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

December 17, 2003
7:02-9:33 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 – Director Butterwick 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), Kurth Nelson (Planning Consultant), Brenda Chase (Associate Planner), Albert Armijo (Planning Consultant), Eugenia Garcia (Senior Planner), and Bobbi Ogan (Planning Secretary)

A. APPROVAL OF MINUTES

ITEM 1: Minutes of the regular Planning Commission Meeting of December 3, 2003. (FF# 0120-10/PC Minutes/PC Secretary Binder) [BO]

ACTION: Motion made (Denton) and seconded (Powers) to approve the Minutes of the regular Planning Commission Meeting of December 3, 2003. 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.

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C. CONSENT CALENDAR

There were no items on the Consent Calendar.

D. PUBLIC HEARINGS

ITEM 2: A Conditional Use Permit CUP03-22 to allow a tattoo establishment and piercing studio with a retail component including the sale of artwork and customer designed clothing in an existing 1,625 square foot lease space in a multi-tenant building. (FF# 0610-55/CUP03-22/Doheny Park Road, 34252) [KN]

Applicant: Robert Patison
Owner: Leo Chade
Location: 34252 Doheny Park Road

Request: A Conditional Use Permit to establish a tattoo establishment and piercing studio with a retail component including the sale of artwork and custom designed clothing in an existing 1,625 square foot lease space in a multi-tenant building.

Environmental: The proposed project qualifies as a Class 1 (Section 15301) Categorical Exemption pursuant to the applicable provisions of the California Environmental Quality Act (CEQA) in that the project involves an existing facility that will include minor interior alterations.

Recommendation: That the Planning Commission adopt the attached Resolution approving Conditional Use Permit CUP03-22.

Kurth Nelson (Planning Consultant) reviewed the staff report.

Chairman Schoeffel opened the Public Hearing.

Robert Patison (San Clemente) stated that he was available to answer any questions.

Chairman Schoeffel closed the Public Hearing.

Vice-Chairman Denton stated that he would support the proposal with the Conditions as proposed.

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Commissioner Powers stated that his biggest concerns were the impacts to the neighborhood and whether there was a public health and safety issue as it relates to this facility being located so close to apartments and churches.

Commissioner Weinberg agreed with Commissioner Powers and felt that this type of use should not be in Capistrano Beach.

Chairman Schoeffel stated that he did not have the authority or jurisdiction as a Planning Commissioner to legislate land use for a particular piece of property. He added that the appropriate jurisdiction had made the decision that this type of use was permitted in this area. He stated that the conditions were stringent and that Condition Number 11 allows the Planning Commission to review the use after one (1) year.

ACTION: **Motion made (Powers) and seconded (Weinberg) to deny Conditional Use Permit CUP03-22. Motion failed 2-3. (AYES: Powers, Weinberg NOES: Denton, O'Connor, Schoeffel ABSENT: None ABSTAIN: None)**

ACTION: **Motion made (Denton) and seconded (O'Connor) to adopt Resolution 03-12-17-63 approving Conditional Use Permit CUP03-22 with the deletion of Condition Number 19. Motion carried 3-2. (AYES: Denton, O'Connor, Schoeffel NOES: Powers, Weinberg ABSENT: None ABSTAIN: None)**

ITEM 3: **A request for a Coastal Development Permit and Site Development Permit to allow the demolition of an existing dwelling and construction of a new single-family residence located within the FP-3 Flood Overlay Zone; Coastal Development Permit CDP03-10/Site Development Permit SDP03-38. (FF# 0610-70/CDP03-10/SDP03-38/Beach Road, 35611) [BC]**

Applicant: Syed A. Raza
Owner: Kristhna Srivastav
Location: 35611 Beach Road

Request: Approval of a Coastal Development Permit and Site Development Permit for the demolition of an existing dwelling and construction of a new single-family residence within the FP-3 Flood Overlay Zone.

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Environmental: This project is Categorically Exempt (Class 3 – Section 15303 – New Construction) from the provisions of the California Environmental Quality Act (CEQA) because it consists of the construction of a new residential unit.

Recommendation: That the Planning Commission adopt the attached draft Resolution approving Coastal Development Permit CDP03-10 and Site Development Permit SDP03-38.

Brenda Chase (Associate Planner) reviewed the staff report.

Chairman Schoeffel opened the Public Hearing.

Jerome Wall (Capistrano Beach) stated that he was concerned that the construction of his neighbors' homes to the north and south would open his home up to the elements. He felt that the seawall would be worn away and that he wanted to protect his home.

Chairman Schoeffel closed Public Hearing.

Chairman Schoeffel felt that the issue of seawalls was within the purview of an engineer whether or not the structure was the appropriate safeguarding device.

ACTION: **Motion made (Powers) and seconded (Denton) to adopt Resolution 03-12-17-64 approving Coastal Development Permit CDP03-10 and Site Development Permit SDP03-38. Motion carried 5-0. (AYES: Denton, O'Connor, Powers, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: None)**

ITEM 4: **Minor Site Development Permit SDP03-61M and Variance V03-21 to allow a remodel to an existing single-family residence consisting of the addition of a new entry and conversion of an existing carport to a garage and a Variance to allow a reduced front structural setback on property located at 26761 Calle Maria. (FF# 0600-30/SDP03-61M/V03-31/Calle Maria, 26761) [AA]**

Applicant/

Owner: Anthony and Muriel Godfrey

Location: 26761 Calle Maria

Environmental: This project is Categorically Exempt, Section 16303 (Class 1 – Existing Facilities), from provisions set forth in the California Environmental

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Quality Act (CEQA) in that it involves construction of an addition to an existing single-family residence of less than 10,000 square feet where the project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and the area in which the project is located is not environmentally sensitive.

Recommendation: That the Planning Commission adopt the attached draft Resolution approving Minor Site Development Permit SDP03-61M and Variance V03-21 for construction of an addition to a existing single-family residence and a Variance for a reduced front structural setback.

Albert Armijo (Planning Consultant) reviewed the staff report.

Chairman Schoeffel opened the Public Hearing.

Anthony Godfrey (Capistrano Beach) stated that he was the only house on the street with a carport and felt that the addition of a garage would improve the value of the home and the street.

Chairman Schoeffel closed the Public Hearing.

Commissioner O'Connor stated that she liked the project and that she would support it.

Commissioner Weinberg stated that he would support the project.

Commissioner Powers felt that the Variance could be mitigated by eliminating the laundry room.

Vice-Chairman Denton asked if the garage could be re-designed to lessen the amount of Variance needed.

Chairman Schoeffel re-opened the Public Hearing.

Jeff Jonsson (Architect - Santa Ana Heights) stated that a Variance would be required even if the laundry room was eliminated.

Chairman Schoeffel closed the Public Hearing.

Commissioner O'Connor stated that she supports the project as proposed and felt that the elimination of the laundry room would not make a difference.

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Commissioner Weinberg stated that the granting of the Variance would not be viewed as a special privilege and that it would improve the property values.

Commissioner Powers felt that the Variance was a special privilege and that he would only support the project with the elimination of the laundry room.

Vice-Chairman Denton stated that he supports Commissioner Powers' comments.

Chairman Schoeffel stated that he supports Commissioner Powers' comments.

ACTION: Motion made (Powers) and seconded (Denton) to adopt Resolution 03-12-17-65 approving Minor Site Development Permit SDP03-61M and Variance V03-21 allowing a 21.7 foot garage with elimination of the laundry room. Motion carried 4-1. (AYES: Denton, Powers, Schoeffel, Weinberg NOES: O'Connor ABSENT: None ABSTAIN: None)

ITEM 5: A Minor 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 City standards, to permit reduced front and side yard structural setbacks, and to permit exterior stairways extending into a side structural setback. 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

Request: Approval of a Site Development Permit to construct a duplex and retaining walls in excess of 30 inches in height on a 6,800 square foot vacant lot, and a Variance to permit a 45 foot, 3 inch structural height, a front yard structural setback of 3 feet, a westerly side yard setback of 3 inches, and an exterior stairway extending 4 feet 7 inches into the easterly side setback.

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.

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Recommendation: That the Planning Commission adopt a Resolution approving Minor Site Development Permit SDP03-34M and Variance V03-15.

Albert Armijo (Planning Consultant) reviewed the staff report.

Chairman Schoeffel opened the Public Hearing.

Fara Shahbazian (Aliso Viejo) stated that five (5) feet of dirt will be removed and placed in back of the retaining wall.

Chairman Schoeffel closed the Public Hearing.

Commissioner Powers stated that the proposed windows on the side would be mitigated in plan check and that he would support the project as proposed.

Commissioner O'Connor stated that she was concerned with the side setback and the closeness of the adjacent property. She felt that the proposal was the best that could be done on this property with the constraints that it has. She added that she would support the project as proposed with a condition that the window in the dining room be reviewed.

Vice-Chairman Denton felt that the proposal was too large for the site. He stated that he would support a height Variance, but that final adjustments needed to be made to the project. He added that he would not support the project as proposed.

ACTION: Motion made (O'Connor) and seconded (Weinberg) to adopt Resolution 03-12-17-66 approving Minor Site Development Permit SDP03-34M and Variance V03-15 subject to the condition that there be strict compliance with all design elements of the plans as proposed. Motion carried 4-1. (AYES: O'Connor, Powers, Schoeffel, Weinberg NOES: Denton ABSENT: None ABSTAIN: None)

ITEM 6: Coastal Development Permit CDP01-31 and Site Development Permit SDP03-57, to allow for the reconstruction of a failed multiple-family structure with a new 30 unit multiple-family structure and associated repairs and improvements including stabilization of the site, drainage system, retaining walls, and repair of the Salt Creek Regional Bicycle Trail. (FF# 0610-70/CDP01-31/SDP03-57/Crown Valley Parkway, 32468) [KN]

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Applicant: Santiago de Rio, Lyon Management Companies
Owner: Lyon Management Companies
Location: 32468 Crown Valley Parkway

Request: A Coastal Development Permit and Site Development Permit the reconstruction of a failed multiple-family structure with a new 30 unit multiple-family structure and associated repairs and improvements including stabilization of the site, drainage system, and retaining walls.

Environmental: A Negative Declaration has been prepared in accordance with Section 15070 of the California Environmental Quality Act (CEQA) for the project for the Commission's review and adoption. The Negative Declaration was circulated on November 14, 2003 to the County Clerk and the State Clearinghouse for 30 days. The review period ended December 14, 2003. Comments received after distribution of this report will be attached as an appendix to the Negative Declaration for the Commission's consideration.

Recommendation: That the Planning Commission take the following actions:

1. Adopt the attached Resolution adopting a Negative Declaration; and
2. Adopt the attached Resolution approving Coastal Development Permit CDP01-31 and Site Development Permit SDP03-57.

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

E. PUBLIC MEETINGS

There were no Public Meetings.

F. OLD BUSINESS

There was no Old Business.

G. NEW BUSINESS

There was no New Business.

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H. STAFF REPORTS

Kyle Butterwick (Director) distributed copies of letters and reported that there had been two appeals received on recent Planning Commission determinations. He stated that the first appeal was received on the DeCarli project on Blue Lantern and that the appeal will be considered by the City Council at their second meeting in January. He added that a second appeal was received that concerns the Planning Commission's approval of the home on Camino Capistrano and that appeal will be considered by the City Council during the month of February.

He stated that the City Council had reached a settlement agreement at their last meeting with Pioneer Builders. He added that they had re-instated the approval of the request for the tentative tract map extension and that the property owners have one (1) year to record the map. He stated that the City has issued permits for Pioneer Builders to resume some aspects of the building construction that were part of the points of the agreement itself.

Todd Litfin *clarified that the City had entered into a stipulated judgment which basically acted as the settlement agreement and what the Council did was approve that and that judgment re-instated the permits.*

Kyle Butterwick stated that the Town Center Specific Plan interviews with the top three (3) candidates were scheduled for Thursday and Friday of this week and that he would keep the Planning Commission informed on the progress. He added that Staff was anticipating being able to make a recommendation to the City Council in January.

He added that the Planning Commissioner's Institute was coming up in late March in Monterey and recommended that the Planning Commissioners make arrangements to attend.

I. COMMISSIONER COMMENTS

Commissioner Powers wished everyone a happy holiday and Merry Christmas.

Commissioner Weinberg wished everyone a happy holiday season.

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Vice-Chairman Denton wished everyone a great holiday season. He stated that in the seven (7) years he has served on the Commission where there have been so many appeals on Planning Commission decisions.

Commissioner O'Connor stated that she was concerned that a pattern may be occurring with residents appealing to the City Council when they do not like a Planning Commission decision and then, when they do not like the Council's decision, they file a lawsuit. She added that to prevent this pattern from being established, she wanted to encourage the Council to uphold Staff's recommendations and the Planning Commission's decisions. She felt that the settlement agreement was a good example of this and hoped that the Council would agree with the Commission's decisions even when they may not be politically advantageous.

Chairman Schoeffel observed that the residents in the community have a sense of entitlement and that it lends to very strident points of views to the point of misrepresenting what occurs at the Planning Commission meetings. He felt that this Commission has done a very good and thoughtful job of carrying out their duties within the rules that are prescribed for their conduct. He stated that the number of appeals had nothing to do with the Commission's decisions. He felt that they had more to do with the residents' own intense personal and neighborhood interest in specific projects than they do with whether the process is working well or not working well.

J. ADJOURNMENT

Chairman Schoeffel announced that the January 7, 2004 meeting of the Planning Commission will not be held due to holiday vacation schedules. The *next* regular meeting of the Planning Commission would be held on Wednesday, **January 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 9:33 p.m.

J. Scott Schoeffel, Chairman
Planning Commission

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