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

November 19, 2003  
7:03-12:09 a.m.

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

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

**PLEDGE OF ALLEGIANCE** – City Attorney Patrick Muñoz 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), Patrick Muñoz (City Attorney), Sonia Pierce (Planning Consultant), Albert Armijo (Planning Consultant), Kurth Nelson (Planning Consultant), Brenda Chase (Associate Planner), Eugenia Garcia (Senior Planner), and Bobbi Ogan (Planning Secretary)

**A. APPROVAL OF MINUTES**

**ITEM 1:** Minutes of the regular Planning Commission Meeting of November 5, 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 November 5, 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.

**There was a consensus of the Planning Commission to consider the Public Meeting item prior to the Public Hearings.**

**D. PUBLIC MEETINGS**

**ITEM 8: Approval of an amendment to the Public Art Component for the Monarch Beach Resort located at 33103 Niguel Road. (FF# 0600-30/SDP91-07/VTTM 14589 Hotel Village (I)/Tract 14605) [SP]**

Applicant: Makar Properties, LLC  
Owner: Makar Properties, LLC  
Location: South of Via Subida and east of Pacific Coast Highway, Pointe Monarch, Tract Map 14605

Request: Approval of an amendment to the Public Art Component for the Monarch Beach Resort, specifically located at the adjacent resort residential, Pointe Monarch, formerly known as Hillside Village South.

Environmental: A Mitigated Negative Declaration (SCH No. 91121010) was certified for the entire development project. This program does not require a separate environmental review.

Recommendation: That the Planning Commission adopt the attached Resolution approving the proposed amendment to the public art component of the Monarch Beach Resort.

**Sonia Pierce** (Planning Consultant) reviewed the staff report.

**Commissioner Powers** asked what the reason was for the change from the sphere to the dolphins.

**Glenn Forbes** (Mission Viejo – Representative) stated that the main reason for the revision to the art is that the granite sphere was going to weigh up to ten tons and that the engineer had expressed concerns about settlement over time. He added that the sphere would be an interactive piece of art with the ball being suspended by about an inch of water that would allow people to spin the ball. He stated that after further review, it was determined that the interactive use of the art would be inappropriate for Pacific Coast Highway.

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**ACTION:** Motion made (O'Connor) and seconded (Powers) to adopt Resolution 03-11-19-54 approving the proposed amendment to the public art component of the Monarch Beach Resort. Motion carried 5-0. (AYES: Denton, O'Connor, Powers, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: None)

**E. PUBLIC HEARINGS**

**ITEM 2:** 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 City 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 5, 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 of 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 3, 2003.

**There was a consensus of the Planning Commission to continue this item to the next regular meeting of December 3, 2003.**

**Commissioner O'Connor stated that she lived within the 500' radius of the project and recused herself at 7:15 p.m.**

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**ITEM 3: Coastal Development Permit CDP03-08, Site Development Permit SDP03-37M, and Variance V03-17 to allow construction of an addition to an existing single-family residence within the Coastal Overlay District. A Site Development Permit to allow the new construction with retaining walls in excess of 30 inches in height. A Variance to allow a reduced front structural setback on property at 424 Monarch Bay Drive. (FF# 0610-70/CDP03-08/SDP03-37M/V03-17/Monarch Bay, 424) [AA]**

Applicant: George Falcone  
Owner: Victor and Sandra Norton  
Location: 424 Monarch Bay Drive

Environmental: This project is Categorically Exempt, Section 15303 (Class 1 – Existing Facilities) from provisions set forth in the California Environmental 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 Resolution approving Coastal Development Permit CDP03-08, Site Development Permit SDP03-37M, and Variance V03-17 for construction of an addition to an existing single-family residence with retaining walls over 30 inches in height, and a Variance for a reduced front structural setback.

**Albert Armijo** (Planning Consultant) reviewed the staff report.

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

**Vice-Chairman Denton** stated that he would support the project.

**Commissioner Weinberg** felt that it would be a nice addition to the neighborhood.

**Commissioner Powers** stated that he would support the project.

**ACTION: Motion made (Powers) and seconded (Denton) to adopt Resolution 03-11-19-55 approving Coastal Development Permit CDP03-08, Site Development Permit SDP03-37M, and Variance V03-17. Motion**

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**carried 4-0-1. (AYES: Denton, Powers, Schoeffel, Weinberg NOES: None ABSENT: O'Connor ABSTAIN: None)**

**Commissioner O'Connor returned to the meeting at 7:24 p.m.**

**ITEM 4: A proposal to construct a new single-family residence with retaining walls taller than 30 inches on a steeply sloping 3,887 square foot lot, with Variance to structural height, rear yard structural setback, projections into the side and rear setback areas, and stepped back distance and extension for each floor above the first floor of the structure from the floor below, for property located at 34111 The Street of the Blue Lantern. (FF# 0600-30/SDP03-52M/V03-23/Blue Lantern, 34111) [AA]**

Applicant: Robert Theel Company  
Owner: James F. DeCarli  
Location: 34111 Blue Lantern

Environmental: This project is Categorically Exempt (Class 3 – Section 15303 – New Construction or Conversion of Small Structures) from the provisions of the California Environmental Quality Act (CEQA) because it consists of construction of a single-family residence.

Request: A proposal to construct a new single-family residence with a habitable area of 2,932 square feet that includes a terrace and two decks occupying 520 square feet, and a basement containing a two-car garage, mechanical space, laundry room, workshop, and bathroom occupying 1,089 square feet on a 3,887 square foot lot, and to allow retaining walls in excess of 30 inches in height. Variances are requested to permit a reduced rear setback (10 feet, rather than 16 feet), to permit a structural height of 34.4 feet (8.4 feet in excess of the City standard), to permit exterior stairways extending 4.5 feet into the side and rear setbacks (rather than 2.5 feet), and to permit a reduced stepped back distance and extension (2 feet for the second story over approximately 40% of the width of the structure and 5 feet for the third story over approximately 40% of the width of the structure) for each floor above the first floor of the structure from the floor below.

Recommendation: That the Planning Commission authorize the proposal to allow construction of a new single-family residence on a 3,887 square foot lot, to allow retaining walls in excess of 30 inches in height, and to allow Variances to permit reduced rear structural setback, structural height in excess of the City standard, exterior stairways extending into the side and rear setbacks, but deny

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the Variance proposal to allow a reduced stepped back distance and extension for each floor above the first floor of the structure from the floor below.

**Albert Armijo** (Planning Consultant) reviewed the staff report.

**Chairman Schoeffel opened the Public Hearing.**

**Robert Theel** (Dana Point – Representative) stated that they felt it prudent to withdraw the appeal they had filed with the City Council and revised the project for the Planning Commission to review. He felt if they had proceeded with the appeal to the City Council that it would not have been a good thing because they would have taken issues to the Council that had not been fully addressed by the Planning Commission.

**James DeCarli** (Redondo Beach – Owner) stated that his intent was to build a retirement home and that it was impossible to build a reasonable house on this lot without the benefit of Variances. He added that he especially needed a Variance for the step-back provision of the Zoning Code to the extent that they could not provide it. He stated that he has worked with his immediate neighbors and based on their criticism and concerns he redesigned his project deleting a loggia from the upper level to resolve Mr. Hamilton's privacy issue, redesigned the rear half of the building's roof to mitigate Mr. Jackes view issue. He added that they have also deleted several windows from the north elevation to benefit the Toch's. He stated that since the denial of their prior application for Variances, they have lowered the building an additional two (2) feet, withdrawn the request for a front yard setback Variance and increased the depth of the step-backs all to mitigate neighbor view issues. He added that they had also deleted 500 square feet of basement storage area to ease neighbor concerns for the scope of excavation.

**Robert Theel** reviewed for the Commission a number of photographs depicting the project site. He stated that the site is very steep and that they tried to keep the building low. He added that because of the existing grade, that there will be retaining walls for all of the dirt so that the garage and the lower level would be in the dark. He stated that if the step-backs were required that the home would lose 260 square feet at the upper level, and 130 square feet on the middle level. He felt that with the revisions that had been made to the project that the neighbors would still have a view. He added that in no way were step-backs ever discussed as being an ingredient for the purpose of enhancing side views from residence to residence.

**Shirley Jackes** (Dana Point) stated that she was opposed to the project as planned.

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**Norm Jackes** (Dana Point) stated that he would be happy for Mr. DeCarli to build a house that does not negatively impact the property value, quality of life, privacy and existing home designs of his neighbors. He added that he was not opposed to the setback Variance at the rear of the lot because it would have a limited impact on the neighbors and would be the appropriate way to compensate for the difficult shape and topography of the lot. He felt that Variances should do no harm to the neighbors and should only be granted to the minimum extent possible, not as a favor or a convenience. He stated that he was opposed to the step-back Variances requested because they are not minimal and felt that they were for convenience only. He felt that the home should be kept relevant to the roadway, and that if approved as proposed would set precedent with height. He asked the Commission to deny the project with prejudice.

**John Quinn** (Dana Point) stated that it was a difficult lot and that after reviewing the plans, elevations, and floor plans that he supports the project. He felt that the home would benefit the neighborhood.

**Terry McCann** (Dana Point) stated that he was in support of the Variances requested. He felt that the proposed home would increase the property values. He read a letter from Doug and Bobbi Craig who live in the neighborhood who could not be present at the meeting.

**Chairman Schoeffel read a letter that the Commission had received from Roy Shaw and Jean Shaw regarding the proposed home.**

**Chairman Schoeffel recessed the meeting at 8:31 p.m.**

**Chairman Schoeffel reconvened the meeting at 8:43 p.m.**

**Newton Edwards** (Dana Point) stated that he was able to build his home without any Variances and that he was opposed to the project.

**Sally Edwards** (Dana Point) stated that she wanted a home that would be an asset to the neighborhood and felt that Variances would not be necessary to build a home that everyone could be proud of.

**Ted Toch** (Dana Point) stated that he was opposed to the proposed Variances for the following reasons:

1. The proposed building plan continues to be out of proportion to the size of the lot.

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2. He always thought that a home would be built next to him, but that the home would be built within zoning guidelines which would preserve the proper home ventilation because they do not have air conditioning and they depend on being able to have the windows open.
3. The benchmark homes were built over 25 years ago when Variances did not exist.

He stated that he did not object to a home being built, but felt that the Variances that were being requested would be at the expense of the neighbors. He recommended a compromise which would allow the required step-backs. He asked the Commission to deny the project and only allow a reasonable Variance.

**Jack Hamilton** (Dana Point) stated that he was not opposed to a home being built, but felt that the step-back Variance was unnecessary and would lead to an oversized home on a small lot. He asked the Commission to deny the project.

**John McCloskey** (Irvine – Architect) stated that the site was a steeply sloped lot at 38% and that it was not conducive to the criteria for the step-back. He added that they had tried to address the step-back criteria in its spirit.

**Lee Bogнар** (Dana Point) stated that the DeCarli home would be the smallest on the street and felt that the majority of the neighbors support the project.

**Kerry Quinn** (Dana Point) read a letter from the Kathy Bogнар, Jim and Barbara DeCarli's daughter who could not be present at the meeting.

**Robert Theel** clarified that the five (5) foot setback at the rear was in fact nine (9) feet. He stated that it was their opinion that with the proposed design and holding the building back sixteen (16) feet from the property line that it was a direct impact as to why they couldn't do the step-backs.

**James DeCarli** stated that Toal Engineering had determined that the highest point of their building would be 269, the Toch residence next door is 272.5 and the Jackes residence is 275.

**Chairman Schoeffel closed the Public Hearing.**

**Commissioner Powers** stated that he liked the architecture of the home and that he was willing to support the project as proposed without step-backs because the site was so unique.

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**Commissioner Denton** felt that Mr. Toch's compromise fit with what Staff was asking for. He stated that he would support the rear Variance, the Variance for height because of the sloping lot, the staircase on the side and that he supported Staff's recommendation for the step-backs.

**Commissioner O'Connor** stated that she agreed with the Vice-Chairman's comments. She felt that the Commission would not be granting a special privilege to approve the Variance for the step-backs but that the Commission was granting so many other Variances that it was hard for her to grant the step-back Variance as well.

**Commissioner Weinberg** stated that he would like to see the step-backs and that maybe one of the options should be to bring out the garage level another six (6) or seven (7) feet and then step-back from there. He felt that the home would be a nice addition to the neighborhood.

**Commissioner Powers** stated that if the step-backs were required that the footprint for the mid and upper levels would be very small and that he didn't think that the architecture could support them.

**Chairman Schoeffel** felt that there had not been enough of a change on the proposal since the last hearing and that the home that was proposed was still too large for the site. He stated that he was not in favor of the rear Variance, or the step-back Variance. He added that he would support Staff's recommendation.

**Commissioner Powers** stated that one of the factors he looked at when making his determination was based on the lot coverage for this zoning district which states an allowable lot coverage standard of 60%. He added that the proposed lot coverage is 48.7% and that the concept that this structure would be oversized for the lot needs to be addressed.

**ACTION:** Motion made (Denton) and seconded (O'Connor) to adopt Resolution 03-11-19-56 approving Site Development Permit SDP03-52M and Variance V03-23. Motion carried 4-1. (AYES: Denton, O'Connor, Schoeffel, Weinberg NOES: Powers ABSENT: None ABSTAIN: None)

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**ITEM 5:**     **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 11 feet three (3) inches, and for the requirements for development adjacent to coastal bluffs.** *(Continued from the regular Planning Commission meeting of November 5, 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.

**Kurth Nelson** (Planning Consultant) reviewed the staff report.

**Chairman Schoeffel recessed the meeting at 10:12 p.m.**

**Chairman Schoeffel reconvened the meeting at 10:25 p.m.**

**Robert Theel** (Dana Point - Representative) stated that the site had been graded a long time ago. He didn't feel that the sewer pipes on the property were an issue and that the proposed home would be lower than the home next door.

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**Terry Hirschag** (San Clemente – Owner) felt that the proposed home would be acceptable to the community, that it would not be overbuilt for the size of the lot, and that it would be an asset. He stated that a courtyard was proposed for the middle of the home to alleviate massing in the front. He felt that the issue of the storm drain had been addressed. He read a letter from Bertha Hall who could not attend the meeting.

**Robert Theel** felt that the language of Condition Number 50 should be amended to read “all City Community Development Departments” instead of “all City Departments”.

**Keith Fullenwider** (Capistrano Beach) felt that Staff had glossed-over the letter from the water district and that the letter stated that the corrosion was very heavy lining the walls. He stated that cast iron sewer lines are not used any longer and that his main concern was the long-term cost impacts to the tax payers of this City. He added that future owners of this property would not be educated on the potential impacts of this storm drain easement. He asked what the remaining service life of the storm drain was.

**John Cederquist** (Capistrano Beach) felt that the Commission was more concerned with the profitability of the project at the last hearing. He asked the Commission to deny the height Variance and the size of the building.

**Matt Macarewich** (Capistrano Beach) felt that the lot was a hole and that the height of the house was not relative to the street. He added that the garage would not affect the look of the house regardless of its size. He stated that the sewer easement was a separate issue.

**Allan Seymour** (Capistrano Beach) felt that the house would be too large for the site and asked the Commission to deny the project.

**Raymond Nona** (Capistrano Beach) stated that he was concerned with zoning. He felt that the proposal was inappropriate and that the home could be designed without a Variance for height. He added that the architect should be told to conform to the Zoning Code and asked the Commission to deny the project.

**John Lohin** (Capistrano Beach) stated that he was in favor of the project and felt that the home would be beneficial to Capistrano Beach.

**Larry Rolapp** (Capistrano Beach) thanked everyone for putting up the story poles on the site. He stated that the square footage of the home had not been reduced since the last meeting on September 3, 2003 and that he felt that the

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project was too massive and too height intrusive. He added that the much of the mass could be eliminated by a redesign and elimination of the second floor. He stated that with the elimination of the second floor that the height Variance would only be for two (2) feet, nine (9) inches and the home would still have 3,050 square feet of livable space. He felt that the courtyard should be eliminated because it was only a convenience.

**Joseph Janczyn** (Capistrano Beach) felt that denial of the Variance for height would move the builder into the correct direction.

**Marsha Medina** (Capistrano Beach) felt that the new homes that were being built in Capistrano Beach were really changing the tone of the community. She stated that the garage should be deemed habitable space because of its size.

**Jorge Qubiña** (San Juan Capistrano) felt that the proposed home would be good for the City.

**Chairman Schoeffel closed the Public Hearing.**

**Commissioner O'Connor** stated that she was concerned with the safety of the site during a storm. She added that she could not support the project without more information on the hydrology reports.

**Commissioner Powers** stated that the easements did not concern him and that the issue would not change if the house were smaller. He added that the easement was designed at a certain width and that width is designed to satisfy the needs of the agency that needs to use it. He stated that the site requires a Variance regardless of size because of where the bluff edge has been determined. He stated that he was prepared to support the project.

**Vice-Chairman Denton** stated that he supports the project, but that he was concerned with the safety of the sewer and drainage. He added that he wants to protect the City and that he was not sure if the Resolution was adequate. He felt that the proposed home design was attractive.

**Patrick Muñoz** (City Attorney) *replied that he could work with the property owner to create some additional conditions that would offer more protection from a liability standpoint.*

**Chairman Schoeffel** stated that the project was not objectionable as designed but that he was concerned with safety.

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**Kyle Butterwick** (Director) recommended continuance of the hearing to allow Staff more time to draft the necessary language for the Resolution.

**ACTION:** Motion made (Schoeffel) and seconded (Denton) to re-open the Public Hearing. Motion carried 5-0. (AYES: Denton, O'Connor, Powers, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: None)

**Robert Theel** asked if there was a way to limit the comments received at the next meeting to public welfare and safety.

**Patrick Muñoz** *replied that the public hearing testimony could be limited to issues that have not already been addressed, to new speakers, or to old speakers as long as they are limiting themselves to new information.*

**Chairman Schoeffel** stated that if the Public Hearing were to remain open and continued to a date certain, that the proposal would be to limit testimony at that time by any speaker to the public safety matters.

**Suzanne Cederquist** (Capistrano Beach) reported that when it rains that her neighbor's home is flooded and that the water from their street goes straight to the canyon where the proposed home is to be built. She asked where the water would go once the home was completed.

**Vice-Chairman Denton** stated that he wanted someone from the water district to attend the next meeting and speak to some of the issues.

**There was a consensus of the Planning Commission to continue this item to the next regular meeting of December 3, 2003.**

**Chairman Schoeffel recessed the meeting at 11:47 p.m.**

**Chairman Schoeffel reconvened the meeting at 11:55 p.m.**

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**ITEM 6: Mitigated Negative Declaration for the development of Dana Point Public Library and renovation of the existing Library.**  
(FF# 0600-30/SDP03-06/Niguel Road and Pacific Coast Highway) [BC]

Applicant/

Owner: City of Dana Point

Location: Northwest corner of Pacific Coast Highway and Niguel Road

Request: To adopt the Mitigated Negative Declaration for the development of the Dana Point Public Library and renovation of the existing Library.

Recommendation: That the Planning Commission approve the draft Resolution to adopt the Mitigated Negative Declaration for the development of the Dana Point Public Library and renovation of the existing Library.

**Brenda Chase** (Associate Planner) reviewed the staff report.

**ACTION:** **Motion made (O'Connor) and seconded (Powers) to adopt Resolution 03-11-19-57 adopting a Mitigated Negative Declaration for the development of the Dana Point Public Library and remodel of the existing Library. Motion carried 5-0. (AYES: Denton, O'Connor, Powers, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: None)**

**ITEM 7: 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

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attached draft resolution for the Sign Design Guidelines and amendments to the Dana Point Sign Code.

**There was a consensus of the Planning Commission to continue this item to the next regular meeting of December 3, 2003.**

**F. OLD BUSINESS**

There was no Old Business.

**G. NEW BUSINESS**

There was no New Business.

**H. STAFF REPORTS**

There were no Staff Reports.

**I. COMMISSIONER COMMENTS**

**Commissioner O'Connor** thanked the City for repairing the baseball fields at the Community Center on Del Obispo.

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**J. ADJOURNMENT**

**Chairman Schoeffel** announced that the *next* **special** meeting of the Planning Commission would be held on Wednesday, December 3, 2003, beginning at 5:30 p.m. (or as soon thereafter) in Suite 206 located at 33282 Golden Lantern, Suite 210, Dana Point, California.

**The meeting adjourned at 12:09 a.m.**

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J. Scott Schoeffel, Chairman  
Planning Commission