

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

April 6, 2009
7:00 – 9:17 p.m.

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

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

PLEDGE OF ALLEGIANCE – Commissioner Dec led the Pledge of Allegiance.

ROLL CALL

Commissioners Present: Commissioner Ed Conway, Commissioner Michael Dec, Chairman Norman Denton, and Commissioner Liz Anderson Fitzgerald

Staff Present: Kyle Butterwick (Director of Community Development), Todd Litfin (Assistant City Attorney), Saima Qureshy (Senior Planner), and Denise Jacobo (Planning Secretary)

A. APPROVAL OF MINUTES

ITEM 1: **Minutes of the regular Planning Commission Meeting of March 16, 2009.**

ACTION: **Motion made (Fitzgerald) and seconded (Conway) to approve the Minutes of the regular Planning Commission Meeting of March 16, 2009. Motion carried 4-0. (AYES: Conway, Dec, Denton, Fitzgerald NOES: None ABSENT: None ABSTAIN: None)**

B. PUBLIC COMMENTS

Mary Jeffries (Dana Point) spoke regarding concerns she has with the St. Regis Hotel. She reported the lack of signs for public walkway access on the premises, and the absence of the community conference center for general public use at the Prudential office building at 2 Ritz Carlton Drive. She advised the Commission to resolve any deficiencies before granting the developer any permits to build.

Kyle Butterwick (Director) recommended that Ms. Jeffries provide him with a written letter to investigate and follow up accordingly.

C. CONSENT CALENDER

There were no items on the Consent Calendar.

D. PUBLIC HEARINGS

ITEM 2: General Plan Amendment (GPA07-01), Zone Text Amendment (ZTA07-02), Zone Change (ZC07-01), and Local Coastal Program Amendment (LCPA07-01) to amend land use designations for the property located at 34202 Del Obispo Street and for the addition of a new land use category, "Residential/Commercial", in the Land Use Element of the General Plan and a new zoning category, "Residential/Commercial-22", in the Zoning Ordinance. *(Continued from the regular Planning Commission meeting of February 2, 2009)*

Applicant:

Owner: Makar Properties, LLC

Location: 34202 Del Obispo Street (APN: 668-271-04)

Request: Request for General Plan Amendment GPA07-01, Zone Text Amendment ZTA07-02, Zone Change ZC07-01, and Local Coastal Program Amendment LCPA07-01 to amend the land use and zoning designations of the subject site, 34202 Del Obispo Street, from "Dana Point Specific Plan – Coastal Recreation Space" to the General Plan designation of "Residential/Commercial" and the Zoning designation of "Residential/Commercial-22". The proposal also involves the addition of a new land use category "Residential/Commercial" in the Land Use Element of the General Plan and a new Zoning category "Residential/Commercial-22" in Chapter 9.13 – Mixed Use District of the Zoning Ordinance.

Environmental: The City conducted an environmental review of the proposal pursuant to the provisions of the California Environmental Quality Act (CEQA). As a result of that review, a Mitigated Negative Declaration (MND) was issued for the project with the accompanying initial study. The MND concludes that, with the implementation of the mitigation measures, project-related impacts would be reduced to less than significant levels, in accordance with CEQA requirements.

Recommendation: That the Planning Commission approve the attached draft resolutions recommending to the City Council the approval and adoption of the proposed Mitigated Negative Declaration, General Plan Amendment, Zone Text Amendment, Zone Change, and Local Coastal Program Amendment.

Kyle Butterwick (Director) recapped the continued Planning Commission meeting of February 2, 2009. He advised the Commission that the environmental consultant is present and would be available to answer any questions that the Commission may have.

Saima Qureshy (Senior Planner) summarized the staff report as well as three alternatives evaluating traffic and level of service analysis.

Trissa Allen (Linscott Law & Greenspan – Consultant) provided comprehensive analysis regarding future traffic volumes and analysis of circulation system's ability to serve future land uses.

Chairman Denton disclosed that he has had conversations with the applicant. He asked if the other Commissioners have also been contacted by the applicant.

Commissioner Conway stated that he has been contacted by the applicant.

Commissioner Fitzgerald stated that she was also contacted by the applicant.

Chairman Denton opened the Public Hearing.

Howard Zelefsky (Fountain Valley - Applicant Representative) stated that the additional traffic analysis was based on a worst-case scenario. He said that he agreed with staff recommendation.

Michael Gagnet (Dana Point - Applicant Representative) stated that he was in agreement with the staff report stating that the property was zoned Commercial/Residential at one point but was never acted on by the California Coastal Commission. He compared the project to the Town Center Plan stating that it will go through the environmental process again after the Coastal Commission vote on the legislative action. He stated that the requested zone change sets up standards.

Tom Rosales (Oceanside – South Orange County Wastewater Authority SOCWA Representative) opposed the project due to the adjacency to the sewage treatment plant stating that the project lacks mitigating odors. He stated that the cost for covering the tanks odors is estimated at \$4.6 million recommending that the applicant/developer should pay for it.

Jeff Hoskinson (Lake Forest – SOCWA Legal Counsel) stated that he is opposed to the project noting that his concern still exists due to the odor exposure. He recommended odor easements addressing Section 15126.2 "analyze impacts on surrounding land uses by the project" and the project is bringing people into an existing environment. He concluded that the potential odor issues need to be addressed at this time.

Mary Jeffries (Dana Point) submitted an article entitled "Tower Land Lighthouse" for the record. She indicated that there is a gas station located next to the property risking chemical spills. She submitted fifty four (54) more signatures opposing the project stating that the rezoning is taking away a recreational property.

Jim Johnson (Dana Point) stated that he lives in the Village neighborhood and is opposed to the rezone stating that without disclosing project details or plans, a decision should not be made.

S. Lin Yong (Dana Point) agreed with the previous speaker to oppose the rezone stating that the traffic on Del Obispo is a major concern.

Richard Dietmeier (Dana Point – SMCD and SOCWA) stated his concern with the creation of Residential 22 in an existing infrastructure of water and sewer. He further stated that the traffic analysis is incomplete.

Chris Milonakis (Dana Point – Village Homeowners Association President) stated that he opposes the project stating that it lacks a detailed project and design.

Nancy Jenkins (Dana Point) felt that the traffic signal on the site's entrance will cause impacts on Pacific Coast Highway.

Stephanie Johnson (Dana Point) indicated that another stop light will cause traffic delays and an overflow of traffic due to new homes.

Sandra Grange (Dana Point) questioned the amount of traffic on Pacific Coast Highway and Del Obispo, if the development will cause more odors for the Village area, and if an EIR would be required. She recommended minimizing traffic in the area.

Chairman Denton closed the Public Hearing.

Chairman Denton recessed the meeting at 8:32 p.m. and reconvened the meeting at 8:40 p.m.

Commissioner Conway felt that the site needs to be developed stating that there will be time to create a project over time.

Commissioner Dec proposed giving the wide palette to the property owner and letting them come back with a good project.

Commissioner Fitzgerald expressed the importance of the site located at the entrance to the City. She stated that the City has adequate recreational facilities in the area. She indicated that a zone change cannot occur without covering the sewage tanks. She agreed that a traffic stop light is a concern at the project entrance and suggested to mitigate impacts of the project on summer weekends.

Chairman Denton indicated that he agrees with Commissioner Fitzgerald and stated that he felt uncomfortable approving the zone change noting that the traffic analysis is incomplete; Stonehill is overlooked; traffic impacts due to the traffic signal; and parking hardships along Del Obispo Street. He directed staff to research an alternative #4 proposing a density of 12 units per acre with a

maximum commercial floor area of 25,000 square feet, and a traffic analysis based on summer months with an ingress and egress analysis at the site's entrance on Del Obispo Street. He stated that SOCWA's sewage tanks need to be covered and the project may result in need of new sewer and water lines.

Kyle Butterwick (Director) indicated that the Makar property owner should not be held responsible for covering the sewer treatment plant since the rezone application is not causing the odor problem. This would be an inappropriate nexus between the scope of the project and its related environmental impacts.

Todd Litfin (Assistant City Attorney) also commented on the legal nexus test and indicated that generally a developer is not responsible for solving problems not generated by his/her project.

ACTION: Motion made (Denton) and seconded (Fitzgerald) to continue this item to the regular Planning Commission meeting of May 4, 2009 to allow staff time to research additional issues of the project based on the Commission's direction. Motion carried 4-0. (AYES: Conway, Dec, Denton, Fitzgerald NOES: None ABSENT: None ABSTAIN: None)

E. NEW BUSINESS

There were no New Business items.

F. STAFF REPORTS

Kyle Butterwick (Director) gave several updates:

- The City has received the State's Certification on the City's Draft Housing Element. Staff is preparing the Environmental documentation for public review and circulation. It is anticipated that staff will present a General Plan Amendment in conjunction with the newly proposed Housing Element to the Commission in May 2009.
- The Harbor Revitalization Plan appears that it will be scheduled in June to go before the California Coastal Commission in Marina Del Rey.

Todd Litfin (Assistant City Attorney) noted that the State certified Housing Element would provide legal protection from housing-related lawsuits.

G. COMMISSIONER COMMENTS

Commissioner Fitzgerald reported that she attended the Town Center meeting stating that it was nice to see that it was very well attended.

Chairman Denton reported that he also attended the Town Center meeting stating that it was a good turnout. He noted that this is a classic case of the Citizens coming together.

H. ADJOURNMENT

Chairman Denton announced that the *next regular* meeting of the Planning Commission will be held on Monday, April 20, 2009, 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 9:17 p.m.

Norman Denton, Chairman
Planning Commission