

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

June 25, 2012
6:00 – 7:15 p.m.

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

CALL TO ORDER – Chairman Denton called the meeting to order.

PLEDGE OF ALLEGIANCE – Emmeline and Darby Huffaker led the Pledge of Allegiance.

ROLL CALL

Commissioners Present: Commissioner Liz Claus, Chairman Norman Denton, Commissioner April O'Connor, and Commissioner Tarquin Preziosi

Commissioner(s) Absent: Vice-Chairman Newkirk

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 June 11, 2012.

ACTION: Motion made (Claus) and seconded (O'Connor) to approve the Minutes of the regular Planning Commission Meeting of June 11, 2012. Motion carried 4-0-1. (AYES: Claus, Denton, O'Connor, Preziosi NOES: None ABSENT: Newkirk ABSTAIN: None)

B. PUBLIC COMMENTS

There were no Public Comments.

C. CONSENT CALENDAR

There were no items on the Consent Calendar.

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D. PUBLIC HEARINGS

ITEM 2: Coastal Development Permit CDP12-0003 to repair existing subsurface drainage below an existing condominium's patio on a coastal bluff lot at 26042 Dana Bluff Drive East.

Applicant: Glen Tofani
Property Owner: Gary Allensworth
Location: 26042 Dana Bluff Drive East

Request: A request to repair existing subsurface drainage below an existing condominium's patio on a coastal bluff lot by removing the existing on-grade patio, replacing and repairing existing drain lines and replacing the existing patio with a new, on-grade patio and railings in the same configuration as the existing improvement.

Environmental: This project is categorically exempt (Class 1 - Section 15301 – Existing Facilities) from the provisions of the California Environmental Quality Act (CEQA) in that the project consists of the restoration and rehabilitation of a damaged existing private structure involving negligible or no expansion of the pre-existing condition.

Recommendation: That the Planning Commission adopt the attached Resolution approving Coastal Development Permit CDP12-0003.

John Tilton (City Architect/Planning Manager) reviewed the Staff Report.

Chairman Denton opened the Public Hearing.

Robert Stolhand (Capistrano Beach) stated that he lives above the property and is concerned every rainy season about the prolonged delays in repairing the drainage. He urged approval of the project.

Seida Kirkpatrick (Capistrano Beach) stated that she wished approval of the project because it is creating a burden to all the neighboring homeowners. She added that the delay is causing financial hardship for the homeowners, affecting their credit profiles, making it difficult to refinance or sell any of their homes.

Bob Deal (Capistrano Beach – Homeowners Association Board President) stated that he supports the project because of how involved he has become with the growing concerns. He described the history of litigation with the homeowner and previous HOA board, that neglected the problem. He stated that the homeowner

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has gone through countless variations of soils engineers, and contractors looking at the property. He asked for permit approval because the community homeowners are frustrated with the delays to remedy the situation.

Gary Allensworth (Homeowner – Santa Barbara) stated that, since the heavy rains of 2005, he has worked with the Board to obtain a soils report after losing two feet off the bluff. He stated that the geotechnical soils report indicated that if nothing were done to the property, the condo could get undercut in thirty years, which would make it difficult to sell a home. He encouraged the Commission to approve the permit and save the place.

Chairman Denton closed the Public Hearing.

Commissioner Preziosi stated that he would like to go forward with the project if they would include language in the condition of approval which states, should there be any structural problems on the bluff, the homeowner and or his successor in interest would be financially responsible. He stated that if the City was not comfortable with inserting the condition for legal reasons, he suggested to table the item unless the City Attorney would get back with the proper analysis.

In response to Commissioner Preziosi, **Jennifer Farrell** (Deputy City Attorney) stated that it would be inappropriate for the scope, scale, and unique conditions of this project. She pointed out the indemnification provision in the conditions of #5 and #17 indicating similar requirements.

Commissioner O'Connor stated that her concerns were answered and she is satisfied with the indemnifications of #5 and #17. She felt the need for restoration and rehabilitation to protect the property is an urgent matter and needs to be addressed. She stated that she is in favor of approving the CDP.

Commissioner Claus stated that she agrees with Commissioner O'Connor. She stated that she would agree with Commissioner Preziosi, but felt that because this is an HOA issue, and a unique situation, she is comfortable with approving the permit.

Chairman Denton was concerned with an area adjacent to the patio that is already undermined, suggesting that portion of the patio could be cut back. He noted the HOA's responsibility to make their best effort to keep the area from eroding. He added that he would support the project to save and stabilize the property.

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Commissioner Preziosi stated that after hearing from the Deputy City Attorney, he is satisfied with the recommendation as is.

ACTION: Motion made (O'Connor) and seconded (Claus) to adopt Resolution 12-06-25-15 approving Coastal Development Permit CDP12-0003 to repair existing subsurface drainage below an existing condominium's patio on a coastal bluff lot at 26042 Dana Bluff Drive East Motion carried 4-0-1. (AYES: Claus, Denton, O'Connor, Preziosi NOES: None ABSENT: Newkirk ABSTAIN: None)

ITEM 3: Planning Commission review and consideration to amend previously approved CUP98-10M with new Conditions of Approval for continued operation of Coconuts Restaurant, located at 34235 Doheny Park Road.

Applicant/Property Owner: Coconuts/Arpi Evans
Location: 34235 Doheny Park Road

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 no expansion of use beyond that existing.

Recommendation: That the Planning Commission amend CUP98-10M and adopt the attached draft Resolution (Action Documents 1) to establish new conditions for the continued operation of Coconuts Restaurant.

Kyle Butterwick (Director) reviewed the Staff Report.

Chairman Denton opened the Public Hearing.

Arpi Evans (Applicant – San Juan Capistrano) stated that they would adhere to the conditions stated for approval.

Tom Storey (Owner - San Juan Capistrano) added that there would not be an issue with their operations in the future and that he would comply with monitoring the business so that it is not an issue for the City.

Chairman Denton closed the Public Hearing.

Chairman Denton stated that because of the increase of police calls in 2012, he can see why the City has worked with the Sheriff's department to place conditions on the business. He commended City staff for their efforts to decrease crime and increase public safety.

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Commissioner Preziosi stated that he is satisfied that the operator and the owner have agreed to the conditions. He added that he would have liked a representative from Police Services present to provide testimony about the calls of service.

Commissioner Claus stated that she is comfortable with approving the revised permit. She spoke about an area in West Hollywood where bar owners collaborated as a local association, meet to share similar problems and, after that, approximately 70% of their problems disappeared. She suggested that, since this is the second bar issue that has come before the Commission, taking a look at the local establishments and making them part of the solution should be considered.

Commissioner O'Connor stated that in light of the fact that there are no disputes between the owner, the manager, and City staff, she is willing to approve the permit.

ACTION: Motion made (Preziosi) and seconded (Claus) to adopt Resolution 12-06-25-16 amending previously approved Conditions of Approval of CUP98-10M and approving new Conditions of Approval (CUP12-0005) for the operation of Coconuts of Capistrano Beach located at 34235 Doheny Park Road. Motion carried 4-0-1. (AYES: Claus, Denton, O'Connor, Preziosi NOES: None ABSENT: Newkirk ABSTAIN: None)

E. NEW BUSINESS

ITEM 4: Planning Commission Workshop:
Second Dwelling Units / Granny Flats / Guest Houses / Accessory Structures / Self-Contained Living Units.

Chairman Denton indicated that he and Mr. Butterwick had some discussion on postponing the workshop presentation.

Kyle Butterwick (Director) said it would be best to have a full Commission present (given the absence of Vice-Chairman Newkirk) and asked if there were any scheduling conflicts in coming meetings.

In response to Mr. Butterwick, **Commissioner Preziosi** reported that due to a previous commitment, he would not be in attendance at the July 9, 2012 Planning Commission meeting.

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Kyle Butterwick (Director) stated that staff would present the workshop at the July 23, 2012 Planning Commission meeting.

F. STAFF REPORTS

Kyle Butterwick (Director) summarized agendas of the City Council. He added that, following the Council's lead and to accommodate vacation schedules, he would recommend taking a recess of the Planning Commission meeting of August 27, 2012.

The Planning Commissioners' agreed to cancel that meeting.

G. COMMISSIONER COMMENTS

There were no Commissioner Comments.

H. ADJOURNMENT

Chairman Denton announced that the *next* meeting of the Planning Commission will be held on Monday, July 9, 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.

The meeting adjourned at 7:15 p.m.

Norman Denton, Chairman
Planning Commission