

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

May 4, 2009
7:00 – 9:19 p.m.

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

CALL TO ORDER – Chairwoman Fitzgerald called the meeting to order.

PLEDGE OF ALLEGIANCE – Senior Planner Saima Qureshy led the Pledge of Allegiance.

ROLL CALL

Commissioners Present: Vice-Chairman Ed Conway, Commissioner Michael Dec, Commissioner Norman Denton, Chairwoman Liz Anderson Fitzgerald, and Commissioner April O'Connor

Staff Present: Kyle Butterwick (Director of Community Development), John Tilton (City Architect/Planning Manager), Todd Litfin (Assistant City Attorney), Saima Qureshy (Senior Planner), Matt Sinacori (City Engineer), and Denise Jacobo (Planning Secretary)

A. APPROVAL OF MINUTES

ITEM 1: **Minutes of the regular Planning Commission Meeting of April 20, 2009.**

ACTION: **Motion made (Denton) and seconded (Conway) to approve the Minutes of the regular Planning Commission Meeting of April 20, 2009. Motion carried 5-0. (AYES: Conway, Denton, Dec, Fitzgerald, O'Connor NOES: None ABSENT: None ABSTAIN: None)**

B. PUBLIC COMMENTS

There were no Public Comments.

C. CONSENT CALENDAR

There were no items on the Consent Calendar.

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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 meetings of February 2, 2009, and April 6, 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) provided an introduction of the project and a recap of the continued Planning Commission meetings of February 2, 2009, April 6, 2009, and the scheduled site visit of January 30, 2009.

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Saima Qureshy (Senior Planner) presented the staff report.

Richard E. Barretto (Irvine – LLG Engineers) and **Matt Sinacori** (City Engineer) responded to Commissioner's questions about cycles of signal timing and traffic data.

Chairwoman Fitzgerald opened the Public Hearing.

Howard Zelefsky (Fountain Valley - Applicant Representative) thanked staff for their work and indicated that he concurs with staff's recommendation. He explained that once the Coastal Commission acts on the zone change, there would be another opportunity to revisit a project to include mitigation measures that would directly relate to a project. He added that there was good advice from the City Attorney regarding SOCWA's mitigation request.

Jeff Hoskinson (Lake Forest – SOCWA Legal Counsel) thanked the Commissioners for responding to their concerns regarding odor impacts. He addressed the Commission and read a letter dated April 27, 2009, previously supplied to the Commission regarding the "nexus" proportionality test. He urged the Commission to urge the City Council to require such mitigation for this requirement.

Robert Buaas (Dana Point) questioned the traffic queuing models and the overall traffic flow pattern. He asked if the Fire Authority has reviewed and concurred with the data used in the assessment, and if the infrastructure with the data service provider had a secondary source.

Jim Johnson (Dana Point) spoke in opposition addressing traffic impacts, the overflow of parking and signage, and significant ingress and egress issues. He urged the Commission to require a more detailed development plan before making a decision.

Robert Theel (Dana Point - representing owners of S/E corner of PCH and Dana Point Harbor Drive, commonly known as the old Villa Motel site) spoke about surrounding sites. He stated that the Makar owners should follow through with a development based upon the existing zoning and believes that if the new zoning increases density it would infringe on existing development rights of others in the vicinity.

Mary Jeffries (Dana Point) stated that she would repeat 100% of Mr. Johnson's comments. She added that the staff report states that 160 signed petitions were

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received during the comment period; and, 28 individually signed flyers were added this evening. She questioned the fact that the Fire Authority had not presumably looked into this project. She stated that the City can condition the project; felt that the density was too high; and preferred keeping the site zoned Coastal Recreational.

Lin Yong (Dana Point) stated that the parks in close proximity to the Makar property are a misrepresentation because they have few amenities. He suggested that a new park should be considered for the Makar site to attract visitors and families.

Raymond Payne (Dana Point) spoke in opposition expressing his concern about citizens' rights to see actual plans for the site and hoped that the Commission would decline the proposed change.

Michael Gagnet (Dana Point - Applicant Representative) agreed on having a project brought forward but disagrees that it should be presented at this time. He asked to focus on the zoning criteria for the site, and clarified the public process to follow the Coastal Commission approval. He addressed testimony relating to fire access issues, SOCWA's request, and one resident who complained that her eyes were irritated by the plant's sewage odors. He stated that he was available for questions.

In response to Commissioner O'Connor's inquiry, Mr. Gagnet clarified the density as a cluster housing development, and he described the difficult process of trying to come up with a plan without knowing what the zoning would allow.

Robert Theel (Dana Point) responded to Vice-Chairman Conway's inquiry related to the zoning for his property and its criteria.

Chairwoman Fitzgerald closed the Public Hearing.

Chairwoman Fitzgerald asked staff to address some of the issues raised by the public's testimony.

Kyle Butterwick (Director) replied in response to the comments with relation to the Fire Authority review; he confirmed that they were consulted on the environmental review process and did not respond to any particular concerns. He directed Mr. Sinacori to respond to the traffic questions.

Matt Sinacori (City Engineer) described the traffic signal preemption process with relation to fire trucks, and explained the power and data grid utilities.

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Todd Litfin (Assistant City Attorney) replied in response to Chairwoman Fitzgerald's inquiry about General Law Cities versus the Charter Cities. He also clarified that the zone change is a Legislative Act with a broad authority used to formulate a decision. He clarified that certain specific mitigation measures were added to the project; however the City cannot require the applicant to fully eliminate the odor problems which were not caused by them.

Chairwoman Fitzgerald recessed the meeting at 8:32 p.m. and reconvened the meeting at 8:37 p.m.

Commissioner Dec stated that he would support staff's recommendation (Alternative #3) based upon the fact that 90 mobile homes existed on site before and only two complaints per year about the sewage treatment plant. He stated that SOCWA, traffic, and neighbors' concerns can then be addressed. He asked to give the owner flexibility and provide them the room to mold a plan within the boundaries given to them.

Commissioner O'Connor indicated her major issues were odor and traffic. She stated that in reviewing the Mitigated Negative Declaration on page 39, MM-6 through 9, having to provide disclosures in the escrow instructions was important because it is not unusual for people to live near unpleasant things. She added that the traffic patterns go with the territory and the amenities of a coastal community. She felt obligated to have Makar replace affordable housing. She favored Alternative #3 for its high density and supported Staffs' recommendation for the land use and zoning designations.

Commissioner Denton stated that he would not be inclined to support a zone change that may impact the residents by making traffic worse. He was concerned about how its impacts would affect the landowners at the intersection. He added that he would like to hear more input from the Fire Authority. He stated that he would recommend Alternative #4 to the City Council because of its lowest units per acre.

Vice-Chairman Conway stated that he agrees with the points made by Commissioner Dec. He recommended Alternative #5 because the zoning would be consistent with the surrounding area as Visitor Serving Commercial.

Chairwoman Fitzgerald stated her continued concern with the odor issue noting SOCWA's primary goal is to do as little as they could. She noted that she liked the requirement of a buffer zone. She also stated that the traffic continues to be a problem for her and proposed a hybrid of 18 units and 20,000 square feet commercial.

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In response to the Commission, Mr. Litfin clarified that if the motion moved to approve the Chair's hybrid, Staff would understand it and would make the change for the recommendation to the City Council.

After discussion, **Chairwoman Fitzgerald** requested that Staff provide a copy of the Resolution.

Todd Litfin (Assistant City Attorney) stated for the record, "as amended per the hybrid as proposed by the Chairwoman."

ACTION: Motion made (O'Connor) and seconded (Dec) to adopt Resolution No. 09-05-04-07 recommending that the City Council adopt a Mitigated Negative Declaration for the General Plan Amendment (GPA07-01), Zone Text Amendment (ZTA07-02), Zone Change (ZC07-01), and Local Coastal Program Amendment (LCPA07-01) for the property located at 34202 Del Obispo Street, as amended. Motion carried 4-1. (AYES: Conway, Dec, Fitzgerald, O'Connor NOES: Denton ABSENT: None ABSTAIN: None)

ACTION: Motion made (O'Connor) and seconded (Conway) to adopt Resolution No. 09-05-04-08 recommending City Council approval of General Plan Amendment GPA 07-01, which amends the General Plan Land Use Element by creating a new Land Use category of "Residential/Commercial", and changes the General Plan designation of the subject site, 34202 Del Obispo Street, from "Dana Point Specific Plan – Coastal Recreation Space" to "Residential/Commercial", and submission of GPA 07-01 as Local Coastal Program Amendment LCPA07-01 for approval and certification by the California Coastal Commission, as amended. Motion carried 4-1. (AYES: Conway, Dec, Fitzgerald, O'Connor NOES: Denton ABSENT: None ABSTAIN: None)

ACTION: Motion made (O'Connor) and seconded (Fitzgerald) to adopt Resolution No. 09-05-04-09 recommending City Council approval of Zone Text Amendment ZTA07-02 and Zone Change ZC07-01 to establish a new Zoning category of "Residential/Commercial-18" (R/C-18) in Chapter 9.13 of the Zoning Ordinance and to change the designation of the subject site, 34202 Del Obispo Street, from "Dana Point Specific Plan – Coastal Recreation Space" to "R/C-18", and

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submission as part of Local Coastal Program Amendment LCPA07-01 for approval and certification by the California Coastal Commission, as amended. Motion carried 4-1. (AYES: Conway, Dec, Fitzgerald, O'Connor NOES: Denton ABSENT: None ABSTAIN: None)

Todd Litfin (Assistant City Attorney) advised that if the Planning Commission finds corrections to the recommendation are needed, they should inform Staff.

E. NEW BUSINESS

There were no New Business items.

F. STAFF REPORTS

Kyle Butterwick (Director) provided the Commission with two brief announcements:

- The City Council will review the Doheny House demolition application at the May 11, 2009 Council Meeting.
- The City has received preliminary comments on the Dana Point Harbor Revitalization Plan from the California Coastal Commission. The Coastal Commission meeting is still tentatively scheduled in June at Marina Del Rey.

Todd Litfin (Assistant City Attorney) described Mr. Sinacori is reputedly Dana Point's "Waldo", found somewhere in the City if you search for him.

G. COMMISSIONER COMMENTS

Commissioner O'Connor reported that she had a great time at the Pet Project Foundation's Annual Wag-A-Thon. She stated that the charity event is a great opportunity to raise funds for a good cause.

Vice-Chairman Conway reported that he enjoyed the 3rd Annual Dana Point Grand Prix. He stated that the bike race has become bigger and better organized every year.

Chairwoman Fitzgerald stated that she too attended the Grand Prix Bike Race. She noted that a schedule of Concerts in the parks has been posted. She

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commended Staff and the Commissioners for their efforts to craft a compromise this evening, and she thanked Mr. Sinacori for attending the meeting and recommended that he attend more often.

H. ADJOURNMENT

Chairwoman Fitzgerald adjourned the meeting to the *next regular* meeting of the Planning Commission to be held on Monday, May 18, 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 9:19 p.m.

/s/ Liz Anderson Fitzgerald

Liz Anderson Fitzgerald, Chairwoman
Planning Commission