

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

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November 14, 2016  
6:02 P.M. – 9:11 P.M.

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

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**CALL TO ORDER**

Chairman Nelson called the Regular Meeting of the Dana Point Planning Commission to order at 6:02 p.m.

**PLEDGE OF ALLEGIANCE**

Danny Giometti (Associate Planner) led the Pledge of Allegiance.

**ROLL CALL**

Planning Commission Members Present: Chairman Eric Nelson, Vice-Chairman Scott McKhann, Commissioner Roy Dohner, Commissioner Danni Murphy, Commissioner April O'Connor

Staff Present: Ursula Luna-Reynosa (Director of Community Development), Jennifer Farrell (Deputy City Attorney), Matt Schneider (Planning Manager), Brandy Boka (Associate Engineer), Liane Schuller (Planner), Sean Nicholas (Senior Planner), Danny Giometti (Associate Planner), and Shayna Sharke (Senior Administrative Assistant)

**A. APPROVAL OF MINUTES**

**ITEM 1: Minutes of the Special and Regular Planning Commission Meeting of October 17, 2016.**

**ACTION: Motion made (Dohner) and seconded (Murphy) to approve the Minutes of the Regular Planning Commission Meeting of October 17, 2016. Motion carried 4-0-1.**

<b>AYES:</b>	Dohner, McKhann, Murphy, Nelson
<b>NOES:</b>	None
<b>ABSENT:</b>	None
<b>ABSTAIN:</b>	O'Connor

**B. PUBLIC COMMENTS**

There were no requests to speak.

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**C. CONSENT CALENDAR**

There are no items on the Consent Calendar.

**D. PUBLIC HEARINGS**

**ITEM 2: Coastal Development Permit CDP16-0006 and Minor Site Development Permit SDP16-0018(M) to allow additions and alterations to an existing single-family dwelling located within a Residential Single-Family (RSF-4) Zoning District at 67 Monarch Bay Drive.**

Applicant: Richard and Jacalyn Mitten

Location: 67 Monarch Bay Drive (APN 670-121-69)

Recommendation: That the Planning Commission adopt the attached resolution approving Coastal Development Permit CDP16-0006 and Minor Site Development Permit SDP16-0018(M)

Environmental: Pursuant to the California Environmental Quality Act (CEQA), the project is found to be Categorically Exempt per Section 15301 (Class 1 – Existing Facilities) in that the project proposes additions to an existing single-family dwelling that will result in an increase of less than 50% of the existing floor area.

Request: Approval of a Coastal Development Permit and a Site Development Permit to allow living area additions of 736 square feet and garage additions of 788 square feet to an existing single-family dwelling within the City's Coastal Overlay District (the California Coastal Zone) and the Appeals Jurisdiction of the California Coastal Commission.

**PUBLIC COMMENTS**

There were no public comments.

**Commissioner O'Connor** stated that the proposal is better than what is currently built on the space and is in favor of the project.

**Commissioner Murphy** stated that she is concerned with the bluff setback.

**Liane Schuller** (Planner) stated that the geotechnical reports and the Public Works Department review were in support of the proposed setback.

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**Commissioner Dohner** spoke in favor of the project, stating that it met setback requirements and complies with standards.

**Vice-Chairman McKhann** spoke in favor of the project, stating that it is well designed and complies with the code. He requested that in future presentations, an image is shown depicting proposed fencing along the front elevation of projects from the street.

**Chairman Nelson** stated that he is in full support of the project and appreciated the lift feature in the garage.

**ACTION:** Motion made (O'Connor) and seconded (McKhann) to adopt Resolution No. 16-11-14-29 approving Coastal Development Permit CDP16-0006 and Minor Site Development Permit SDP16-0018(M) to allow additions and alterations to an existing single-family dwelling located within the Residential Single-Family 4 (RSF-4) zoning district at 67 Monarch Bay. Motion carried 5-0-0.

**AYES:** Dohner, McKhann, Murphy, Nelson, O'Connor  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None

**ITEM 3:** Coastal Development Permit CDP16-0018 to demolish an existing single-family residence and construct a new two-story, single-family residence and Minor Site Development Permit SDP16-0038(M) to allow increased height for retaining walls on a lot within the Coastal Zone located at 32687 Sea Island Drive.

Applicant: Chris and Stacy Neria

Location: 32687 Sea Island Drive (APN: 670-033-05)

Recommendation: That the Planning Commission adopt the attached resolution approving Coastal Development Permit CDP16-0006 and Minor Site Development Permit SDP16-0018(M).

Environmental: This project is Categorically Exempt (Class 3 - Section 15303 – New Construction) from the provisions of the California Environmental Quality Act (CEQA) since the project involves the construction of a single-family residence in a residential zone.

Request: A request to demolish an existing 2,878 square foot single-family residence and develop a new 6,429 square foot two-story, single family residence

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and associated exterior improvements including retaining walls on a lot within the coastal zone.

**Chairman Nelson opened the Public Hearing at 6:32 p.m.**

**Stan Schrofer** (Architect) stated that the proposed project has a smaller mass and less lot coverage than other projects in the neighborhood. He added that they are working with a professional civil engineer to analyze the drainage and the basement. He stated that he has completed thirty projects.

**Carl Schrenk** (Geotechnical Services) stated that there is solid bedrock beneath the proposed project and it is a very stable formation. He stated that he sees no reason to suspect any geotechnical issues on the property.

**Chris Neria** (Owner) stated that he began his project with the best of intentions and has a special case because the home must be ADA compliant. He stated that subterranean plans have been approved in the neighborhood and he has seen several homes with subterranean levels, so it conforms to the fabric of the community. He added that although HOA approval is not required for the City's approval, he wanted to do the right thing and hopes that the neighbors will get to know his family.

**Robin Friend** (Resident) stated that she moved to the neighborhood because of the views and invited the applicant to visit her home and see the views for himself.

**David Tofolo** (Resident) stated that he is new to the community and it appears to be a community in transition. He stated that he is disappointed that professionals are taking advantage of neighbors with one third of the community speaking in opposition to the project. He added that this project would set a precedence and the HOA Board is concerned about the views.

**Steve Hardle** (Resident) stated that he bought his property for the view and the CC&Rs protect views. He added that his view will be blocked by the proposed structure along with sun and light five months out of the year. He stated that the HOA Board's approval is contrary to the rules and asked the Planning Commission to delay their decision until the issue is resolved with the board.

**William Petitfils** (Resident) stated that he has seen many changes in the area as he and his family have been in the agriculture business in this area prior to development. He questioned how the property is being tested for drainage.

**Tristan Rogius** (Resident) presented himself as a former HOA Board member. He stated that the home next to his was excavated by Schrofer and there was minimal impact to neighbors. He added that he is mostly concerned about the views for the Boehm residence and said that it will cause a claustrophobic feeling. He stated that subterranean

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runoff will cause problems in the neighborhood and they should be waiting for geotechnical reports.

**Cindy Harcar** (Resident) presented herself as a real estate agent. She stated that allowing a remodeled home to obstruct views sets a precedent for new neighbors. She stated that everyone is willing to work together and it requires compromise from both sides.

**Linda Cross** (Resident) stated that the process was done incorrectly. The story poles led to great concern for the neighbors. She stated that she does not have a problem with the Nerias home, but a problem with the process.

**Heather Knotts** (Resident) stated that when she remodeled her home she changed the plans due to feedback from her neighbors. She added that she has had her subterranean living room fill up with water after heavy rain. She stated that she likes that the home will be refreshed, but due to the negative feedback, she hopes for a compromise.

**Jim Boehm** (Resident) stated that he lives to the right of the project and the approval of this project will set a precedence. He added that water flows out all year from cracks and underground streams. He stated that the City has installed French drains and hopes that the City will evaluate the geotechnical stability. He added that the HOA Board did not invite or notice all of the neighbors when they held their meeting when this project was approved.

**Pam Vickery** (Resident) stated that this is a unique neighborhood with big lots, and incredible views that are protected by CR&Rs. She asked for the Planning Commission's assistance in holding the HOA Board accountable to their rules.

**Chairman Nelson closed the Public Hearing at 7:11 p.m.**

**Commissioner Dohner** stated that the responsibility for protecting views lies with the CC&Rs and review committee of a community and is not an element of the Planning Commission's decision making process.

**Commissioner O'Connor** agreed with Commissioner Dohner. She stated that the Planning Commission has no authority to enforce the CC&Rs of a community and it is not the job of the Planning Commission to protect private views. She is sympathetic to the concerns raised regarding underground streams and asked staff about an addition of a sump pump to the plans. She stated that she would like to see stronger language in the Conditions of Approval regarding geotechnical issues.

**Sean Nicholas** (Senior Planner) replied to Commissioner O'Connor, stating that if approved, a very extensive geotechnical review process would be in place prior to the issuance of permits. He added that staff has reviewed the plans before the Commission

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and do not have any concerns based on tests and reports. Mr. Nicholas stated that staff also looked at the compatibility of the proposed project with surrounding homes and determined that the project is consistent with the neighborhood.

**Commissioner Murphy** stated that there is a history of water issues in this area and caution must be taken to know the elements that they are building on and what is happening underground. She added that there is a lot of emotion surrounding this project and they may want to postpone their decision until more is known about the history of the seepage and water issues.

**Chairman Nelson** stated that they should trust the professional review of the Geotechnical Engineer professional that stamped the plans.

**Vice-Chairman McKhann** stated that this is an impactful and concerning issue. He stated that the City must look at the Zoning Code and architectural compatibility when making their determination. He added that the applicant's geologist stated the bedrock is stable and it is not their place to mistrust that as they are not professional geologist or engineers. He stated that the HOA Board approved the plans, and the Planning Commission has no ability to check up on their procedures.

**Chairman Nelson** stated that there are straightforward guidelines that the Planning Commission must follow and they cannot be subjective or base their decisions on precedence concerns. He added that this project meets development standards. Further, he suggested that sureties are added to the Conditions of Approval regarding geotechnical monitoring, but provide flexibility so staff may approve.

**Commissioner O'Connor** supported what Chairman Nelson stated and asked that staff look into sump pumps as an option at the property.

**Ursula Luna-Reynosa** (Director of Community Development) stated that any issues or concerns found through the review process would be addressed.

**Commissioner O'Connor** asked what is done if a geotechnical report shows an issue.

**Jennifer Farrell** (Deputy City Attorney) replied that the action is dependent on the issue found. She added that final plans must reflect substantial conformance to the original plans submitted to the Planning Commission. If there are significant changes, the plans would need to be re-submitted to the Planning Commission for approval.

**Commissioner Dohner** stated that all beach front properties have water issues and all geotechnical issues have to be addressed.

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**ACTION:** Motion made (McKhann) with an the addition of Condition of Approval No. 43 stating: The applicant shall monitor the two neighboring properties to ensure that there is no geotechnical or other movement of the adjacent properties during the demolition and construction phases of the project to determine if additional work is needed to secure the adjacent properties. In the event any modifications to the approved plans are needed to avoid geotechnical impacts to the adjacent neighbors, such modifications shall be reviewed and approved by the Director of Community Development. In the event that the Director of Community Development determines that the modifications represent substantial changes to the approved plans, the Director may elevate the decision to the Planning Commission for a determination; and seconded (Dohner) to adopt Resolution No. 16-11-14-30 approving Coastal Development Permit CDP16-0018 to demolish and existing single-family dwelling and construct a new two-story, single-family dwelling with an attached garage and associated exterior improvements within the Coastal Zone and Minor Site Development Permit SDP16-0038(M) to allow increased height for retaining walls located at 32687 Sea Island Drive. Motion carried 5-0-0.

**AYES:** Dohner, McKhann, Murphy, Nelson, O'Connor  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None

**ITEM 4:** The public art component for the Gloria Dei Lutheran Church remodel and expansion project.

Applicant: Gloria Dei Lutheran Church

Location: 33501 Stonehill Drive (682-211-02)

Recommendation: That the Planning Commission adopt the attached Resolution approving the proposed public art components for the Gloria Dei Lutheran Church remodel and expansion project.

Environmental: Pursuant to Section 15061 (b)(3) the proposed activity will cause no significant effect on the environment and is therefore not subject to the California Environmental Quality Act (CEQA).

Request: Approval of the public art component of the Gloria Dei Lutheran Church remodel and expansion project.

**Chairman Nelson opened the Public Hearing at 8:29 p.m.**

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**Pastor David Mattson** stated that anyone driving or walking by would be able to see the art proposed and the contemplation garden in the back would be open to all. He added that public versus private spaces are classified differently with churches and they welcome the community onto the property. He added that the stained glass will be done by a famous artist and the whole building will be an attraction.

**Chairman Nelson** closed the Public Hearing at 8:31 p.m.

**Chairman Nelson** stated that he does not believe that it should be the property owner's responsibility to provide art, but this proposal is a great concept. He added that the contemplation garden and organ should be removed from the Art in Public Places submittal.

**Commissioner O'Connor** stated that she does not agree that the findings are accurate to fulfill the Art in Public Places requirement. She stated that the art within this program is usually a predominately public place with easy access that benefits the entire city. She added that the art presented with this project enhances the property, but does not serve the public and is not in support of the proposal.

**Commissioner Dohner** stated that the Arts and Culture Commissioner should be the recommending body to the Planning Commission regarding the Art in Public Places Program. He added that he loves the proposed bells, but the rest of the items are not appropriate to qualify as public art.

**Commissioner Murphy** stated that each venue has its own perspective of art and that the Commission should be open to diverse types of art. She added that the public is able to enjoy the proposed art and have a quiet moment.

**Vice-Chairman McKhann** stated that the designs are beautiful, but is torn in deciding whether it qualifies as public art as it is part of the site and architecture.

**Commissioner O'Connor** stated that if the art was at the edge of the property and separate from the building it would qualify as art in a public place.

**Commissioner Murphy** stated that art is subjective and while the art must be on their property, they are trying to make it accessible.

**Commissioner O'Connor** stated that the applicant may choose to pay the in-lieu fee instead of providing public art as part of the Art in Public Places Program.



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**Jennifer Farrell** (Deputy City Attorney) clarified that the participating art may be on or offsite with an agreement with the City. She offered options for the Planning Commissioners to consider to move forward.

**Ursula Luna-Reynosa** (Director of Community Development) stated that churches have unique architecture which enhances the culture of the community and the beauty of the stained glass is something that can be widely admired as it is viewable from the public right-of-way.

**Commissioner O'Connor** requested that staff work with the applicant to provide the art in a public place. She added that the public may not feel comfortable going into a church that is not theirs.

**Chairman Nelson** made a motion to acknowledge the architecture including the stained glass, fountain, and bells as part of the Art in Public Places Program, but remove the garden as it does not fit the criteria.

The motion died due to lack of a Second.

**Commissioner McKhann** stated that the church is an attractive amenity to the City. The stained glass is art, but as part of the building it is self-serving. He added that while it is visually stunning it may not be considered part of the Art in Public Places Program.

**Commissioner O'Connor** asked if this Program would be holding up the progress of the project.

**Danny Giometti** (Associate Planner) stated that the applicant must satisfy the Art in Public Places component prior to issuance of a Certificate of Occupancy.

**Commissioner Dohner** stated that the bells can be appreciated by everyone and the art has to meet a specific criteria to qualify for the Art in Public Places Program.

**Commissioner Murphy** stated that chapel visitors aren't necessarily visiting the Sistene Chapel for religion, but viewing the art.

**ACTION:** Motion made (O'Connor) and seconded (McKhann) to table the discussion regarding Resolution No. 16-11-14-31 to approve the Public Art Component for the Gloria Dei Lutheran Church Remodel and Expansion Project. Motion carried 4-1-0.

<b>AYES:</b>	Dohner, McKhann, Murphy, O'Connor
<b>NOES:</b>	Nelson
<b>ABSENT:</b>	None
<b>ABSTAIN:</b>	None

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**E. OLD BUSINESS**

There was no Old Business.

**F. NEW BUSINESS**

There was no New Business.

**G. STAFF REPORTS**

**Ursula Luna-Reynosa** (Director of Community Development) delivered a presentation regarding the Zephyr development linear park. She also asked the Planning Commission to inform staff if they are available for Planning Commission Meetings on Tuesday evenings in the future.

**Chairman Nelson opened the Public Comments at 9:05 p.m.**

**Irene Fascher** (Resident) stated that she has sent numerous emails regarding the lack of transparency during this process. She added that the costs associated with the park were alarming.

**Chairman Nelson closed the Public Comments at 9:08 p.m.**

**H. COMMISSIONER COMMENTS**

**Vice-Chairman McKhann** requested that staff look into providing/including proposed fencing on the front elevation from the street for future projects presented before the Planning Commission.

**Commissioner O'Connor** stated that she is available on Tuesday evenings and stated that the Super Moon could be seen this evening.

**I. ADJOURNMENT**

Chairman Nelson adjourned the meeting at 9:11 p.m. and announced that the *next* Regular Meeting of the Planning Commission will be held on Monday, November 28, 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.

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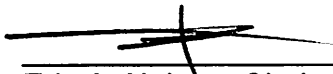
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The meeting adjourned at 9:11 p.m.



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Eric A. Nelson, Chairman  
Planning Commission

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