

**CITY OF DANA POINT  
PLANNING COMMISSION  
AGENDA REPORT**

---

**ITEM #2**

**DATE:** SEPTEMBER 22, 2014

**TO:** DANA POINT PLANNING COMMISSION

**FROM:** COMMUNITY DEVELOPMENT DEPARTMENT  
JOHN TILTON, AIA, PLANNING MANAGER/CITY ARCHITECT  
EVAN LANGAN, AICP, ASSOCIATE PLANNER

**SUBJECT:** MINOR CONDITIONAL USE PERMIT CUP14-0001(M) TO ALLOW THE SERVICE AND SALE OF ALCOHOL FOR A PERIOD OF FIVE CONSECUTIVE YEARS BEGINNING WITH CALENDAR YEAR 2015, DURING THE ANNUAL OUTDOOR FESTIVAL KNOWN AS "FIESTA WITH FRIENDS" THE THIRD WEEKEND OF MAY AT 33926 CALLE LA PRIMAVERA (ST. EDWARD THE CONFESSOR CATHOLIC CHURCH)

---

**RECOMMENDATION:** That the Planning Commission adopt the attached Draft Resolution approving Minor Conditional Use Permit CUP14-0001(M).

**APPLICANT/OWNER:** Roman Catholic Bishop of Orange

**REQUEST:** To allow the sale and service of alcohol at the "Fiesta with Friends" three-day special event for a period of five consecutive years beginning with calendar year 2015 and ending calendar year 2019.

**LOCATION:** 33926 Calle La Primavera  
(St. Edward the Confessor Catholic Church)  
APNs 121-251-31 and 682-361-01

**NOTICE:** Notices of the Public Hearing were mailed to property owners within a 500-foot radius on September 10, 2014, published within a newspaper of general circulation on September 11, 2014, and posted on September 12, 2014 at Dana Point City Hall, the Dana Point and Capistrano Beach Branch Post Offices, as well as the Dana Point Library.

**ENVIRONMENTAL:** The project is found to be Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15304 (e) (Class 4 - Minor Alterations to Land) in that the scope-of-work proposes a minor temporary use of land having a negligible or no permanent effect on the environment.

**ISSUES:**

- Project consistency with the Dana Point General Plan and Zoning Code.
- Project satisfaction of all findings required pursuant to the Dana Point Zoning Code for approval of a Minor Conditional Use Permit.
- Project compatibility with the site and surrounding neighborhood.

**BACKGROUND:** The three-day "Fiesta with Friends" event (and its concurrent sale/service of alcohol) occur annually on the grounds of the St. Edwards Catholic Church during the third weekend of May (Friday through Sunday) from morning until evening hours and is open to the public. The event has been held since at least the early 1990's and comprises an outdoor, largely open-air festival with multiple tents, interactive displays and other temporary structures. Live music is played and, in addition to alcohol, food is sold and consumed onsite. Parking for the proposed event primarily utilizes existing church parking facilities, with use of surrounding neighborhoods only during times of extreme overflow. Attendance by parishioners and the public has historically ranged from 4,000 to 5,000 individuals per event.

**DISCUSSION:** Pursuant to Section 9.39.070 (j) of the Dana Point Zoning Code, sale or service of alcohol at "special events" shall require approval of a Minor Conditional Use Permit (CUP). Each year, a separate application for a Temporary Site Development Permit (TSDP - Special Event) will be reviewed by staff.

This request would approve alcohol sales for a period of five consecutive calendar years (2015, 2016, 2017, 2018 and 2019) at the event. If requested by the applicant, application for a new CUP would occur then no sooner than calendar year 2019 and would authorize subsequent events beginning with calendar year 2020. The request for five year terms has been previously made and approved by the City, with five year terms granted in both 2004 and 2009.

**Minor Conditional Use Permit CUP14-0001(M)**

Section 9.65.060 of the Dana Point Zoning Code stipulates findings for approval, conditional approval or denial of a CUP, requiring at a minimum that the Planning Commission find:

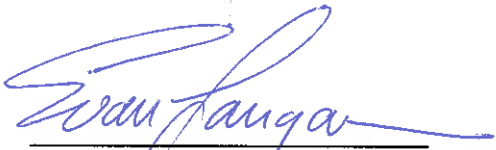
1. *That the proposed conditional use is consistent with the General Plan.*
2. *That the nature, condition, and development of adjacent uses, buildings, and structures have been considered, and the proposed conditional use will not adversely affect or be materially detrimental to the adjacent uses, buildings, or structures.*

3. *That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping, and other land use development features prescribed in this Code and required by the Commission or Council in order to integrate the use with existing and planned uses in the vicinity.*

Supportive findings for the request can be made and are enumerated in the attached resolution.

**CORRESPONDENCE:** To date, there has been two items of correspondence submitted by the public concerning this project: one message stating support for the request and another stating opposition. Both are included as Attachment 5 (Project Correspondence).

**CONCLUSION:** The subject request is consistent with the City of Dana Point General Plan and Zoning Code, complying with criteria for sale and service of alcohol at a special event. Staff recommends the Planning Commission adopt the attached draft resolution, approving Minor Conditional Use Permit CUP14-0001(M).



Evan Langan, AICP  
Associate Planner



John Tilton, AIA, Planning Manager/City Architect  
Community Development Department

**ATTACHMENTS:**

**Action Documents**

1. Draft Planning Commission Resolution No. 14-09-22-xx

**Supporting Documents**

2. Vicinity Map
3. Project Site Plan
4. Project Correspondence

**RESOLUTION NO. 14-09-22-xx**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING MINOR CONDITIONAL USE PERMIT CUP14-0001(M) TO ALLOW THE SERVICE AND SALE OF ALCOHOL FOR A PERIOD OF FIVE CONSECUTIVE YEARS BEGINNING WITH CALENDAR YEAR 2015, DURING THE ANNUAL THREE-DAY OUTDOOR FESTIVAL KNOWN AS "FIESTA WITH FRIENDS" AT 33926 CALLE LA PRIMAVERA (ST. EDWARD THE CONFESSOR CATHOLIC CHURCH)**

**Applicant and Property Owner: Roman Catholic Bishop of Orange**

The Planning Commission for the City of Dana Point does hereby resolve as follows:

WHEREAS, the applicant filed a verified application for a Conditional Use Permit to allow for the sale and service of alcohol at the annual "Fiesta with Friends" outdoor festival at 33926 Calle La Primavera (APNs 121-251-31 and 682-361-01), and;

WHEREAS, said verified application constitutes a request as provided by Title 9 of the Dana Point Municipal Code, and;

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the project is Categorically Exempt per Section 15304 (e) (Class 4 - Minor Alterations to Land) and;

WHEREAS, the Planning Commission did, on the 22<sup>nd</sup> day of September, 2014, hold a duly noticed public hearing as prescribed by law to consider said request, and;

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, said Commission considered all factors relating to Minor Conditional Use Permit CUP14-0001(M).

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the City of Dana Point as follows:

- A. That the above recitations are true and correct.
- B. Based on the evidence presented at the public hearing, the Planning Commission adopts the following findings and approves CUP14-0001(M) to conditions:

**ATTACHMENT #1**

Findings:

Minor Conditional Use Permit CUP14-0001(M)

1. **The proposed use is consistent with the General Plan** in that the request is consistent with Goal No. 1 of the Land Use Element of the Dana Point General Plan which seeks to *“achieve a desirable mixture of land uses to meet the residential, commercial, industrial, recreational, open space, cultural and public service needs of City residents.”* Moreover, “special events” are permitted pursuant to the General Plan’s implementing document, the Dana Point Zoning Code.
2. **The nature, condition, and development of adjacent uses, buildings, and structures have been considered, and that the proposed, conditional use will not adversely affect or be materially detrimental to the adjacent uses, buildings, or structures** in that while the event has the potential to result in adverse impacts related to noise, light spillage, traffic and waste, with placement and subsequent enforcement of conditions of approval, as well as approval of appropriate licensing from the California Department of Alcoholic Beverage Control (ABC), the proposed sale and service of alcohol during the event will not adversely affect or be materially detrimental to adjacent uses, buildings, or structures.
3. **The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping, and other land use development features prescribed in this Code and required by the Commission or Council in order to integrate the use with existing and planned uses in the vicinity** in that the proposed event, as well as all structures proposed for placement during its duration, shall be temporary and located in conformance with the standards of the City’s Municipal Code. Adequate parking facilities exist onsite to accommodate event patrons with additional, limited parking available offsite within surrounding neighborhoods in the unlikely event of overflow.
4. **That the proposed development conforms with Public Resources Code Section 21000 and following and that there are no feasible mitigation measures or feasible alternatives available which would substantially lessen any significant adverse impact that the activity may have on the environment** in that pursuant to the California Environmental Quality Act (CEQA), the project is found to be Categorical Exempt from the California Environmental Quality Act (CEQA) per Section 15304 (e) – Minor Alterations to Land, in that the project involves a minor, temporary use of land having negligible or no permanent effects on the environment.

Conditions:

**A. General:**

1. Approval of this application permits for a period of five consecutive calendar years (2015, 2016, 2017, 2018 and 2019), the sale and service of alcohol during the annual "Fiesta with Friends" outdoor festival at 33926 Calle La Primavera (St. Edward the Confessor Catholic Church). Subsequent submittals for this project shall be in substantial compliance with the plans presented to the Planning Commission, and in compliance with the applicable provisions of the Dana Point General Plan, Local Coastal Program and Zoning Code.
2. The application is approved as a plan for the location and design of the uses, structures, features, and materials shown on the approved plans. Any demolition beyond that described in the approved plans or any relocation, alteration, or addition to any use, structure, feature, or material, not specifically approved by this application, will nullify this approving action. If any changes are proposed regarding the location of, or alteration to the appearance or use of any structure, an amendment to this permit shall be submitted for approval by the Community Development Department. If it is determined that the proposed change complies with the provisions, spirit and intent of this approval action, and that the action would have been the same for the amendment as for the approved site plan, the amendment may be approved without requiring a new public hearing.
3. Failure to abide by and faithfully comply with any and all conditions attached to the granting of this permit shall constitute grounds for revocation of said permit.
4. The applicant or any successor-in-interest shall defend, indemnify, and hold harmless the City of Dana Point ("CITY"), its agents, officers, or employees from any claim, action, or proceeding against the CITY, its agents, officers, or employees to attack, set aside, void, or annul an approval or any other action of the CITY, its advisory agencies, appeal boards, or legislative body concerning the project. Applicant's duty to defend, indemnify, and hold harmless the City shall include paying the CITY's attorney fees, costs and expenses incurred concerning the claim, action, or proceeding.

The applicant or any successor-in-interest shall further protect, defend, indemnify and hold harmless the City, its officers, employees, and agents from any and all claims, actions, or proceedings against the City, its officers, employees, or agents arising out of or resulting from the negligence of the applicant or the applicant's agents, employees, or contractors. Applicant's duty to defend, indemnify, and hold harmless the

City shall include paying the CITY's attorney fees, costs and expenses incurred concerning the claim, action, or proceeding. The applicant shall also reimburse the City for City Attorney fees and costs associated with the review of the proposed project and any other related documentation.

The applicant and owner, and their successors in interest, shall be fully responsible for knowing and complying with all conditions of approval, including making known the conditions to City staff for future governmental permits or actions on the project site.

5. The applicant and applicant's successors in interest shall be responsible for payment of all applicable fees along with reimbursement for all City expense in ensuring compliance with these conditions.
6. Prior to each annual festival during calendar years 2015, 2016, 2017, 2018 and 2019, the applicant/property owner shall apply for and the event shall be subject to approval of, a Temporary Site Development Permit (TSDP) by the Planning Division.
7. The sale and service of alcohol shall not occur at any time other than during the approved "Fiesta with Friends" event and not more than one weekend per calendar year. The sale and service of alcohol during that event shall specifically be limited to Friday, Saturday and Sunday only; and during the following hours:

*Friday; 6:00PM – 10:00PM*  
*Saturday; 12:00PM – 10:00PM*  
*Sunday; 12:00PM – 8:00PM*

8. The application is approved as a plan for the location and design of the uses, structures, features, and materials shown on the approved plans. Any demolition beyond that described in the approved plans or any relocation, alteration, or addition to any use, structure, feature, or material, not specifically approved by this application, will nullify this approving action. If any changes are proposed regarding the location or alteration to the appearance or use of any structure, an amendment to this permit shall be submitted for approval by the Director of Community Development. If the Director of Community Development determines that the proposed change complies with the provisions and the spirit and intent of this approval action, and that the action would have been the same for the amendment as for the approved plot plan, he may approve the amendment without requiring a new public hearing.
9. Failure to abide by and faithfully comply with any and all conditions attached to the granting of this permit shall constitute grounds for either revocation of said permit or else a re-review of the request by the Planning Commission.

10. The applicant or any successor-in-interest shall defend, indemnify, and hold harmless the City of Dana Point ("CITY"), its agents, officers, or employees from any claim, action, or proceeding against the CITY, its agents, officers, or employees to attack, set aside, void, or annul an approval or any other action of the CITY, its advisory agencies, appeal boards, or legislative body concerning the project. Applicant's duty to defend, indemnify and hold harmless the city shall include paying the CITY's attorney fees, costs and expenses incurred concerning the claim, action or proceeding.
  - *The applicant or any successor-in-interest shall further protect, defend, indemnify and hold harmless the City, its officers, employees, and agents from any and all claims, actions or proceedings against the City, its officers, employees, or agents arising out of or resulting from negligence of the applicant or the applicant's agents, employees or contractors. Applicant's duty to defend, indemnify and hold harmless the City shall include paying the CITY's attorney fees, costs and expenses incurred concerning the claim, action, or proceeding.*
  - *The applicant shall also reimburse the City for City Attorney fees and costs associated with the review of the proposed project and any other related documentation.*
11. The applicant and applicant's successors in interest shall be fully responsible for knowing and complying with all conditions of approval, including making known the conditions to City staff for future governmental permits or actions on the project site.
12. The applicant and applicant's successors in interest shall be responsible for payment of all applicable fees along with reimbursement for all City expense in ensuring compliance with these conditions.
13. The applicant shall take steps to minimize noise and light impacts from any event rides upon adjacent residential and institutional uses. These steps shall include but not be limited to:
  - *Locating rides as far as possible from other residential and institutional structures.*
  - *Limiting hours of operation for all rides to 9:00 PM on Friday and Saturday and 7:00 PM on Sunday; all other event activities shall cease by 10:00PM on Friday and Saturday and 8:00PM on Sunday.*



- *Limiting hours for assembly and disassembly of rides to 7:00 AM to 8:00 PM Monday through Thursday (on those days both before and after the event)*
  - *Prohibiting illumination of rides beyond the approved hours of the event.*
14. To the maximum extent practicable, the applicant shall utilize off-street parking facilities for this event. These include those parking spaces in the main lot at the church, and additional offsite spaces at Dana Hills High School and R.H. Dana Elementary School. On-street parking in surrounding neighborhoods shall only be used during times when no other parking is available.
  15. All activities associated with sale and service of alcohol shall conform to the provisions of the Dana Point Noise Ordinance. The use of amplified sound or music shall be directed inward toward the event site and away from adjacent residential and institutional uses. The use of sound amplification equipment for sound checks and testing and music is not permitted beyond the approved hours of the event.
  16. During and after the event, the applicant shall ensure that the streets and neighborhood within approximately 300 feet of the event site, as well as off-site parking areas are clean of any trash or debris. The applicant shall ensure that adequate trash containers are available throughout.
  17. The applicant shall post signs at the main entrance to the festival and the parking lot, reminding attendees to:
    - *Deposit trash in designated trash containers and;*
    - *To not remove alcoholic beverages from the site*
  18. The applicant shall obtain a Sign Permit from the Planning Division for any proposed, temporary signage. No temporary signage will be allowed without said permit. Any approved, temporary signage shall be placed solely on private property, and not in public rights-of-way.
  19. The applicant shall obtain all required permits and approvals from the Orange County Health Care Agency for related food and other beverage service prior to each (annual) "Fiesta with Friends" event.

20. The sale, service and consumption of alcoholic beverages as approved by this CUP shall comply with all requirements of the CA State Department of Alcoholic Beverage Control (ABC). The applicant shall provide evidence of the appropriate ABC approvals and permits for the service and alcohol and for the broader event.
21. The applicant shall obtain approval from the Orange County Fire Authority (OCFA) each year prior to the start of the event.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Planning Commission of the City of Dana Point, California, held on this 22<sup>nd</sup> day of September, 2014 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Liz Claus, Chairperson  
Planning Commission

ATTEST:

---

John Tilton, Planning Manager/City Architect  
Community Development Department



City of Dana Point

**CUP14-0001(M)**

Community Development Department

33282 Golden Lantern (Evan Langan, AICP, Associate Planner)

Dana Point, CA 92629-1805

## VICINITY MAP



**Project :** CUP14-0001(M)

**Applicant:** St. Edward the Confessor Catholic Church

**Location:** 33926 Calle La Primavera





A. Chance Beck, Architect  
California C-10391  
Texas - 153431

3742 Misty Cove  
Little Elm, Texas  
75068  
(972) 294-1609 Ph/FAX

September 16, 2014  
Ursula Luna Reynosa  
Director Community Development  
City of Dana Point, Ca

Re: CUP 14-0001(M) – St. Edward the Confessor Catholic Church

Dear Ms Luna-Reynosa:

I am writing to voice my support for Minor Conditional Use permit for St. Edward the Confessor Catholic Church.

I am owner of a single family residence at 33952 Street of the Crystal Lantern, also known as Lot 270 in tract 968 in Dana Point.

The Church has held this festival for as long as I can remember, possibly since before the school was built on site in approximately 1985. All Dana Point residents are invited to the festivities and the event is always well attended.

The area and neighborhood is well maintained and the event and attendees are courteous in the area with noise levels reasonable for the gathering.

I believe this event assists St. Edward the Confessor Catholic Church raise funds needed to maintain the school and other positive services provided to the Dana Point Community.

I am in favor of approval of CUP 14-0001(M)

I can be reached at 214 906-1759 if you have any questions or comments.

Thank you

Sincerely,  
*A. Chance Beck*

cc: St. Edward the Confessor Catholic Church

***ATTACHMENT #4***

RECEIVED

SEP 18 2014

CITY OF DANA POINT  
COMMUNITY DEVELOPMENT  
DEPARTMENT

TO: CITY OF DANA POINT  
Community Development Department  
33282 Golden Lantern (Evan Langan, AICP, Associate Planner)  
Dana Point, CA 92629-1805

FROM: Clyde C. and Maurine Lacher  
25241 La Cresta Drive  
Dana Point, CA 92629

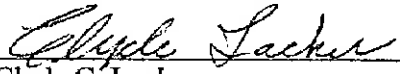
RE: Project #CUP14-0001(M), @33926 Calle La Primavera  
St. Edward the Confessor Catholic Church

As a resident of Dana Point in the vicinity of St. Edwards Church, we OPPOSE the onsite sale and consumption of ALCOHOL at the Fiesta with Friends, festival.

The church seems to forget this is a residential area. They invite parishioners from all the Catholic churches of Orange County which brings a mixture of many people that do not seem to care about our neighborhood. In the past, people attending the festival, litter beer cups and trash on the streets and hang out at residential curb sites. At night they are loud and obnoxious. We have to listen to their loud cars and boom boxes.

It is simply not fair for the church to be selling alcohol here, in what we think is a nice neighborhood.

Thank you for taking this letter into consideration.

  
Clyde C. Lacher

  
Maurine Lacher

cc: by FAX, September 18, 2014  
by U.S. postal service, September 18, 2014