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

July 7, 2004
7:02-8:55 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 – Bobbi Ogan (Planning Secretary) led the Pledge of Allegiance.

ROLL CALL

Commissioners Present: Chairman Norman Denton, Vice-Chairwoman April O'Connor, Commissioner Greg Powers, Commissioner J. Scott Schoeffel, and Commissioner Steven Weinberg

Staff Present: Kyle Butterwick (Director), Todd Litfin (Assistant City Attorney), Brenda Chase (Associate Planner), John Tilton (Planning Manager), and Bobbi Ogan (Planning Secretary)

A. APPROVAL OF MINUTES

ITEM 1: Minutes of the regular Planning Commission Meeting of June 16, 2004.

ACTION: Motion made (Schoeffel) and seconded (Powers) to approve the Minutes of the regular Planning Commission Meeting of June 16, 2004. Motion carried 4-0-1. (AYES: Denton, Powers, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: O'Connor)

B. PUBLIC COMMENTS

There were no Public Comments.

C. CONSENT CALENDAR

There were no items on the Consent Calendar.

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

July 7, 2004
7:02-8:55 p.m.

PAGE 2

D. PUBLIC HEARINGS

ITEM 2: Site Development Permit SDP04-18M for retaining walls that exceed 30".

Applicant: Alan Fox, Gloria Dei Church
Owner: Gloria Dei Church
Location: 33501 Stonehill Drive

Request: For retaining walls over 30-inches in height in conjunction with the realignment of an access driveway and reconfiguration of an existing parking lot on the Gloria Dei Church property.

Environmental: The proposed project is categorically exempt under Section 15304 of the California Environmental Quality Act (Class 4 – Minor Alterations to Land).

Recommendation: That the Planning Commission continue the hearing for Site Development Permit SDP04-18M to the July 21, 2004, Planning Commission meeting.

There was a consensus of the Planning Commission to continue this item to the July 21, 2004 Planning Commission meeting.

ITEM 3: A Variance proposal to allow a 167 square foot increase of habitable space on a nonconforming three-story residence, and to exceed the City's height regulations by three (3) feet, six (6) inches over the 24-foot limit.

Applicant/
Owners: John and Maryanne Phillips
Location: 33801 El Encanto

Request: A Variance to expand an existing three-story building that is non-conforming due to building height and story (three (3) feet, six (6) inches over standard).

Environmental: This project is categorically exempt (Class 1(e) – Section 15301 Existing Facilities) from provisions of the California Environmental Quality Act (CEQA) because it consists of an addition to an existing structure that will not result in an increase of more than 50 percent of the floor area of the structure before the addition.

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

July 7, 2004
7:02-8:55 p.m.

PAGE 3

Recommendation: That the Planning Commission continue the hearing for Variance V04-06 to the July 21, 2004, Planning Commission meeting.

There was a consensus of the Planning Commission to continue this item to the July 21, 2004 Planning Commission meeting.

ITEM 4: A request for a Site Development Permit to create a 1,442 square-foot garage within an existing single-family dwelling that is nonconforming with respect to the number of stories and building height and Variances for the slope of a new driveway, balcony step-backs and balcony projections.

Applicant: Creative Environments
Owners: Esther Bitonte
Location: 34102 Blue Lantern

Environmental: This project is categorically exempt [Class 1(e) and 5(a) – (Sections 15301 & 15305) – Existing Facilities and Variances] from provisions of the California Environmental Quality Act (CEQA) because it consists of an addition to an existing structure that will not result in an increase of more than 50 percent of the floor area of the structure before the addition and minor variances that will not result in the creation of a new parcel.

Recommendation: That the Planning Commission continue the hearing for Site Development Permit SDP04-09M and Variance V04-04 to the August 4, 2004, Planning Commission meeting.

There was a consensus of the Planning Commission to continue this item to the August 4, 2004 Planning Commission meeting.

ITEM 5: A Master Temporary Site Development Permit (SDP04-33) to establish a Farmers Market as a temporary use within the Dana Point Plaza Parking Lot.

Applicant: Steve Crossen
Owner: City of Dana Point
Location: Dana Point Plaza Parking Lot

Request: Approval of a Master Temporary Site Development Permit to authorize the establishment of a Farmers Market one day a week in the Dana Point Plaza Parking Lot.

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

July 7, 2004
7:02-8:55 p.m.

PAGE 4

Environmental: This project is categorically exempt (Class 4 – Section 15304 – Minor Alterations) from the provisions of the California Environmental Quality Act (CEQA) because it consists of a minor temporary use of land having no permanent effects on the environment.

Recommendation: That the Planning Commission adopt the draft Resolution approving Site Development Permit (SDP04-33) for the proposed project.

Brenda Chase (Senior Planner) reviewed the staff report.

Chairman Denton opened the Public Hearing.

Steven Crossen (Riverside – Applicant) stated that he wanted the farmers market to become a community event and a positive thing for the City.

Tacy Lee (Dana Point) stated that she was opposed to the market coming to La Plaza because it would be direct competition with her tenant. She added that the parking was another issue. She urged City staff to look for another location in the City that wouldn't impact local businesses.

Jim Browne (Laguna Niguel) stated that the market works too well for that area and that it would be detrimental to his own flower business. He added that parking was a problem and that the market would take away premium selling opportunities from neighboring businesses.

Richelle Davidson (Laguna Beach) stated that she was opposed to the market and felt that it would undercut her own flower business. She felt that a solution for the surrounding businesses would be for the market to not sell fruits, vegetables, or flowers.

James Raneri (Dana Point) stated that his main concern with the proposed market was the parking. He added that any time there is an event held there, that the people park blocking the residents' driveways, leave trash, and trample the landscape. He stated that it was frustrating for the homeowners on La Cresta.

Peter Kirton (Dana Point) he asked if the market could start at a later time to alleviate the early morning noise associated with the set up.

Kyle Butterwick (Director) stated that the Planning Commission has the ability to attach whatever conditions they feel are appropriate to provide proper management and oversight for the operation. He added that there will be a mandatory review of this application at its twelve (12) month anniversary so that

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

July 7, 2004
7:02-8:55 p.m.

PAGE 5

within one (1) year the operator would be required to appear back before the Planning Commission to enable both staff and Planning Commission to take a comprehensive review of its operation over the previous twelve (12) months.

Chairman Denton closed the Public Hearing.

Commissioner Weinberg stated that he supported the market. He added that the farmers market was a way for people to get to know each other and that a successful market was a good thing. He felt that the market could help the surrounding businesses.

Commissioner Powers felt that the farmers market should be allowed to make a go of it. He stated that the market would add the vibrancy we are striving for in the Town Center and that it would create an environment that would foster that community feel.

Vice-Chairwoman O'Connor stated that she supports the proposed market and one of the issues that has convinced her to support the market is that there will only be a four (4) hour window of competition for the surrounding businesses. She felt that there was a need for this type of event in the City.

Chairman Denton stated that the operator should not be allowed to set up prior to 6:00 a.m. and that if the time was violated then the set up start time should be made later. He added that he supports the proposed farmers market.

ACTION: Motion made (Weinberg) and seconded (Schoeffel) to adopt Resolution 04-07-07-27 approving Site Development Permit SDP04-33. Motion carried 5-0. (AYES: Denton, O'Connor, Powers, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: None)

ITEM 6: A request for a Conditional Use Permit (CUP04-23) to allow outdoor entertainment at Hennessey's Tavern.

Applicant: Ara Jenichs
Owner: Paul Hennessy
Location: 34111 La Plaza

Request: Approval to allow for entertainment on the outdoor patio of Hennessey's Tavern located at 34111 La Plaza.

Environmental: This project is categorically exempt (Class 1 – Section 15301 – Existing Facilities) from the provisions of the California Environmental

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

July 7, 2004
7:02-8:55 p.m.

PAGE 6

Quality Act (CEQA) because it consists of a negligible expansion of use beyond that existing.

Recommendation: That the Planning Commission adopt the draft Resolution approving Conditional Use Permit CUP04-23.

Brenda Chase (Senior Planner) reviewed the staff report.

Chairman Denton opened the Public Hearing.

Ara Jenichs (Oceanside – Hennessey's Regional Manager) stated that background music for their customers was their goal and felt that it would help the atmosphere on the patio.

Mike Eckhardt (Dana Point) stated that he was the president of the La Cresta homeowners association and that the back of their building faces La Plaza. He added that they were routinely woken up by revelers coming from Hennessey's who are very noisy and disruptive. He was opposed to live music on the patio unless it was soft jazz or acoustic music that was not heavily amplified.

James Raneri (Dana Point) stated that he lives in the same building as the previous speaker and that it has been a challenge living so near Hennessey's. He added that there is consistent drunkenness and fighting amongst the patrons. He was opposed to allowing live music as he didn't feel that it would be a benefit for the surrounding homeowners.

Charles Reeder (Dana Point) stated that he was opposed to the idea of continued loud noise on a regular basis. He added that the patrons vomit on their property and use profanity on a regular basis. He felt that it was the perfect location for the Police to sit out there and meet their ticket quota.

Fred Arellano (Dana Point) stated that he was opposed to the granting of this permit. He added that moving the band would put the music closer to the homeowners. He felt that someone other than Hennessey's should monitor the noise level and be accountable.

Mike Eckhardt felt that the music contributes to the noise level problem because the louder the music, the more people drink and that there was a direct relationship there.

James Raneri felt that by allowing more music would exacerbate the situation.

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

July 7, 2004
7:02-8:55 p.m.

PAGE 7

Ara Jenichs stated that the entertainment would be held earlier and not be a late night situation. He added that on Sundays they would be finished by 5:00 p.m. He stated that he was not looking to create a noise problem for the neighbors.

Chairman Denton closed the Public Hearing.

Vice-Chairwoman O'Connor felt that the allowable decibel level of 70 seemed appropriate.

Commissioner Schoeffel stated that he was comfortable with the sound level allowed because it would eliminate drums, amplified bass, and electric guitar. He added that Sunday's hours should be revised to end at 5:00 or 6:00 p.m. and that the music should not be allowed past 10:00 p.m. on any days other than Fridays or Saturdays.

Commissioner Weinberg stated that he agreed with Commissioner Schoeffel. He felt that the bad behavior of the patrons was not part of this permit. He asked for permanent noise meters to be installed at the property line.

Commissioner Powers stated that he would like more information on this site and its ongoing problems before a decision was made. He added that he would like to see the police reports to see if there is a tie between the reports and the residents' claims and second, he would want an operator agreement with a measurable plan to force the operator to be more responsible with how they handle their issues. He stated that he would support extending the temporary permit for 30 or 60 days until a resolution could be made to equally benefit Hennessey's while protecting the quality of life for the residents. He added that he would support the item being continued until the data could be gathered and the revised operating agreement could be developed. He stated that he would prefer to look forward with measurable solutions instead of looking back with the goal to punish them if they failed to meet undefined expectations.

Chairman Denton stated that he agreed with Commissioner Schoeffel. He didn't feel that the music would add to the drunkenness at 1:00 or 2:00 a.m. and that there was no connection between 70 dba's and bad behavior.

Vice-Chairwoman O'Connor encouraged the residents to make police reports when there was a problem in the neighborhood so that there would be a record of it. She stated that she was opposed to continuing the item because Staff would be bringing the item back for review in 90 days.

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

July 7, 2004
7:02-8:55 p.m.

PAGE 8

Commissioner Schoeffel stated that the information gathering could be done during the 90 day period. He felt comfortable supporting the permit with the 70 dba limit and the music ending by 6:00 p.m. on Sundays.

ACTION: Motion made (O'Connor) and seconded (Schoeffel) to adopt Resolution 04-07-07-28 approving Conditional Use Permit CUP04-23 with amendment to the hours of operation. Motion carried 4-1.
(AYES: Denton, O'Connor, Schoeffel, Weinberg NOES: Powers
ABSENT: None ABSTAIN: None)

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) announced that due to Brenda Chase's outstanding contribution to the City over the years that she had been promoted to the position of Senior Planner. He stated that the City was working on phasing out the contract planners and towards that effort, the City has hired a woman from Los Angeles County as a Senior Planner as well. He added that she was currently a Senior Planner for the City of Temple City. He added that the new Senior Planner will be working in primarily current planning while Brenda will continue to coordinate the long-range planning and special projects.

I. COMMISSIONER COMMENTS

Commissioner Schoeffel congratulated Brenda on her well-deserved promotion. He stated that he was pleased to see how well-organized the activities were and how orderly the conduct was on the 4th of July in the City. He

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

July 7, 2004
7:02-8:55 p.m.

PAGE 9

added that the fireworks show was as impressive as ever. He stated that the extra effort on the part of the City seemed to pay off and that he was very proud to be a City official.

Commissioner Weinberg stated that he would like to receive status on the bike plan. He congratulated Brenda on her promotion and thanked her for helping make the Farmers Market possible.

Chairman Denton congratulated Brenda on her promotion. He stated that he flew back from Boston on Saturday so he could be in the City to see the "best fireworks show anywhere".

Vice-Chairwoman O'Connor congratulated Brenda and stated that she enjoyed seeing women promoted. She commended the City for their support of the concerts in the park. She stated that the recent concert featuring the Pacific Symphony from the Orange County Performing Arts Center was a great opportunity for the residents that normally wouldn't be able to afford to attend such a concert and that she was hopeful that the City could continue to sponsor this type of event for the community.

Commissioner Powers congratulated Brenda on her promotion.

J. ADJOURNMENT

Chairman Denton announced that the *next regular* meeting of the Planning Commission would be held on Wednesday, July 21, 2004, 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 8:55 p.m.

Norman Denton, Chairman
Planning Commission