

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

---

August 1, 2011  
6:03 – 7:12 p.m.

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

---

**CALL TO ORDER** – Chairwoman O'Connor called the meeting to order.

**PLEDGE OF ALLEGIANCE** – Commissioner Claus led the Pledge of Allegiance.

**ROLL CALL**

Commissioners Present: Commissioner Liz Claus, Vice-Chairman Norman Denton, Commissioner Gary Newkirk, Chairwoman April O'Connor, and Commissioner Tarquin Preziosi

Staff Present: Kyle Butterwick (Director), John Tilton (City Architect/Planning Manager), Evan Langan (Associate Planner), Jennifer Farrell (Assistant City Attorney), and Denise Jacobo (Planning Secretary)

**A. APPROVAL OF MINUTES**

**ITEM 1:** Minutes of the regular Planning Commission Meeting of July 18, 2011.

**ACTION:** Motion made (Preziosi) and seconded (Denton) to approve the Minutes of the regular Planning Commission Meeting of July 18, 2011. Motion carried 4-0-1. (AYES: Claus, Denton, O'Connor, Preziosi NOES: None ABSENT: None ABSTAIN: Newkirk)

**B. PUBLIC COMMENTS**

**Robert Theel** (Dana Point) spoke about a recent Planning Commission approval of a project at 41 Monarch Bay because several of the Planning Commissioners had made comment about improvements within the twenty-five (25) foot setback, he felt that he needed to clarify that the 25-foot setback did not include any of the living area of the structure.

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

---

August 1, 2011  
6:03 – 7:12 p.m.

---

PAGE 2

**C. CONSENT CALENDAR**

There were no items on the Consent Calendar.

**D. PUBLIC HEARINGS**

**ITEM 2: Coastal Development Permit CDP11-0010 to allow the establishment of a marine related office use (“Nordhavn Yachts”) within an existing, vacant structure located within the boundaries of the Dana Point Harbor, the City’s Coastal Overlay District (The CA Coastal Zone) as well as the appeals jurisdiction of the CA Coastal Commission at 25001 Dana Drive.**

Applicant: Dan Streech (Pacific Asian Enterprises – Nordhavn Yachts)  
Owner(s): County of Orange  
Location: 25001 Dana Drive

Request: Approval of Coastal Development Permit CDP11-0010 to allow the establishment of a new marine related, office use within an existing, vacant structure.

Environmental: Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Community Development Department has analyzed the subject project. Staff finds the project is Categorically Exempt per Section 15301 (e) (Class 1 – Existing Facilities).

Recommendation: That the Planning Commission adopt the attached Draft Resolution approving Coastal Development Permit CDP11-0010.

**Kyle Butterwick** (Director) provided some initial comments about Nordhavn Yachts (Pacific Asian Enterprises) and gave a brief project introduction.

**Evan Langan** (Associate Planner) presented the staff report, described the project’s physical features and how the project complies with the development standards.

**John Tilton** (City Architect/Planning Manager) reviewed the background details on how the Harbor’s development standards apply to the project and explained that “Marine Related” uses, including “Yacht Brokers” are permitted uses under the recently approved plan for the Harbor.

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

---

August 1, 2011  
6:03 – 7:12 p.m.

---

PAGE 3

**Chairwoman O'Connor opened the Public Hearing.**

**Dan Streech** (Applicant – San Juan Capistrano) responded to questions from the Planning Commission and explained that signage would be in place to reserve 17 parking spaces located in front of the former Beach House restaurant for Nordhavn Yachts. He added that the balance of the parking could be shared with the public at all times. He stated that their use of the parking would be during typical business hours midweek, with light usage on the weekends. On a normal weekend the majority of spaces would be available for public parking. He added that his lease states that 35 of the 77 parking spaces would be devoted to Nordhavn. He also responded that Nordhavn Yachts staffs 45 employees and, while some work at the facility, others work off-site traveling.

**Bruce Heyman** (San Juan Capistrano) stated that he is the current leader of the Boaters for Dana Point Harbor, has boat interests in the harbor and is opposed to part of the project. (Mr. Heyman submitted a letter to the Commission dated August 1, 2011 outlining his concerns.) He asked the Commission to deny the project because he felt that the “office use” would impact the visitor serving recreational resources, a higher protected Coastal Act use.

In response to Chairwoman O'Connor, Mr. Heyman referred to Dana Point Municipal Code Section 9.69.040 finding #4 which stipulates that it shall not hurt recreational or visitor-serving facilities. He added that the visitor-serving (restaurant) is being reduced to an office use.

**Brad Gross** (Dana Point – O.C. Dana Point Harbor) addressed the visitor-serving change from an empty building to the proposed project. He stated that a Request for Proposal (RFP) was issued for all commerce and advertised in numerous restaurant publications. After months of advertising only one response was received, from Nordhavn Yachts. He affirmed Mr. Streech’s statement about the time when the facility was a restaurant business the parking was exclusively for its customers. He informed the Commission that the lease is now written for the tenant to have nonexclusive use of 35 spaces at all times, and other spaces to the County, particularly for use of special events and public parking.

In response to Commissioner Preziosi, Mr. Gross stated that if there were any other vacancies in the Harbor, RFP’s would be sent out. He also indicated that Nordhavn business hours run regularly, Monday through Friday, with signage installed for 17 employee parking spaces to indicate that they are reserved during normal/regular business hours.

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

---

August 1, 2011  
6:03 – 7:12 p.m.

---

PAGE 4

**Chairwoman O'Connor** asked Mr. Streech to approach the podium to confirm that the parking signs will indicate “just normal business hours.”

**Dan Streech** (Applicant – San Juan Capistrano) stated that he would be happy to indicate the hours on the signs.

**Chairwoman O'Connor closed the Public Hearing.**

**Commissioner Claus** described the hardship a business surviving at this property on the island. She stated that the marine related business is an excellent use because it is kept with the original character of the building. She cited Mr. Heyman's letter noting that the rental lease finances are not purviewed by the Planning Commission. She added that she feels good about the boat slips, the parking and hours of use offered to the public and that the lot will not close. She asked any if of these issues would need to be addressed in the resolution, or if they are part of the lease.

**Kyle Butterwick** (Director) responded that the parking requirement for this use is 34 parking spaces on the property, and private agreements between the business and the County is not under purview of the City.

**Commissioner Newkirk** stated that he agreed with Commissioner Claus, he added that in a perfect world it would be a great restaurant destination but time has proven that the location is challenging, however it is a visitor destination to walk to and enjoy the views. Because they are offering parking, it benefits the public and the use of the parking should increase from when there was a restaurant. He stated that he in support of the project because it benefits all parties including the public.

**Vice-Chairman Denton** stated that he agrees with the previous comments. He stated that he is a boater and parking is an issue, but he commended Nordhavn for sharing their parking spaces. He added that the proposal benefits everybody and he's a great believer that the market reveals that restaurant businesses lately have failed. He stated that the proposal is reasonable, commends their willingness to share parking spaces, and offers a great customer service for their customers, the City, County, and harbor visitors. He noted that Nordhavn boats are beautiful pieces of equipment and Dana Point is lucky to keep a successful and high quality boat supplier. He stated that he is in full support of the project and wished the applicant luck.

**Commissioner Preziosi** stated that he is pleased to see the parking for the public is increased. He does not see a viable alternative without a destination

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

---

August 1, 2011  
6:03 – 7:12 p.m.

---

PAGE 5

restaurant stepping up to the plate. He felt that having a responsible party make use of it and making the parking available to the public as they have designated is beneficial for the Harbor and the City.

**Chairwoman O'Connor** stated that there are two issues, one is the use and the other is parking. She stated that she agreed with her fellow Commissioners, a restaurant would have been nice but rather than seeing it empty she prefers to see its use in a manner that benefits the City and the public. She stated that the Dana Point Harbor Revitalization Plan, Section 7.2 B for principle and other permitted uses, addresses Mr. Heyman's letter related to whether the use is appropriate or not. She stated that while seeing that commercial use would benefit some segment of the population, she suggested securing the extra parking by adding language in the Conditions of Approval. She asked her fellow Commission if they could support her decision and or provide any feedback.

**Commissioner Preziosi** stated that (to secure the parking) he would be in full support to add language on the conditions. He also questioned the length of the lease term with Nordhavn.

**Chairwoman O'Connor re-opened the Public Hearing.**

**Brad Gross** (Dana Point – O.C. Dana Point Harbor) responded that the tenant's lease term is three, ten year periods. He read contents of the lease agreement to clarify the utilization of the parking lot premises. He provided a copy of the lease agreement to Ms. Farrell.

**Chairwoman O'Connor** asked Ms. Farrell if the Planning Commission can override what the County has agreed to.

**Jennifer Farrell** (Assistant City Attorney) advised the Planning Commission that they can include language in the conditions of approval as long as it is consistent with the language that is in the lease. She added that from a policy standpoint the language is already included in the lease. She referred to the lease and advised that any condition of approval added by the Commission would not change the terms of the lease agreement since it indicates that the public already has access to the parking.

**Commissioner Newkirk** pointed out the exception of the 17 dedicated spaces in front of the building.

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

---

August 1, 2011  
6:03 – 7:12 p.m.

---

PAGE 6

**Brad Gross** (Dana Point – O.C. Dana Point Harbor) clarified that the marking of 17 parking spaces is not included in the lease, and stated that the County does not object to adding the condition.

**Vice-Chairman Denton** thought it wonderful that 70 spaces become available to everybody, but the applicant has a business to run. Their on-site employees may face challenges parking. He asked for clarification if the County wanted 17 spaces with the special sign.

**Brad Gross** (Dana Point – O.C. Dana Point Harbor) responded that it would not be the County's request, it is the tenants request. He stated that there is no objection to approve signage placed directly in front of the building with reference to employee business hours.

**Vice-Chairman Denton** thanked Mr. Gross and stated that he would not like to make the employees parking situation odious. He stated that he would like to ensure that the employees have sufficient parking in the 35 spots; the Harbor should have the right to install signage dedicating spaces and help avoid setting up the business for failure.

**Commissioner Preziosi** suggested drafting the condition to include a clause that parking will be pursuant to the currently existing lease, and add a proviso that signage should read that all 17 spots shall be made available to the public after normal business hours. He stated that by adding the language now, the arrangement would stand should the terms of the lease change.

**Jennifer Farrell** (Assistant City Attorney) suggested the following language: "If any parking spaces are in the future designated as tenant-only parking spaces, they shall remain open to the public after business hours and on weekends."

**Chairwoman O'Connor** questioned if it would be limited to only 17 or would it be left open for more; she felt that she would like to limit the number of spaces to 17 or 20.

**Jennifer Farrell** (Assistant City Attorney) responded that it would be the Planning Commission's decision. She stated that the number should be left open since there is a good relationship between Nordhavn and the County.

**Brad Gross** (Dana Point – O.C. Dana Point Harbor) stated that Nordhavn is a model tenant and they have a complete understanding and work together on everything. He said that if there were to be any changes to the lease in the future the applicant may need to come back to the Commission for any changes.

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

---

August 1, 2011  
6:03 – 7:12 p.m.

---

PAGE 7

He added that as it stands now they are in complete agreement with what the tenant is looking for, and in the process the County is ready to approve the signage for the 17 spaces directly in front of the building.

**Chairwoman O'Connor closed the Public Hearing.**

**Chairwoman O'Connor** stated that her concern is with having all 77 spots being closed during business hours; and would feel comfortable with setting the limit to 17 or 20 spots. She also stated that she would like to add the language that Ms. Farrell suggested.

**Commissioner Claus** asked if Vice-Chairman Denton would clarify his comment about dedicating more than 17 spaces for the employees and guests.

**Vice-Chairman Denton** replied no, he explained that he heard the number 17 and assumed that the agreement between the County and Nordhavn was at 17. He added that there would be a net gain for the public but he would like the business to be successful and allow sufficient parking for their staff.

**Commissioner Claus** stated that she is comfortable based on what the tenant and the County have said with the 17 spaces in front of the building and to make those available to the public after hours and on weekends.

**Vice-Chairman Denton** confirmed that Commissioner Claus statement is the same thing he said. He noted that he envisions the signage could be read: "No (Public) Parking Here Between 8:00 a.m. and 5 p.m. (or 6:00 p.m.)" with parking available to the public thereafter.

**Commissioner Newkirk** stated that he agreed with both Vice-Chairman Denton and Commissioner Claus with the need to have a business friendly environment which is critical for the tenant's investment. He asked Mr. Streech to clarify how 17 spaces were originated, and how the remainder would be shared by the employees.

**Chairwoman O'Connor re-opened the Public Hearing.**

**Dan Streech** (SJC) addressed Ms. Farrell's correct assessment of the lease language. He thanked Vice-Chairman Denton for taking into consideration the employee parking. He clarified that the 17 parking space number resulted from the number of spaces located in front of the previous Beach House restaurant which seemed like a natural breaking point. He also stated that they are

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

---

August 1, 2011  
6:03 – 7:12 p.m.

---

PAGE 8

comfortable in sharing parking with the public on a normal Monday through Friday weekday, and weekends.

**Chairwoman O'Connor closed the Public Hearing.**

**Commissioner Newkirk** stated that it sounds like a great solution with the spots designating signs as a safeguard to Nordhavn.

**Commissioner Preziosi** stated that he would be in favor because it would provide access to the general public.

**Chairwoman O'Connor** consulted with Ms. Farrell to add language to reserve 17 spaces during normal business hours and opened to the public thereafter.

**Jennifer Farrell** (Assistant City Attorney) suggested adding a condition of approval for: "A maximum of 17 tenant-only parking spaces may be designated within the premises. If any parking spaces are designated as tenant-only, they shall remain open to the public for use after business hours, on weekends, and during holidays."

**ACTION:** Motion made (Claus) and seconded (Denton) to adopt the draft Resolution (No. 11-08-01-13) approving Coastal Development Permit CDP11-0010 to allow the establishment of a marine related office use ("Nordhavn Yachts") within an existing, vacant structure located within the boundaries of the Dana Point Harbor, the City's Coastal Overlay District (the CA Coastal Zone) as well as the appeals jurisdiction of the CA Coastal Commission at 25001 Dana Drive with the additional condition language drafted by Assistant City Attorney Farrell. Motion carried 5-0. (AYES: Claus, Denton, Newkirk, O'Connor, Preziosi NOES: None ABSENT: None ABSTAIN: None)

**E. NEW BUSINESS**

There was no New Business.

**F. STAFF REPORTS**

**Kyle Butterwick** (Director) reported that the City Council rendered a final action on the Harbor Revitalization Implementation Plan which concludes the comprehensive plan.

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

---

August 1, 2011  
6:03 – 7:12 p.m.

---

PAGE 9

**Mr. Butterwick** discussed the possibility of a brief reprieve on the Planning Commission schedule, but that since that discussion last week, several new projects have come forward. He felt that with everyone's indulgence, it would be important to fulfill the agenda with the tentatively scheduled projects for the meeting of August 15, 2011.

**Commissioner Preziosi** advised he would be unable to attend the August 15, 2011, Planning Commission meeting. The Commissioner's agreed to have a hearing on that date.

**Jennifer Farrell** (Assistant City Attorney) gave an update on the dispensary cases, specifically news about the how the attorney's fees were spent in litigating against them. She reported that all three attorney's fees motions were granted recently in the amount totaling \$550,000 that is due back from the dispensary owners in addition to civil penalties.

**G. COMMISSIONER COMMENTS**

There were no Commissioner Comments.

**H. ADJOURNMENT**

**Chairwoman O'Connor** announced that the *next regular* meeting of the Planning Commission will be held on Monday, August 15, 2011, beginning at 6:00 p.m. (or as soon thereafter) in the Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

**The meeting adjourned at 7:12 p.m.**

---

April O'Connor, Chairwoman  
Planning Commission