

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

October 5, 2009
7:00 – 8:36 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 – Commissioner O'Connor led the Pledge of Allegiance.

ROLL CALL

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

Staff Present: Kyle Butterwick (Director of Community Development), Jennifer Farrell (Assistant City Attorney), Christy Teague (Economic Development Manager), Lynn Kelly (Management Analyst), and Denise Jacobo (Planning Secretary)

A. APPROVAL OF MINUTES

ITEM 1: **Minutes of the regular Planning Commission Meeting of September 21, 2009.**

ACTION: **Motion made (O'Connor) and seconded (Conway) to approve the Minutes of the regular Planning Commission Meeting of September 21, 2009. Motion carried 4-0. (AYES: Conway, Denton, Fitzgerald, O'Connor NOES: None ABSENT: None ABSTAIN: None)**

B. PUBLIC COMMENTS

Vonne Barnes (San Clemente) stated that the fencing along the bluff at Dana Strands Beach has been a blighted nuisance (affecting tourism) for too long, and the residents of the area want to know when the fence will be removed. She asked the Planning Commission to look into the matter and provide information.

Betha Everett (Laguna Niguel) stated that she felt the same frustration as Ms. Barnes regarding the blocked ocean view by the dilapidated fence. She added that the dirty looking tarp on the fence is no longer needed since it was originally placed to thwart dust during construction. She asked the City to have the tarp

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

October 5, 2009
7:00 – 8:36 p.m.

PAGE 2

removed until an official dedication to Headlands is scheduled, so that everyone (residents and vacation guests) can enjoy the ocean view.

Chairwoman Fitzgerald asked Director Butterwick if he would like to comment.

Kyle Butterwick (Director) responded that the City shares the same frustration about the completion of the public amenities. He clarified that most of the physical aspects of the improvements have been completed, but noted that there is a morass of paperwork necessary to transfer ownership of the public improvements from the developer to the City. The anticipated completion date for the dedications is before the end of the year.

C. CONSENT CALENDAR

There were no items on the Consent Calendar.

D. SPECIAL WORKSHOP

ITEM 2: Short-Term Vacation Rentals (Continued from the regular Planning Commission meeting of September 9, 2009)

Kyle Butterwick (Director) provided a brief background on the recommendations to allow short-term vacation rentals on a City-wide basis in all residential zones as directed by the majority of the public as well as the Planning Commission from the previous workshop. An administrative permit process was recommended to require Owners of residential properties operating as short-term rental units within the City to apply for and obtain a Short-Term Vacation Rental permit to foster “good neighbor” relations between year-round residents and rental tenants, their guests and visitors. The administrative permit applications for short-term vacation rentals are proposed to involve a notice to surrounding properties, and establishing minimum Conditions of Approval or Performance Standards criteria in order to receive a vacation rental permit by the City. He introduced Christy Teague (Economic Development Manager) to provide details on the Performance Standards.

Christy Teague (Economic Development Manager) provided a PowerPoint presentation on the proposed Performance Standards for Short-Term Vacation Rentals as they relate to: parking; signage/advertising; proof of insurance; minimum stays; maximum occupants; HOA CC&R allowance verification; posting of the Permit, and Conditions of Approval at the rental site.

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

October 5, 2009
7:00 – 8:36 p.m.

PAGE 3

Chairwoman Fitzgerald suggested that if a property manager is not licensed through the Department of Real Estate, they should be referred to as something other than “property managers”.

Christy Teague (Economic Development Manager) thanked Chairwoman Fitzgerald for the suggestion.

Chairwoman Fitzgerald opened the Public Comments.

Margaret Ellman (Dana Point) spoke on behalf of her neighbors at Thunderbird West opposing short-term vacation rentals in residential neighborhoods. She described a short-term rental neighbor as having numerous Police dispatch activity and indicated that the City should search for areas frequently disrupted by short-term rentals through the Police Department records.

Mary Denicola (Dana Point) described her neighborhood as tranquil and was concerned that short-term rentals would completely change and deface the residential neighborhood.

Betha Lea Everett (Laguna Niguel) referred to details of the Coastal Commission’s denial of a similar coastal community’s request to ban coastal rentals because they found it to be inconsistent with public access and Recreation Policy of the Coastal Act. She indicated that the Coastal Act establishes public access opportunities that serve coastal visitors, and short-term vacation rentals were a valuable visitor-serving asset.

Vonne Barnes (San Clemente) pointed out Niguel Beach Terrace was designated as mixed use for 27 years. She felt that if the Planning Commission changes the mixed use to residential, and changes the site plan boundaries to exclude the recreational and commercial components, amendments of the Land Use Element, Site Plans of Laguna Niguel Planned Neighborhood Community, and the CDP would need California Coastal Commission approval and certification. She also felt that if short term minimum stays were modified, and vacation rentals were to be banned it would impact property owners, businesses (restaurant, retail, and recreation), tourism, and economic loss (projected sales tax losses) to the City. She asked the Commission to research their points carefully before making their recommendations to the City Council.

Jeff Perry (Dana Point) stated that he owns short term vacation rentals and has noted that he has not heard discussions about damage and inconvenience of

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

October 5, 2009
7:00 – 8:36 p.m.

PAGE 4

long term rentals. He pointed out that his short term vacation renters have taken good care of the property and are considerate of the neighborhood. He suggested that for a future study there needs to be a comparison, and compilation of complaints from the Police Department from long term and short term rentals.

Tom Barnes (San Clemente) stated that he had owned short term vacation rentals since 1983 and has had zero problems. He felt that from his experience, parties, noise gatherings, and disruptive behavior are created by long term rentals. He suggested that if there is a regulatory process, long term rentals need to be included because there are no means to get in touch with long term rental property owners.

Robert Hows (San Juan Capistrano) stated that he is in real estate and felt that the City should receive further input on property management from a real estate agents' perspective. He suggested that an enforcement plan should be thought out by collecting further input from real estate property managers. He stated his concerns about imposing a bed tax, which would cause a huge non-compliance-issue and people would figure out how to avoid it.

Chairwoman Fitzgerald opened the Planning Commission discussion.

The Commission made the following comments/recommendations:

Permit Requirement

Short Term Vacation Rentals would be permitted in all residential zones, subject to a Vacation Rental Permit. Permit issuance would be subject to compliance with performance standards. The City would have the ability to revoke a permit in cases of substantial evidence of non-compliance which are not resolved after repeated offenses and notifications of the property owner. As part of the permit and approval process, the City would provide courtesy notices to adjacent property owners and occupants with owner/manager contact information and applicable conditions of approval.

Conditions of Approval (Performance Standards) for Short Term Vacation Rental Permits

1. Parking must be made accessible to tenants. Vehicles are limited to 1 space for a 1-bedroom unit or 2 vehicles maximum for units with 2 or more bedrooms. The Director of Community Development may approve a greater number of vehicles when unusual parking availability or physical characteristics are shown.
2. No on-site exterior signs are to be posted advertising Short Term Vacation Rentals.

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

October 5, 2009
7:00 – 8:36 p.m.

PAGE 5

3. Proof of insurance must be provided with specific coverage for renters and acknowledgement of use as Short Term Vacation Rental.
4. The residential unit cannot be rented for one or two nights; a minimum stay of 3 nights is required.
5. Owner must use best efforts to ensure that occupants do not create unreasonable noise or disturbances, or engage in disorderly conduct.
6. The maximum number of overnight occupants shall be 2 persons per bedroom plus 2 on a sleeper sofa. The Director of Community Development may approve a greater maximum number of overnight occupants when unusual size, interior layout, parking or physical characteristics are shown.
7. Verification that Short Term Vacation Rentals are not prohibited by Homeowners Association Conditions, Covenants and Restrictions (CC&Rs) or other standards, if applicable.
8. Owner must post copy of the permit and conditions of approval in a conspicuous place within the unit and must include the following information:
 - Maximum occupants permitted and notification that failure to conform to the occupancy is a violation.
 - Number of parking spaces and, if not adjacent to residence, location of assigned parking.
 - Trash pick-up day and applicable information of leaving or storing trash on the exterior of the property.
 - Notification that the occupant may be cited or fined by the City and/or immediately evicted by the owner for violating applicable laws.
 - 24-hour property manager contact information and 9-1-1 emergency information.
 - Summary of applicable Homeowners Association Conditions, Covenants and Restrictions (CC&Rs) and bylaws, including pool location and hours.

ACTION: Motion made (Conway) and seconded (O'Connor) to recommend to the City Council the proposed Conditions of Approval (Performance Standards) for Short-Term Vacation Rentals Permit; modify the maximum occupancy to 2 persons per bedroom plus 2 on a sleeper sofa. Modify the parking accessibility to tenants; vehicles are limited to 1 vehicle for 1 bedroom unit or 2 vehicles maximum for units with 2 or more bedrooms, and additional vehicles at the discretion of CD Director, due to special circumstances of the property. Motion carried 4-0. (AYES: Conway, Denton, Fitzgerald, O'Connor NOES: None ABSENT: None ABSTAIN: None)

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

October 5, 2009
7:00 – 8:36 p.m.

PAGE 6

STAFF REPORTS

Kyle Butterwick (Director) gave several updates:

- Reminded the Planning Commission that they will hold their next meeting at the Dana Point Harbor to consider a request to place an historic vessel (the schooner “Curlew”) on the City’s Historic Register.
- The City Council will be interviewing the applicants for the presently vacant 5th Planning Commission seat on Tuesday, October 6, 2009 at 5:00 p.m. held in the Council Chambers.

E. COMMISSIONER COMMENTS

Commissioner Denton complimented Christy Teague (Economic Development Manager) on a fine job with the short term vacation rentals, and stated that if the City follows the recommendations, it will be a huge benefit to the City.

Chairwoman Fitzgerald also thanked Ms. Teague stating that she did a remarkable job on educating the Commission. Chairwoman Fitzgerald further suggested adding a discussion item to amend the regular meeting hours of the Planning Commission from 7:00 p.m. to 6:00 p.m. The Commissioners consented to the time change, and Commissioner O’Connor suggested changing the regular meeting date for the Planning Commission from Monday to Tuesday evenings.

Kyle Butterwick (Director) stated that he was advised by the Assistant City Attorney that any proposed change to the Planning Commissions meeting date or time would require the drafting and adoption of a resolution, which could be reviewed and adopted by the Planning Commission at their next meeting

ACTION: Motion made (Fitzgerald) and seconded (Conway) to bring back a resolution to the next regular meeting of the Planning Commission for the Commissioners to change the start time for the City of Dana Point Planning Commission from 7:00 p.m. to 6:00 p.m. Motion carried 4-0. (AYES: Conway, Denton, Fitzgerald, O’Connor NOES: None ABSENT: None ABSTAIN: None)

Jennifer Farrell (Assistant City Attorney) clarified that the Commissioners can proceed in amending their meeting dates and times by adopting their own resolution without approval from the City Council. She further stated that in order for the resolution to be consistent with current Municipal Code language, the City Council would need to approve an amendment.

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

October 5, 2009
7:00 – 8:36 p.m.

PAGE 7

Vice-Chairman Conway indicated that the Dana Point Grand Prix Bicycle event is an amazing event to go to, and many have attended. He reported that he attended the “Battle of the Paddle” (standing paddle board event) over the weekend, saw thousands of people and described it as an incredible event. He further stated that it will be bigger than the Turkey Trot in five years.

Commissioner O'Connor commended and stated her appreciation to staff for their wonderful work and for providing loads of information on their item.

Chairwoman Fitzgerald commented that she recently attended the Historical Society home tour, luau, tour of the schooner Curlew, and described the home tour as spectacular and extremely successful.

F. ADJOURNMENT

Chairwoman Fitzgerald adjourned the meeting to the *next regular* meeting of the Planning Commission to be held on Monday, October 19, 2009, beginning at 5:30 p.m. (or as soon thereafter) on the schooner Curlew located at Gangway 5 (adjacent to Dana Wharf Sportfishing) in Dana Point Harbor.

The meeting adjourned at 8:36 p.m.

Liz Anderson Fitzgerald, Chairwoman
Planning Commission