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

December 3, 2003
7:59 – 11:09 p.m.

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

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

PLEDGE OF ALLEGIANCE – Bobbi Ogan led the Pledge of Allegiance.

ROLL CALL

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

Staff Present: Kyle Butterwick (Director), Todd Litfin (Assistant City Attorney), Brenda Chase (Associate Planner), Albert Armijo (Planning Consultant), Kurth Nelson (Planning Consultant), Eugenia Garcia (Senior Planner), Matthew Sinacori (Deputy City Engineer), and Bobbi Ogan (Planning Secretary)

A. APPROVAL OF MINUTES

ITEM 1: Minutes of the regular Planning Commission Meeting of November 19, 2003. (FF# 0120-10/PC Minutes/PC Secretary Binder)
[BO]

ACTION: Motion made (O'Connor) and seconded (Denton) to approve the Minutes of the regular Planning Commission Meeting of November 19, 2003 as amended on page 12. Motion carried 5-0.
(AYES: Denton, O'Connor, Powers, Schoeffel, Weinberg NOES: None
ABSENT: None ABSTAIN: None)

B. PUBLIC COMMENTS

There were no Public Comments.

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

December 3, 2003
7:59-11:09 p.m.

PAGE 2

C. CONSENT CALENDAR

There were no items on the Consent Calendar.

D. PUBLIC HEARINGS

ITEM 2: Adopt Sign Design Guidelines and amend the Sign Code. (FF# 0610-15/ZTA03-02/LCPA03-02/Citywide) [BC]

Applicant/

Owner: City of Dana Point

Location: Citywide

Request: To adopt the Sign Design Guidelines and amend the City's Sign Code.

Environmental: A Negative Declaration was prepared for the Zone Text Amendment and Local Coastal Program Amendment for the Commission's review. Based on the Initial Study prepared for this project, it was determined that there would be no significant environmental impacts associated with the project.

Recommendation: That the Planning Commission recommend that the City Council approve the attached draft Resolution for a Negative Declaration and the attached draft resolution for the Sign Design Guidelines and amendments to the Dana Point Sign Code.

Brenda Chase (Associate Planner) reviewed the staff report.

There being no requests to speak on this item, Chairman Schoeffel opened and closed the Public Hearing.

Commissioner O'Connor stated that she agreed with the proposed amendments to the Sign Guidelines and felt that they will do a lot to improve the City.

ACTION: **Motion made (Denton) and seconded (Powers) to recommend that the City Council approve a Zone Text Amendment and Local Coastal Program Amendment revising the City of Dana Point Sign Code and adopt the Sign Guidelines. Motion carried 5-0. (AYES: Denton, O'Connor, Powers, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: None)**

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

December 3, 2003
7:59-11:09 p.m.

PAGE 3

ACTION: Motion made (Schoeffel) and seconded (Weinberg) to reconsider the previous motion. Motion carried 5-0. (AYES: Denton, O'Connor, Powers, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: None)

ACTION: Motion made (Schoeffel) and seconded (Powers) to adopt Resolution 03-12-03-58 adopting a Negative Declaration for Zone Text Amendment ZTA03-02 and Local Coastal Program Amendment LCPA03-02 to amend the existing Sign Code and Sign Guidelines. Motion carried 5-0. (AYES: Denton, O'Connor, Powers, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: None)

ACTION: Motion made (Schoeffel) and seconded (Denton) to adopt Resolution 03-12-03-59 recommending the City Council approve a Zone Text Amendment and Local Coastal Program Amendment revising the City of Dana Point Sign Code and adopting Sign Guidelines. Motion carried 5-0. (AYES: Denton, O'Connor, Powers, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: None)

ITEM 3: A Site Development Permit to allow construction of a duplex on a 6,800 square foot vacant lot and to allow retaining walls in excess of 30 inches in height. A Variance to permit a structural height in excess of the Cty standard for a structure with roof pitch of 4:12, to permit reduced front yard and side yard structural setbacks, and to permit exterior stairways extending into the side setbacks. Continued from the regular Planning Commission meeting of November 19, 2003 (FF# 0600-30/SDP03-34M/CUP03-11/V03-15/Via Canon, 26252) [AA]

Applicant/

Owner: Fara Marz Shahbazian

Location: 26252 Via Canon

Environmental: This proposed project qualifies as a Class 3 (Section 15303) pursuant to the applicable provisions of the California Environmental Quality Act (CEQA) in that the project involves construction of a duplex of fewer than four dwelling units.

Recommendation: That the Planning Commission continue the hearing to the regular Planning Commission meeting of December 17, 2003.

There was a consensus of the Planning Commission to continue this item to the next regular Planning Commission meeting of December 17, 2003.

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

December 3, 2003
7:59-11:09 p.m.

PAGE 4

ITEM 4: **A proposal to allow construction of an addition to an existing single-family residence, to allow expansion of a non-conforming structure, and to allow a structural height in excess of City standards for property located at 33781 Olinda.** (FF# 0600-30/SDP03-50M/V03-20/Olinda, 33781) [AA]

Applicant/

Owner: Paul Anderson

Location: 33781 Olinda

Request: Approval of a Site Development Permit to allow construction of an addition to an existing 1,272 square foot single-family residence (with garage) on a 3,075 square foot lot and to allow expansion of a non-conforming (32 feet, 3 inches) existing structural height. The addition would include 272 square feet to the first floor, 501 square feet to the second floor, and two new decks occupying a total of 213 square feet. A Variance is requested to permit a structural height of 34 feet (6 feet in excess of the City standard and 1 foot, 9 inches taller than the existing structural height).

Environmental: This project is Categorically Exempt (Class 3 – Section 15303 – New Construction or Conversion of Small Structures) from provisions of the California Environmental Quality Act (CEQA) because it consists of an addition to an existing single-family structure of more than 50% of the existing floor area and is not made in conjunction with construction of three or more units.

Recommendation: That the Planning Commission approve a Site Development Permit to allow construction of an addition to an existing single-family residence and to allow expansion of a non-conforming existing structural height, and a Variance to permit a structural height in excess of the City standard and 1 foot, 9 inches taller than the existing structural height.

Albert Armijo (Planning Consultant) reviewed the staff report.

Chairman Schoeffel opened the Public Hearing.

Victor Patel (Laguna Niguel – Architect) stated that he was available for any questions.

Chairman Schoeffel closed the Public Hearing.

Commissioner Weinberg stated that he could support the project and felt that it would be a fine addition to the neighborhood.

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

December 3, 2003
7:59-11:09 p.m.

PAGE 5

ACTION: Motion made (O'Connor) and seconded (Denton) to adopt Resolution 03-12-03-60 approving Minor Site Development Permit SDP03-50M and Variance V03-20. Motion carried 5-0. (AYES: Denton, O'Connor, Powers, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: None)

ITEM 5: A Coastal and Site Development Permit to allow the construction of a new 1,200 square foot modular building with associated parking and landscape improvements within the Flood Plain 2 Overlay District and a Minor Conditional Use Permit to allow eight (8) foot high fencing and vehicular access gates in the required setbacks with Variances allowing the drive aisle and back-up distance behind a 90° parking space to be less than the required 24-feet. (FF# 0610-70/CDP03-14/SDP03-45/V03-22/CUP03-18M) [KN]

Applicant: Charlie Huff, C.A. Huff & Associates
Owner: South Coast Water District
Location: 25826 Domingo Avenue; APN: 668-341-37

Request: A Coastal and Site Development Permit to allow the construction of a new 1,200 square foot modular building with associated parking and landscape improvements within the Flood Plain 2 Overlay District. A Minor Conditional Use Permit to allow eight (8) foot high fencing and vehicular access gates in the required setbacks, and Variances allowing the drive aisle and back-up distance behind a 90° parking space to be less than 24-feet are also requested.

Environmental: The proposed project qualifies as a Class 3 (Section 15303) pursuant to the applicable provisions of the California Environmental Quality Act (CEQA) in that the project involves the construction of a commercial/office building not exceeding 10,000 square feet.

Recommendation: That the Planning Commission approve Coastal Development Permit CDP03-14, Minor Conditional Use Permit CUP03-18M, Site Development Permit SDP03-45, and Variance V03-22.

Kurth Nelson (Planning Consultant) reviewed the staff report.

Chairman Schoeffel opened the Public Hearing.

Bob Moore (Dana Point – South Coast Water District Board Member) stated that they appreciated staff's cooperation with this project. He added that the water district needed this facility to allow all of their staff members to be in one location to

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

December 3, 2003
7:59-11:09 p.m.

PAGE 6

better serve the residents. He asked the Planning Commission to approve the project.

Chairman Schoeffel closed the Public Hearing.

ACTION: Motion made (Denton) and seconded (Weinberg) to adopt Resolution 03-12-03-61 approving Coastal Development Permit CDP03-14, Minor Conditional Use Permit CUP03-18M, Site Development Permit SDP03-45, and Variance V03-22. Motion carried 5-0. (AYES: Denton, O'Connor, Powers, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: None)

ITEM 6: A Coastal Development Permit CDP94-01(I) to allow the construction of a new approximate 7,835 square foot, single-family residence on a 34,630 square foot bluff-top lot with a Site Development Permit SDP03-09 to allow a garage and two (2) story configuration and retaining walls as high as six (6) and one-half (1/2) feet in height and Variance V03-10 to exceed the maximum height limit by eleven (11) feet three (3) inches, and for the requirements for development adjacent to coastal bluffs. (Continued from the regular Planning Commission meeting of November 19, 2003) (FF# 0610-70/CDP94-01(I)/SDP03-09/V03-10/Camino Capistrano, 35009) [KN]

Applicant/

Owner: Collin Cooper (Pioneer Builders)

Location: 35009 Camino Capistrano

Environmental: The proposed project qualifies as a Class 3 (Section 15303) pursuant to the applicable provisions of the California Environmental Quality Act (CEQA) in that the project involves the construction of a new single family residence not in conjunction with the construction of two or more of such dwelling units.

Request: A Coastal Development Permit to allow the construction of a new approximate 7,835 square foot, single-family residence on a 34,630 square foot bluff-top lot with a Site Development Permit to allow a garage and two (2) story configuration and retaining walls as high as 6.5 feet in height and Variances to exceed the maximum height limit by eleven (11) feet three (3) inches, and for the requirements for development adjacent to coastal bluffs.

Recommendation: That the Planning Commission approve Coastal Development Permit CDP94-01(I), Site Development Permit SDP03-09 and Variance V03-10.

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

December 3, 2003
7:59-11:09 p.m.

PAGE 7

Kyle Butterwick (Director) reviewed the proposed conditions of approval and amended Condition Number 63 to include an additional sentence to the end of the paragraph that would read, "This hold harmless agreement shall not apply to any failure of the new pipe installed on the property as required by this approval after said pipe is approved and accepted by the City".

Robert Theel (Dana Point – Owner's Representative) stated that they had no objection to the additional conditions and felt that those issues would have been addressed as the project had moved forward.

Terry Hirschag (San Clemente – Property Owner) stated that the burden had been placed on him as the property owner to replace the City's storm drain and that he was willing to do that, but that he would like to investigate moving all of the utilities off of the site. He added that the only condition that he did not agree with was Condition Number 47 because the project had been designed in such a way that if there ever was a flood that the first level would not be affected.

Earl Wessel (Dana Point) felt that the Director had addressed his concerns in his presentation. He stated that he wanted to protect the future owner and the bluff integrity. He thanked the City for wanting to replace the storm drain.

William Johnson (Capistrano Beach) stated that the storm drain system was inadequate in this area. He added that he was concerned about the storm drain being enlarged and then connecting to a smaller pipe.

Sue Cederquist (Capistrano Beach) reminded the Commission of the comments she had made at the last meeting regarding the sewers and the water district.

Cheri Johnson (Capistrano Beach) stated that she was against the project based on the safety issues of the storm drain and sewer.

Greg Thomas (Capistrano Beach) stated that it was his home that was flooded in 1998.

John Cederquist (Capistrano Beach) spoke about previous storm drain system failures in the area. He stated that staff report was incomplete and did not address critical safety issues relating to this project and that encasing sewer pipes and storm drains under tons of concrete or stonework on this scale was unprecedented. He felt that the property should not be built upon.

Keith Fullenwider (Capistrano Beach) stated that the storm drain pipe should need to be upsized all the way down and tied into an established system. He

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

December 3, 2003
7:59-11:09 p.m.

PAGE 8

added that he did not agree that a hydrology report should be done after a project is approved. He stated that there should be further study regarding a structure of this magnitude tying into an already taxed sewer system. He felt that the hold harmless agreement will not be enough protection against future claims.

Richard Gardner (Capistrano Beach) felt that this project could be built. He questioned the capacity of the 10" pipe and asked how many homes were served by the pipe. He felt that the addition of concrete would increase the runoff on the bluff face and would cause sloughing.

Jill Rolapp (Capistrano Beach) felt that the garage was going to be used as habitable space with the bathroom as proposed and that the house would be three habitable stories. She stated that her concern was for the safety of the residents in Capistrano Beach. She asked the Commission to reconsider not granting the Variances.

Carole Welling (Capistrano Beach) stated that the City would need an excess policy in addition to the proposed conditions. She felt that the Commission was being insensitive to the homeowners.

Chairman Schoeffel closed the Public Hearing.

Chairman Schoeffel recessed the meeting at 9:43 p.m.

Chairman Schoeffel reconvened the meeting at 9:58 p.m.

Commissioner Powers stated that he had questions for the representative from the water district.

Chairman Schoeffel re-opened the Public Hearing.

Commissioner Powers stated that the plans are calling the pipe a 10" ductal iron pipe which is not clay and does not have short joints. He asked about the following:

1. What he thought the length was or the typical would be.
2. About the video tape.
3. Does the water district have any plans to upsize or change this pipe.

Bob Clark (Mission Viejo – Construction Manager for South Coast Water District) *replied that the segment of pipe that is adjacent to the residence on the flat or terrace portion is a 10" diameter ductal iron pipe that was installed in the mid*

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

December 3, 2003
7:59-11:09 p.m.

PAGE 9

1980's and that was with 20' joints. He stated that both the storm drain and the sewer line were video taped. He added that the district was in the process of preparing proposals for a master plan for both domestic water and waste water system. He stated that this line would be evaluated at that time.

Vice-Chairman Denton asked why the district has not corrected the problem that seems to be in this area.

Bob Clark *replied that the 10" pipe is not a problem and that the video that was provided was taped during a high demand time that the pipe was flowing at 2/3 full. He stated that the district has an on-going program to eliminate sewer spills and that along those lines, they had recently video taped the entire sewer system and the first area they inspected was the Capistrano Beach area. He added that they have prioritized the repairs that were identified by the video and that in front of this project they had recently replaced approximately 90' of the sewer main on Camino Capistrano.*

Vice-Chairman Denton asked if the Planning Commission approved the project and the hardcape improvements were made on top of the pipe, would the project to replace the pipes be before that house were to be built or after.

Bob Clark *replied that they would evaluate the situation and if the pipes needed to be replaced they would not wait. He stated that after City approval that the applicant would need to receive approval from the district as well.*

Commissioner O'Connor asked if they were doing a report or looking into this neighborhood.

Bob Clark *replied that the district was in the process of preparing an RFP for a waste water system master plan and that it would late summer before they would receive a preliminary report.*

Richard Gardner stated that when he was a director for Capistrano Beach Water District they had done a complete and thorough master plan.

Earl Wessell reported that about four or five years ago he had heard a loud explosion and a clinking noise. He stated that the sound was coming from a sewer manhole cover being blown down the street.

Chairman Schoeffel closed the Public Hearing.

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

December 3, 2003
7:59-11:09 p.m.

PAGE 10

Chairman Schoeffel asked staff to respond to the concerns that were expressed during the public hearing.

Kyle Butterwick (Director) *replied that with respect to the sewer improvement questions that Condition Number 27 which requires the applicant to receive approval from South Coast Water District before issuance of a grading permit. He stated that there was some latitude on the part of the City Engineer regarding the condition requiring the living area to be above the flood elevation level. He added that there were questions regarding the upsizing of the pipe and that he would invite the Deputy City Engineer to respond.*

Matt Sinacori (Deputy City Engineer) stated that the upsizing of the storm drain was not intended to solve the 100 year flood problem. He added that the emphasis of the 60" pipe was to place a portion of that recommended improvement beneath the improved area to eliminate the need to tear up any of the hardscape improvements in the future.

Commissioner Denton asked how a 60" pipe would connect to a 36" pipe.

Matt Sinacori *replied that the property starts out at a 14% grade across the property and dives to a 67% going down the slope. He stated that hydraulically if you put a 60" pipe in at a 14% grade you would hit a 36" pipe at 67%, that 36" pipe will be able to carry a lot more water than a 36" pipe at 14%.*

Commissioner Weinberg asked if the flooding upstream would be corrected or made worse by the proposed home.

Matt Sinacori *replied that the development of this property and the placement of the house will not affect the drainage problem in the area.*

Todd Litfin (Assistant City Attorney) stated that Condition Number 63 should be amended to include "and indemnify".

Commissioner Powers stated that the homes upstream would benefit from the upsizing of the storm drain pipe. He felt that the applicant had done everything that the City has asked and that the project should be approved.

Commissioner O'Connor stated that she felt more comfortable with the project with the addition of the new conditions. She added that the applicant should not have to be responsible for fixing other resident's problems and that there were appropriate agencies that need to fix these problems.

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

December 3, 2003
7:59-11:09 p.m.

PAGE 11

Commissioner Weinberg stated that he would like to see the sewer and water lines moved so that they would not be under the house. He added that he would support the project.

Vice-Chairman Denton felt that the proposed home would not create more flooding for the other homes and that the upsizing of the pipe should help. He stated that the conditions were in place that would help him support the project.

Chairman Schoeffel stated that the testimony received was convincing that there is a problem in this area, but that the remedy was not with the applicant. He added that he would support the project.

ACTION: Motion made (O'Connor) and seconded (Schoeffel) to adopt Resolution 03-12-03-61 approving Coastal Development Permit CDP03-14, Minor Conditional Use Permit CUP03-18M, Site Development Permit SDP03-45, and Variance V03-22 with the amendment of Condition Number 63. Motion carried 5-0. (AYES: Denton, O'Connor, Powers, Schoeffel, Weinberg NOES: None 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) reported that the City had received an appeal of the Planning Commission decision on the DeCarli project and that the appeal was filed by a group of people who reside in the vicinity of that project.

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

December 3, 2003
7:59-11:09 p.m.

PAGE 12

I. COMMISSIONER COMMENTS

Commissioner Powers felt that it was a good decision for Commissioner O'Connor and Vice-Chairman Denton to raise the concerns that they did regarding the public safety and health on the last project (CDP94-01(I)/SDP03-09/V03-10).

Commissioner O'Connor thanked Commissioner Powers for his comments and added that she does not like to make a decision on something that she is not comfortable with.

Vice-Chairman Denton felt that in researching the project that it will actually help the neighborhood and will help to address the problems that they are experiencing.

Commissioner Weinberg stated that the issue of this house has brought this community together. He felt that if they could use their organizational skills to work on their issues of the sewer and the storm drain that they will be successful.

Chairman Schoeffel stated that the Planning Commission was not an elected body, but an appointed body with a different charge, a limited jurisdiction, and a very specific duty to follow the City's planning and zoning law. He added that he was very happy with the competence with such little time on the job that the three new Commissioners have given this important duty.

J. ADJOURNMENT

Chairman Schoeffel stated that the *next* regular meeting of the Planning Commission would be held on Wednesday, December 17, 2003, 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 11:09 p.m.

J. Scott Schoeffel, Chairman
Planning Commission