continued from the regular Planning Commission meeting of April 23, 2012)*

Applicant: Ken Brown (Designer, Fleming Distinctive Homes)
Property Owner: Charles Maxey
Location: 11 Breakers Isle

Request: Approval of a Coastal Development Permit to allow the construction of new structures on land located within the City's Coastal Overlay District and Appeals Jurisdiction of the California Coastal Commission, as well as a Minor Site Development Permit to allow the construction of retaining walls in excess of 60 inches in height.

Environmental: Pursuant to the California Environmental Quality Act (CEQA), staff finds the project is Categorically Exempt per Section 15303 (e) (Class 3 – New Construction or Conversion of Small Structures).

Recommendation: That the Planning Commission continue the item to its next regular meeting to allow the applicant sufficient time to submit evidence of their home owner association's (HOA) approval of the project.

John Tilton (City Architect/Planning Manager) recalled that at the last Planning Commission meeting, there was discussion with regard to the homeowners' association review process that was incomplete and the Commission continued the hearing until the confirmation was received. He stated that a letter of confirmation has been received from the homeowners association today.

Vice-Chairman Newkirk opened the Public Hearing.

Ken Brown (Laguna Hills - Applicant) stated that he was available to answer any questions.

Vice-Chairman Newkirk closed the Public Hearing.

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

May 14, 2012
6:00 – 7:06 p.m.

PAGE 3

ACTION: Motion made (O'Connor) and seconded (Claus) to adopt Resolution 12-05-14-08 approving Coastal Development Permit CDP12-0007 and Minor Site Development Permit SDP12-0008(M) to allow the construction of new, detached structures including, but not limited to, outdoor living areas, landscaping, a pool/spa as well as retaining walls at 11 Breakers Isle. Motion carried 4-0-1. (AYES: Claus, Newkirk, O'Connor, Preziosi NOES: None ABSENT: Denton ABSTAIN: None)

ITEM 2: Coastal Development Permit CDP12-0005 and Minor Site Development Permit SDP12-0005(M) to allow the addition of 822 square feet to an existing, 3,743 square foot single-family dwelling with free-standing front-yard walls that exceed 42 inches in height at 135 Monarch Bay Drive

Commissioner O'Connor announced that she had a conflict of interest and recused herself from Items 2 and 3. She left the meeting at 6:07 p.m.

Applicant: James Conrad (Architect)
Property Owner: Michael McGuire
Location: 135 Monarch Bay Drive

Request: Approval of a Coastal Development Permit to allow additions to a single-family dwelling located on land located in the City's Coastal Overlay District and the Appeals Jurisdiction of the California Coastal Commission.

Environmental: Pursuant to the California Environmental Quality Act (CEQA), staff finds the project is Categorically Exempt per Section 15301 (e) (Class 1 – Existing Facilities).

Recommendation: That the Planning Commission adopt the attached Draft Resolution approving Coastal Development Permit CDP12-0005 and Minor Site Development Permit SDP12-0005(M).

John Tilton (City Architect/Planning Manager) presented the staff report.

There being no requests to speak on this item, Vice-Chairman Newkirk opened and closed the Public Hearing.

Commissioner Preziosi stated that it would be hard to get an idea as to what the walls will look like because no schematics were produced by the applicant,

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

May 14, 2012
6:00 – 7:06 p.m.

PAGE 4

nevertheless the Homeowners Association architectural review board submitted their review and no objections were received.

Commissioner Claus stated that she agreed with Commissioner Preziosi's comment because the 84" walls are almost double the general requirement, however the project would fit into the neighborhood.

ACTION: Motion made (Claus) and seconded (Preziosi) to adopt Resolution 12-05-14-09 approving Coastal Development Permit CDP12-0005 and Minor Site Development Permit SDP12-0005(M) to allow the addition of 822 square feet to an existing, 3,743 square foot single-family dwelling with free-standing front-yard walls that exceed 42 inches in height at 135 Monarch Bay Drive. Motion carried 3-0-1-1. (AYES: Claus, Newkirk, Preziosi NOES: None ABSENT: Denton ABSTAIN: O'Connor (Recused))

ITEM 3: Coastal Development Permit CDP12-0011 and Minor Site Development Permit SDP12-0009(M) to allow the demolition of an existing, 3,308 square foot, single-family dwelling and the construction of a new, two-story, 5,836 square foot single-family dwelling with retaining walls exceeding 30 inches in height at 137 Monarch Bay Drive

Applicant: Horst Architects
Property Owner: Melissa Monahan
Location: 137 Monarch Bay Drive

Request: Approval of a Coastal Development Permit to allow the demolition of a single-family dwelling and the construction of a new single-family dwelling located on land located in the City's Coastal Overlay District and the Appeals Jurisdiction of the California Coastal Commission.

Environmental: Pursuant to the California Environmental Quality Act (CEQA), staff finds the project is Categorical Exempt per Section 15303 (a) (Class 3 – New Construction or Conversion of Small Structures).

Recommendation: That the Planning Commission adopt the attached Draft Resolution approving Coastal Development Permit CDP12-0011 and Minor Site Development Permit SDP12-0009(M).

John Tilton (City Architect/Planning Manager) presented the staff report.

CITY OF DANA POINT
PLANNING COMMISSION
REGULAR MEETING MINUTES

May 14, 2012
6:00 – 7:06 p.m.

PAGE 5

Vice-Chairman Newkirk opened the Public Hearing.

Silvia Vallis (Dana Point) stated that she had a concern about a section of the proposed development which would extend higher. She suggested that the applicant show consideration on choosing the color of the roof to be compatible with the ocean view.

Horst Noppenberger (Architect – Laguna Beach) responded to Commissioner Preziosi's inquiry about the type of roof and stated that there were discussions to accommodate the Vallises with regard to the color of the gravel that approximates the color of the ocean however his client was reluctant to sign into an agreement.

Dzintris Vallis (Dana Point) questioned a discrepancy with regard to the date of the approved plans on March 26th by the homeowners association and the date that he was consulted, a month later, on April 30th to have his review meeting with the homeowners association.

Vice-Chairman Newkirk asked Mr. Tilton to clarify the dates of the letters received by the HOA.

John Tilton (City Architect/Planning Manager) clarified that two letters were received dated April 25, 2012, which stated that the committee has approved the new home construction plans, and that they would be confirming some modifications at their meeting on April 30, 2012. The City received confirmation that the meeting happened and the modifications were approved.

Dzintris Vallis (Dana Point) stated his concern about a discrepancy with the roof height approved by the HOA committee at 8-1/2" higher than the existing roof, but the City's certified plans show the height at 10" higher than the existing roof.

Vice-Chairman Newkirk explained that the Planning Commission waits for confirmation from the HOA which carries more stringent requirements than the City does on the heights as received from the HOA committee.

Kyle Butterwick (Director) clarified the City's position in terms of acceptable and approved roof heights, they are predicated on the plans that have been filed and approved by the City notwithstanding any height to the contrary that the obligation of the property owner would be to build on the plans in accordance with the City's approval and the elevations that are noted therein.

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

May 14, 2012
6:00 – 7:06 p.m.

PAGE 6

Paul Weinberg (Irvine) stated that this body is charged with applying the Coastal Act, part of which has view protection language if the mass scale involved is out of harmony with the other adjacent homes which he pointed from his letter of correspondence and submitted for the record. He indicated that in their meeting today they thought that everything was going to be resolved, but the landowner decided at the last minute that they did not want to give up the right to make a final decision on the color of the roof. He recommended a continuance of the project in order for the parties to get back together to amicably resolve this. He informed the Commission that the facts stated in his letter and with the understanding that this body does not get involved in HOA decisions because it is not its purview, notwithstanding that, it needs to be made part of the public record.

Vice-Chairman Newkirk closed the Public Hearing.

In response to Commissioner Preziosi's inquiry Mr. Weinberg discussed case law, and also stated that he did not contest that the City has any view protection language in its ordinance and he was not seeking any relief under that.

Commissioner Claus stated that the house would be more interesting as the new one comes along. She added that she appreciates the fact that the parties are in somewhat disagreement with each other and seem to be working together; she hoped that they can continue that through the process.

Vice-Chairman Newkirk stated that private views are sticky situations, but it is outside of our ability to decide. He hoped that the neighbors would respect each other and work together. He added that the codes are in place to protect the reasonable expectations of people on what they can reasonably see happen around them when they purchase their property. He felt confident that the project adheres to both Monarch Bay Association level and at the City's level that it conforms, and his concern was answered that confirmation was received that the modification amendments were addressed in the most recent meeting.

ACTION: **Motion made (Claus) and seconded (Preziosi) to adopt Resolution 12-05-14-10 approving Coastal Development Permit CDP12-0011 and Minor Site Development Permit SDP12-0009(M) to allow the demolition of an existing, 3,308 square foot, single-family dwelling and the construction of a new, two-story, 5,836 square foot single-family dwelling with retaining walls exceeding 30 inches in height at 137 Monarch Bay Drive. Motion carried 3-0-1-1. (AYES: Claus, Newkirk, Preziosi NOES: None ABSENT: Denton ABSTAIN: O'Connor (Recused))**

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

May 14, 2012
6:00 – 7:06 p.m.

PAGE 7

E. NEW BUSINESS

There was no New Business.

F. STAFF REPORTS

Kyle Butterwick (Director) provided a status report on the Doheny Village Plan noting that Staff held a full day workshop with ROMA Design Group which covered details and mechanics of the development standards and policies, they are making good progress and expect the first draft in the next 90 days.

John Tilton (City Architect/Planning Manager) stated that he attended the Dana Point Grand Prix Bike Race and he really enjoyed it and looks forward to next year's event.

G. COMMISSIONER COMMENTS

John Tilton (City Architect/Planning Manager) *responded to Commissioner Preziosi's inquiry about the status of the former Hollywood Video building. He stated that because the building is so old, some significant changes were required and is being remodeled without any additions. The new owners and the architects are proposing some improvements with landscaping and trees.*

Kyle Butterwick (Director) *addressed Commissioner Preziosi's inquiry about the public pathway/access ways around the City. He noted that the City has received a State grant to prepare a connectivity study with the objective of improving access and connection aspects of the three primary urban areas of Doheny Village, Town Center, and the Harbor.*

Commissioner Claus stated that she recently attended the Dana Point Grand Prix Bike Race, and complimented staff for placing straw bales in the pathways for people to safely wonder around and enjoy the event.

Vice-Chairman Newkirk reported that he attended the Grand Prix Bike Race and stated that it puts Dana Points cycling in a good light.

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

May 14, 2012
6:00 – 7:06 p.m.

PAGE 8

H. ADJOURNMENT

Vice-Chairman Newkirk announced that the *next* meeting of the Planning Commission will be held on Monday, June 11, 2012, beginning at 6:00 p.m. (or as soon thereafter) in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

Gary Newkirk, Vice-Chairman
Planning Commission

The meeting adjourned at 7:06 p.m.