

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

September 28, 2015
6:02 – 8:12 p.m.

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

CALL TO ORDER

Chairwoman O'Connor called the Regular Meeting of the Dana Point Planning Commission to order at 6:02 p.m.

PLEDGE OF ALLEGIANCE

Planning Secretary Shayna Sharke led the Pledge of Allegiance.

ROLL CALL

Planning Commission Members Present: Chairwoman April O'Connor, Vice-Chairman Eric Nelson, Commissioner Liz Claus, Commissioner Scott McKhann, and Commissioner Danni Murphy

Staff Present: Ursula Luna-Reynosa (Community Development Director), John Tilton (City Architect/Planning Manager), Erica Demkowicz (Senior Planner), Evan Langan (Associate Planner), Jennifer Farrell (Deputy City Attorney), and Shayna Sharke (Administrative Secretary).

A: APPROVAL OF MINUTES

ITEM 1: Minutes of the regular Planning Commission Meeting of August 24, 2015.

ACTION: Motion made (McKhann) and seconded (Nelson) to approve the Minutes of the Regular Planning Commission Meeting of August 24, 2015.
Motion carried 5-0-0. (AYES: Claus, McKhann, Murphy, Nelson, and O'Connor 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.

CITY OF DANA POINT
PLANNING COMMISSION
REGULAR MEETING MINUTES

September 28, 2015
6:02 – 8:12 p.m.

PAGE 2

D. PUBLIC HEARINGS

ITEM 2: Planning Commission review and consideration of Minor Site Development Permit SPD15-0013(M) for the construction of a 250 square foot roof deck to an existing single family dwelling located at 32411 Via Antibes

Applicant: William Clark/J.F. Jomphe

Location: 32411 Via Antibes (APN: 670-071-12)

Recommendation: That the Planning Commission take one of the following actions:

1. Adopt Resolution No. 15-09-28-XX, approving SDP15-0013(M) the proposed roof deck.

OR

2. Adopt Resolution No. 15-09-28-XX denying SDP15-0013(M).

Environmental: The project is Categorically Exempt from the provisions set forth in the California Environmental Quality Act (CEQA) per Section 15301 (Class 1 – Existing Facilities).

Request: Consideration of a Minor Site Development Permit for the construction of a 250 square foot roof deck to an existing single family dwelling.

Erica Demkowicz (Senior Planner) provided a staff report and responded to questions of the Commission. She noted letters had been received that alleged discrepancies in the height of the deck and the existing roof. Staff could not find the error during review.

Chairwoman O'Connor opened the Public Hearing at 6:36 p.m.

William Clarke (Applicant/Designer) spoke in favor of the approval of the Site Development Permit. He addressed alleged discrepancies of measurements on plans provided. He confirmed that the plans had been revised based on comments from City staff during their review.

Randy Jones (President of Emerald Ridge Home Owners Association) spoke in favor of the denial of the Site Development Permit and presented two exhibits. He stated that the H.O.A. hired a surveyor to confirm measurements of the

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

September 28, 2015
6:02 – 8:12 p.m.

PAGE 3

project address compared to the plans and reported the surveyor's findings about discrepancies.

John Tilton (City Architect / Planning Manager) confirmed that the roof deck, as drawn, would be 4' 9" from the edge of the roof (on the left side of the home).

Dr. Richard Bender (Dana Point) spoke against the approval of the permit. He stated that the H.O.A. rules and regulations are clear guidelines to benefit the common good. The residents should abide by the same rules to promote harmony, property values, and views.

Farshad Alikhani (Dana Point) spoke in opposition of the approval of the permit. He stated that this property has been in violation since 2014. He added that the proposed roof deck is not cohesive with the architecture of the neighborhood and that the CC&Rs signed by each property owner should be adhered to. He commented that the approval of the roof deck would set a dangerous precedent for both the H.O.A. and the City.

Art Zimmerman (Dana Point) provided a letter in opposition of the permit and commented on the negative impact the approval would have on the neighborhood.

Marge Koss (Dana Point) stated that she spoke with the applicant before any work was started and feels that she was misled by what was presented to her originally. She added that her views are impacted and requested the denial of the permit.

Naz Alikhani (Dana Point) spoke in opposition of the permit and referenced Dana Point Municipal Code 961-04-02C. She spoke of the loss of privacy and the change in use of her property and yard. She added that she was not notified of the construction.

Chris Pitet (Attorney for Applicant) summarized the proceedings and findings that occurred in court between the H.O.A. and the Applicant.

Patricia Newton (Dana Point) requested denial of the permit. She spoke of the importance of CC&Rs in their community.

James Hardy (Dana Point) spoke in opposition of the permit. He objected to the City Attorney's statements that the CC&Rs are not enforceable by the City. He shared his beliefs that the CC&Rs are signed, and therefore binding.

Kumar Raja (Attorney for Emerald Ridge H.O.A.) spoke in opposition to the

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

September 28, 2015
6:02 – 8:12 p.m.

PAGE 4

permit. He stated that Pitet's comments were irrelevant. He asked the Planning Commission to consider the City's General Plan and Zoning Code regulations when making their determination.

Chairwoman O'Connor closed the Public Hearing at 7:06 p.m.

Commissioner Murphy stated that all correspondence received has been read and considered. She added that the Applicant's proposal is not consistent with the General Plan or Urban Design Guidelines and believes that when CC&Rs are signed they should be adhered to.

Deputy City Attorney Farrell stated that the CC&Rs are a contract between the property owner and the H.O.A.

Vice-Chairman Nelson stated that in some neighborhoods roof decks are appropriate. He is not in support of the Project as it lacks sensitivity to surrounding neighborhood.

Commissioner McKhann stated that he is generally in favor of roof decks, however a roof deck is not suitable for the site in this case. He added that the Project is not sensitive to the surrounding neighbors nor does it comply with the General Plan.

Commissioner Claus spoke of the beauty of the neighborhood. She does not feel that the Project fits within the neighborhood and is not in support of approval of the permit.

Chairwoman O'Connor agreed with Commissioner Claus and added that Emerald Ridge is very special. She added that the addition of the roof deck would be inappropriate to the community and not sensitive to privacy. Additionally she found it upsetting that the plans were not clear and did not outline the actual project.

ACTION: Motion made (Claus) and seconded (Murphy), to adopt Resolution No. 15-09-28-24, denying Minor Site Development Permit SDP15-0013(M) for the construction of a 250 square foot roof deck at 32411 Via Antibes. Motion carried 5-0-0. (AYES: Claus, McKhann, Murphy, Nelson, and O'Connor NOES: None ABSENT: None ABSTAIN: None)

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

September 28, 2015
6:02 – 8:12 p.m.

PAGE 5

ITEM 3: Site Development Permit SDP15-0027 to allow the construction of a new, detached dwelling unit in conjunction with additions to an existing single-family dwelling in the Residential Duplex (RD-14) Zoning District at 27071 Camino de Estrella

Applicant David Kennedy

Location: 27071 Camino de Estrella (APN: 123-340-34)

Recommendation: That the Planning Commission adopt the attached Draft Resolution approving Site Development Permit SDP15-0027.

Environmental: Pursuant to the California Environmental Quality Act (CEQA), the project is found to be Categorically Exempt per Section 15303 (a) (Class 3 – New Construction or Conversion of Small Structures) in that the application proposes the construction of one, new single-family dwelling.

Request: Approval of a Site Development Permit to allow the construction of a new, 1,261 square foot detached dwelling unit with attached 666 square foot three-vehicle garage, in conjunction with the addition of 116 square feet to an existing single-family dwelling.

Evan Langan (Associate Planner) provided a staff report and responded to questions of the Commission.

Chairwoman O'Connor opened the Public Hearing at 7:39 p.m.

David Kennedy (Applicant) addressed questions raised by Planning Commissioners regarding the order of the garage and stated that structural engineering was a factor during the design process.

Chairwoman O'Connor closed the Public Hearing at 7:46 p.m.

Commissioner Murphy stated that she received and read the Letter of Correspondence regarding density of the area, but feels that the proposed Project is not inconsistent with the density of the area and is in support of the Project.

Chairwoman O'Connor stated that the length of the driveway gives plenty of availability for parking and is in support of the Project.

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

September 28, 2015
6:02 – 8:12 p.m.

PAGE 6

ACTION: Motion made (Nelson) with the recommendation that the applicant research the option of switching the placement of the one and two car garages, and seconded (Claus) to adopt Resolution No. 15-09-28-25, approving Site Development Permit SDP15-0027, to allow the construction of a new, detached dwelling unit in conjunction with additions to an existing single-family dwelling in the Residential Duplex (RD-14) Zoning District at 27071 Camino de Estrella. Motion carried 5-0-0. (AYES: Claus, McKhann, Murphy, Nelson, and O'Connor NOES: None ABSENT: None ABSTAIN: None)

ITEM 4: Coastal Development Permit CDP14-0027 and Variance 14-0005 to allow construction of foundation improvements (caissons), expansion of an existing second-story balcony as well as additional floor-area to an existing single-family dwelling with a nonconforming coastal bluff setback in the Residential Single-Family 3 (RSF-3) Zoning District at 35011 Camino Capistrano

Applicant Mae Kalb 2004 Trust FBO Steven C. Kalb

Location: 35011 Camino Capistrano (APN: 123-372-01)

Recommendation: That the Planning Commission adopt the attached Draft Resolution approving Coastal Development Permit CDP14-0027 and Variance V14-0005.

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

Request: Approval of a Coastal Development Permit and Variance to allow the conversion of 712 square feet of crawl space into habitable space and the addition of caissons within a setback from the edge of a coastal bluff, in conjunction with an expanded second-story balcony and interior remodel of an existing, nonconforming single-family dwelling located on a coastal bluff in the City's Coastal Overlay and the appeals jurisdiction of the California Coastal Commission.

Evan Langan (Associate Planner) provided a staff report and responded to questions of the Commission.

Chairwoman O'Connor opened the Public Hearing at 7:59 p.m.

Jeremy Calkins (Applicant) offered to answer any questions of the Planning Commissioners.

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

September 28, 2015
6:02 – 8:12 p.m.

PAGE 7

Bob Theel (Dana Point) thanked Evan Langan (Associate Planner) for the Staff Report and John Tilton (City Architect/Planning Manager) for his assistance during the application and design process. He spoke in support of the Project.

Earl Wessel (Dana Point) stated that he owns a neighboring property and spoke in support of the Project.

Chairwoman O'Connor opened the Public Hearing at 7:59 p.m.

Commissioner McKhann stated that he is impressed with the plans for this challenging lot and is in support of the Project.

Commissioner Claus stated that she is in support of the Project and added that she is pleased to see all of the caissons shown in the plans.

Commissioner Nelson stated that he is pleased to see a renovation rather than a teardown and is in support of the Project.

Commissioner Murphy stated that the plans appear structurally tight and added that it looks like a great project.

Chairwoman O'Connor stated that the Planning Commission is careful about granting variances and they are difficult to get approved, however they are in place to allow for sites such as these. She added that she is in favor of the Project.

ACTION: Motion made (McKhann) and seconded (Claus) to adopt Resolution No. 15-09-28-26, Approving Coastal Development Permit CDP14-0027 and Variance V14-0005 to allow foundation improvements (caissons), expansions of an existing second-story balcony as well as additional floor area to an existing single-family dwelling with a nonconforming coastal bluff setback in the Residential Single Family 3 (RSF-3) Zoning District at 35011 Camino Capistrano. Motion carried 5-0-0. (AYES: Claus, McKhann, Murphy, Nelson, and O'Connor NOES: None ABSENT: None ABSTAIN: None)

E. OLD BUSINESS

There was no Old Business.

CITY OF DANA POINT
PLANNING COMMISSION
REGULAR MEETING MINUTES

September 28, 2015
6:02 – 8:12 p.m.

PAGE 8

F. NEW BUSINESS

There was no New Business.

G. STAFF REPORTS

Director Luna-Reynosa confirmed the joint City Council and Planning Commission Study Session regarding the Doheny Village Plan on Tuesday, November 3, 2015 at 6:00 p.m. She added that two-way traffic will open on Del Prado on Tuesday, September 29, 2015.

H. COMMISSIONER COMMENTS

Commissioner Nelson stated that he thinks the Lantern District is really coming together and looks great.

Commissioner Murphy stated that she enjoyed the Doheny Village Charrette experience. She felt that the community was enthusiastic and that those who participated walked away learning something with a great sense of community.

Commissioner McKhann agreed with his fellow commissioners.

Commissioner Claus also enjoyed the Charrette and was glad to see the other Commissioners participate.

I. ADJOURNMENT

Chairwoman O'Connor adjourned the meeting at 8:12 p.m. and announced that the *next* Regular Meeting of the Planning Commission would be held on Monday, October 12, 2015, 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 8:12 p.m.



April O'Connor, Chairwoman
Planning Commission