

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

December 14, 2015
6:25 – 7:19 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 6:25 p.m.

PLEDGE OF ALLEGIANCE

Senior Administrative Assistant 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 (Director), Evan Langan (Assistant Planner), Alisha Patterson (Deputy City Attorney), and Shayna Sharke (Senior Administrative Assistant).

A: APPROVAL OF MINUTES

ITEM 1: Minutes of the regular Planning Commission Meeting of November 23, 2015.

ACTION: Motion made (Nelson) and seconded (Murphy) to approve the Minutes of the Regular Planning Commission Meeting of November 23, 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.

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D. PUBLIC HEARINGS

There were no Public Hearings.

E. OLD BUSINESS

There was no Old Business.

F. NEW BUSINESS

ITEM 2: Variance V15-0004 to allow the creation of a fourth-story by permitting the after-the-fact conversion of crawl space to habitable floor-area at a currently three-story duplex located within the Residential Single-Family 7 (RSF-7) Zoning District at 33895 Calle La Primavera

Applicant: Rodger Borge

Location: 33895 Calle La Primavera (APN 682-141-55)

Recommendation: That That the Planning Commission adopt the attached resolution denying Variance V15-0004.

Environmental: Pursuant to the California Environmental Quality Act (CEQA), the project is Categorically Exempt per Section 15301 (e) (Class 1 – Existing Facilities) in that it proposes a nominal addition to an existing residential duplex.

Request: Approval of a variance to allow the creation of a four-story building by approving after-the-fact conversion of 280 square feet of former crawl space into habitable area at a currently three-story duplex.

There were two (2) requests to speak on this item.

Chairwoman O'Connor opened the Public Hearing at 6:45 p.m.

Lynn Muir (Architect) stated that the Stop Work Notice was cited for a window only and in his experience, this is a 4-story building. He added that Chris Lea (Chief Building Inspector) told him that if any work remained it would need to be permitted. Muir stated that the submitted application asked for usable space, not habitable. He requested a continuance due to incorrect documentation. Muir submitted a binder with photos and site chronology to Chairwoman O'Connor for the record.

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Roger Borge (Applicant) said that he is available to answer any questions of the Planning Commission. He said that when he purchased the property, the drywall, concrete floor, and electrical were already installed. He had completed minimal improvements since, including porcelain tile over the concrete, paint and cabinets. He added that the space is no different than a garage and will be used for storage.

Vice-Chairman Nelson asked staff if there is a definition of "habitable" versus "usable" space in the Dana Point Zoning Code.

Director Luna-Renosa replied that there is not a definition of "habitable" or "usable" space. She added that per the Dana Point Zoning Code, this space fits the definition of a "Story" and should be regulated as such.

Chairwoman O'Connor closed the Public Hearing at 6:51 p.m.

Commissioner McKhann asked Lynn Muir what the air vent grills were for.

Chairwoman O'Connor re-opened the Public Hearing at 6:52 p.m.

Lynn Muir replied to Commissioner McKhann stating that the air vent grills are used to ventilate under floor space. He added that the foundation vents are still in place.

Commissioner McKhann asked to see the Stop Work Order citation for the window.

Roger Borge replied that there is a copy inside the binder provided by Lynn Muir.

Commissioner McKhann asked Borge if he was the owner of just the one unit.

Roger Borge confirmed that he owns just the one unit.

Chairwoman O'Connor re-opened the Public Hearing at 6:57 p.m.

Commissioner Murphy stated that the Ordinances in place need to be followed. She said that if misinformation was provided during the Real Estate process, it is a matter of the court. The Ordinances are the rules of the City and they have to be consistent. This space is not compliant with the codes. She added that she cannot make the findings to grant a Variance.

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Vice-Chairman Nelson said that as Planning Commissioners they have to put aside all noise and just look at the Zoning Codes. He added that this issue looks like a Real Estate and Building Code issue and the history of the site not relevant. He stated that he cannot make any findings to grant a Variance in this case and cannot support.

Commissioner McKhann agreed with his fellow Commissioners. While he said that he is sympathetic to Borge's situation, this does not meet the standards for granting a Variance. He added that they also must take creating a precedence for the City into consideration and will be voting against a Variance in this case.

Commissioner Claus stated that she cannot make any findings to grant a Variance.

Chairwoman O'Connor stated that 4-story buildings in the City may have been granted by the County before the City's incorporation. She added that she takes issue with circumventing the permit process, stating that permits are necessary to ensure that the hired contractor is working per code which protects the resident, neighbors, and visitors. Chairwoman O'Connor stated the hardship test involved with granting a Variance is hard to pass and in this case, there is no hardship.

ACTION: Motion made (McKhann) with amendment to state that the Planning Commission was not able to make any findings to support the Variance based on Dana Point Zoning Code 9.67.050, and seconded (Murphy) to adopt Resolution 15-12-14-33 denying Variance V15-0004 to allow the creation of a fourth-story by permitting the after-the-fact conversion of crawl space to habitable floor-area at a currently three-story duplex located within the Residential Single-Family 7 (RSF-7) Zoning District at 33895 Calle La Primavera. (AYES: Claus, McKhann, Murphy, Nelson, and O'Connor NOES: None ABSENT: None ABSTAIN: None)

G. STAFF REPORTS

Director Ursula Luna-Reynosa stated that the next Regular Meeting of the Planning Commission would be held on January 11, 2016. The December 28, 2015 Regular Planning Commission Meeting is cancelled. She added that staff will be reaching out to the Commissioners with standing meeting times prior to Planning Commission Meetings as an opportunity to speak with staff and the Planning Manager. Additionally, she wished Happy Holidays to all.

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H. COMMISSIONER COMMENTS

Commissioner Murphy congratulated staff on the lit Christmas tree in Capistrano Beach. The decorated tree is a tradition that had not been active in a few years and it is appreciated.

Vice-Chairman Nelson wished everyone Happy Holidays. He added that he is thankful to work with staff and his fellow Commissioners.

Commissioner McKhann stated the City looks great with all the lights and decorations and he was surprised by all of the lights in the harbor. He added that he would like a preview of items anticipated on the Planning Commission Meeting Agenda.

Commissioner Claus stated that she is thankful for all of the decorations in the City and wished everyone a Happy Holiday season.

Chairwoman April O'Connor wished everyone Happy Holidays and thanked the Commissioners and staff for their hard work this past year.

I. ADJOURNMENT

Chairwoman O'Connor adjourned the meeting at 7:19 p.m. and announced that the *next* Regular Meeting of the Planning Commission would be held on Monday, January 11, 2016, 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 7:19 p.m.



Eric Nelson, Vice-Chairman
Planning Commission