

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

July 20, 2009
6:05 p.m. – 12:25 a.m.

Community Center
34052 Del Obispo
Dana Point, CA 92629

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

PLEDGE OF ALLEGIANCE – Commissioner Dec 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), Patrick Munoz (City Attorney), Jennifer Farrell (Assistant City Attorney), Erica Demkowicz (Senior Planner), Evan Langan (Associate Planner), Brad Fowler (Director of Public Works), Matt Sinacori (City Engineer), Jason Geldert (Sr. Civil Engineer), Lisa Zawaski (Sr. Water Quality Engineer), and Denise Jacobo (Planning Secretary)

A. APPROVAL OF MINUTES

ITEM 1: Minutes of the regular Planning Commission Meeting of July 6, 2009.

Commissioner O'Connor noted that the July 6, 2009 PC Minutes, top of page 2, should refer to Commissioner O'Connor ... "was advised by the City Attorney that she did not have to recuse herself."

ACTION: Motion made (O'Connor) and seconded (Conway) to approve the Minutes of the regular Planning Commission Meeting of July 6, 2009 with the noted correction. Motion carried 5-0. (AYES: Conway, Denton, Dec, Fitzgerald, O'Connor NOES: None ABSENT: None ABSTAIN: None)

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B. PUBLIC COMMENTS

There were no Public Comments.

C. CONSENT CALENDAR

There were no items on the Consent Calendar.

The Commission agreed to conduct the Public Hearing for Item 3 prior to Item 2.

D. PUBLIC HEARINGS

Chairwoman Fitzgerald made a recommendation to her fellow Commissioners to use the evening for fact finding and public input gathering because the project (South Shores Church) presented this evening is so very large with many components and then continue the hearing to a future date. She asked the Commissioners if they had any questions.

IT WAS THE CONSENSUS OF THE PLANNING COMMISSION TO CONSIDER THIS EVENING (ON ITEM 3) AS A FACT FINDING SCOPING MEETING AND CONTINUE THE HEARING TO A FUTURE MEETING DATE.

ITEM 3: A Coastal Development Permit CDP04-11 and Site Development Permit SDP04-31 to allow an expansion of the existing South Shores Church by adding a net floor area of 46,817 square feet which includes a preschool/administration building, a Community Life Center (Fellowship Hall/Gymnasium) and two Christian education buildings. upon completion, the Church will encompass a total floor area of 89,362 square feet. A new two-level parking structure will also be constructed in conjunction with the proposed expansion. The parking structure will provide a total of 421 parking spaces. A Conditional Use Permit CUP04-21 to allow a parking management plan is also required in conjunction with the proposed development. The expansion project is proposed to be constructed in phases over a 10-year period. A Mitigated Negative Declaration has been prepared to address the environmental impacts associated with the project. *(Continued from the regular Planning Commission meeting of June 15, 2009)*

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Applicant/

Property Owner: South Shores Baptist Church

Location: 32712 Crown Valley Parkway

Request: The applicant is requesting a Coastal Development Permit and Site Development Permit to allow an expansion of the existing church through the addition of a net floor area of 46,817 square feet. The project is proposed to occur in phases over 10 years. The applicant is also requesting a Conditional Use Permit to allow a Parking Management Plan in conjunction with the proposed development. The proposed expansion will include a Preschool/Administration building, a Community Life Center and two Christian Education buildings. A new two-level parking structure for 421 vehicles will also be constructed in conjunction with the proposed expansion.

Environmental: Pursuant to the provisions of the California Environmental Quality Act (CEQA), a Mitigated Negative Declaration was prepared for the development.

Recommendation: That the Planning Commission adopt the attached Draft Resolutions approving the Mitigated Negative Declaration, Coastal Development Permit (CDP04-11), Conditional Use Permit (CUP04-21) and Site Development Permit (SDP04-31).

Kyle Butterwick (Director) reported the purpose of the continuance from the last meeting was due to the fact that the number of attendees exceeded capacity of the meeting room. The Commission agreed to postpone the item to accommodate all interested members of the public. He then introduced City Staff and representatives from consultants who performed third party review on behalf of the City. He added that the staff report and recommendation for this project has not changed.

Erica Demkowicz (Senior Planner) presented the Staff Report.

Chairwoman Fitzgerald asked her fellow Commissioners if any of them had any conversations since their last meeting on this issue.

Commissioner Dec disclosed that he had spoken to “both sides”.

Vice-Chairman Conway disclosed that he had also spoken to “both sides”.

Commissioner O’Connor disclosed that she had received e-mails from residents throughout the City but had not spoken to anyone directly.

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Chairwoman Fitzgerald disclosed that she had not met with anybody, had received e-mails and forwarded them to the City.

Commissioner Denton disclosed that he also received e-mails and visited the property, but had not spoken to anybody on “either side” on the issue this past week.

Chairwoman Fitzgerald opened the Public Hearing.

Pastor Ty (Applicant – Dana Point) provided a brief introduction and gave a PowerPoint presentation outlining the Church model and how the site will be developed. He stated that he has met with nearby residents and considered major concerns to mitigate noise and dust. He said their goal was to promote community trust through protecting the surrounding neighborhoods. He introduced 713 support forms from individuals supporting the project and submitted them for the record.

G. G. Kohlhagen (Applicant – Laguna Niguel) discussed the details and features of the project. He also addressed concerns of the community and introduced the team of consultants who were present at the meeting to answer any questions.

J. David Rogers (Applicant’s Geotechnical Consultant - Oxnard, CA, and Rolla, MO) summarized his background and credentials, described geotechnical stability concerns and geotechnical conditions of the site and surrounding area.

Bob Sopko (Dana Point) stated that he was neutral on this project and stated his concerns with the Salt Creek Corridor’s caution signs about the instability of the slope. He also recommended consideration to the environment.

Elissa Mayo Thompson (Dana Point) stated that she was opposed to the project due to the location of the playground, traffic and noise impacts, and not enough details given about the project.

Fred Greve (Applicant’s Air & Noise Consultant - Dana Point) described that construction noise will comply with the City’s Noise Ordinance and the use of heavy equipment would not last over seven months.

Tom Matlock (Project Architect - Chino) provided clarification pertaining to the 10 year phasing of the project and parking structure.

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Randy Streeter (Applicant's Civil Engineer - Ladera Ranch) provided clarification pertaining to the hydrology and drainage report and the Water Quality Master Plan for the project.

Kendall Forden (Dana Point) stated that she is a high school student and indicated support of the project.

Patricia Hunt (Dana Point) stated that she is a resident of Monarch Bay Villas. She opposed the project and listed her concerns: the size and scale of the project, geological concerns; cistern could become overloaded; privacy concerns from adjacent buildings; the Mitigated Negative Declaration (MND) does not contain any potential significant impacts. She felt that there should be an Environmental Impact Report (EIR) with this proposal.

Roberta Margolis (Dana Point) submitted her written testimony and read its contents opposing the South Shores Church expansion.

Heather Cox (Dana Point) stated that she is a resident of Corniche Sur Mer. She presented each of the Commissioner's with photographs of the location and stated that she is opposed to the project because of the ten year construction phase.

Roxanne Willinger (Dana Point) stated that she is a resident of Monarch Bay Villas that is opposed to the project and listed her concerns; that the land is unstable and unsuitable for building; the project should require an EIR; she is in disagreement with the noise analysis which could cause a negative impact on existing residents; the Community Life Center should be built elsewhere; traffic and noise; and, she feels that the Church's financing is unstable.

Sergio Landau (Dana Point) questioned the MND process and its conclusions. He showed a photograph indicating the projects adverse impacts to views from his home. He expressed concern related to his privacy; noise; air quality; geology and hydrology.

Bethany Blain (Dana Point) stated that she is the South Shores staff Ministry Director and spoke in favor of the project. She summarized the church's activities, classes, and programs that are beneficial to the community of the church. She discussed the hardship with overcrowding and meeting space hindering the ministry's operations.

Bob Moore (Dana Point) showed a 1952 photograph indicating the former appearance of the area. He stated that the Church's facilities are currently inadequate and are in need of replacement on the property.

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Chairwoman Fitzgerald recessed the meeting at 8:30 p.m. and reconvened the meeting at 8:40 p.m.

Robert Saint-Aubin (Dana Point) stated that he is opposed to the project due to the failure to mitigate noise and dust to the east; that the project exceeds the lot coverage; disregard of the Salt Creek Corridor which includes habitat, trail and golf course; the General Plan requires specifics that are not addressed; preservation of public view corridor along Salt Creek Corridor; minimize alterations to significant landforms. He felt that there should be a full EIR with this proposal, and these impacts must be addressed before the project can move forward.

Gordon Montgomery (Dana Point) submitted his written testimony opposing the project and read its contents addressing geology and soils.

Pat McCarroll (Dana Point) submitted her written testimony opposing the project, and read its contents.

Noel Schachner (Dana Point) stated that he is a resident of Monarch Bay Villas with concerns about traffic and parking due to lack of an updated Crown Valley Parkway street parking study or parking control along the street. He requested that the project needs to reference the Monarch Bay Villas Homeowners Association at Lumeria Lane and an analysis of beach parking as segments of the traffic study.

R. Brian Hazelbaker (Dana Point) stated that he is a resident of Monarch Bay Villas and President of the Homeowners Association. He stated his concerns with the parking structure, lack of computer simulations of the structure and building aesthetics. He requested further details on the existing crib wall between properties and for more specifics on the cisterns underneath the parking structure.

Todd V. Glen (Dana Point) submitted his written testimony (opposing the expansion) addressing biological resources and land use and presented images of the Church site.

Thomas Lawrence Beadel (Dana Point) submitted his written testimony and read its contents opposing the South Shores Church expansion.

Mark Sanders (Dana Point) stated that he is a resident of Monarch Bay Villas in opposition to the project contending lack of proper notification; major flaws in the MND – impacts on major areas are not checked “potentially significant” (i.e.

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geology); an EIR must be done prior to any approval; the ten year phasing and its impacts (air, noise, traffic) to immediate residents; the Church's current site is overbuilt with existing buildings. He requested consideration of a more reasonable timeline, water quality and hydrology and responsible use of water.

Lisa Manning (Dana Point) read a written statement contending ongoing Church Life Center noise, CEQA violations and opposing the current Master Plan of South Shores Church and provided attachments of local newspaper articles noting economic impacts. She read into the record:

“We were unable to enter into the record additional comments that we may have relating to this project and its impacts, due to our previously referenced lack of notification by the Lead Agency (City of Dana Point) and needed time to formulate.”

Roger Von Butow (Laguna Beach) spoke in opposition due to heavy equipment use for construction and issues with water quality. He described the MND as a “red flag” because no boxes were checked for “potentially significant impacts” making it speculative. He stated that there is an economic benefit to not have completed an EIR and that a conflict of interest exists because Cheryle Hodge, a member of the Church, prepared the MND.

Barbara Callard (Dana Point) spoke in favor of the project due to the overall Church's operations and their support in the development of youth benefit programs in the community. She stated that the Church project will replace outdated facilities. She added that the Church has always been a good neighbor.

Jim McDonald (Dana Point) spoke in opposition expressing concerns that the Church's operations could impact the residential community with intrusive noise and lighting.

Robert Kahn (Applicant's Civil and Traffic Engineer - Irvine) provided clarification on the parking management plan and noted peak parking demand is on Sunday's. He also clarified that there would be no change in traffic at Lumeria Lane.

Dr. Ron Lackey (Dana Point) stated that he is a resident of Niguel Shores and had no concerns with the Church, and he was concerned with regard to the amount of increased traffic and people flow throughout the City. He commented that Dana Point should remain a small community.

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Kerry Krisher (Dana Point) spoke in opposition due to the Church's noise, e.g. music and yelling echoing through the canyon on Corniche. He stated that the noise is obtrusive and contended that the expansion will exacerbate the noise.

Tom Knudson (Dana Point) stated that he is a resident of Monarch Bay Villas. He spoke in opposition due to his concerns with ground movement and geology. He requested that the Church should build an expansion elsewhere.

Linda Enochs (Dana Point) spoke in opposition due to the location of Christian education buildings, the creation of a play area, and building on this scale, on a slope is too massive.

G. G. Kohlhagen (Applicant – Laguna Niguel) provided clarification on the master plan for the site. The project began in 2002, the aesthetics of the project were positive and the geotechnical report was very thorough. He confirmed Cheryle Hodge's relationship to the Church and noted the traffic and biological reports preparation from other consultants.

Chairwoman Fitzgerald allowed a two-minute intercession at 10:54 p.m. (to reload the video tape) and reconvened the meeting at 10:56 p.m.

Kyle Butterwick (Director) confirmed that Staff has performed its due diligence with public notification requirements and CEQA and MND Government Code requirements. He addressed Hodge and Associates work history, and City's third party review of the MND; preparation of the MND versus an EIR, and substantial evidence. He recommended that the item be continued to August 17, 2009.

Patrick Munoz (City Attorney) summarized that the five hour testimony heard this evening would be useful information to digest and prepare a formal evaluation. He also suggested a two to three week continuance, as recommended by Mr. Butterwick. He also recommended that the Public Hearing should remain open to future meeting.

In response to Commissioner Dec's inquiry about the notification process, Mr. Munoz confirmed that the City has complied with the law.

Commissioner Denton stated that he has heard new information and was disturbed by Cheryle Hodge's preparation of the MND. He felt that an EIR would justify a cleaner process.

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Chairwoman Fitzgerald suggested the applicant consider a buffer zone between the project and adjacent residences, and move up the phase for parking instead of being last.

Vice-Chairman Conway stated his concerns with the delay of construction of the parking structure, traffic impacts, mainly parking; and asked about a construction bond requirement. He asked how often the Church has met with the neighboring HOA's.

Patrick Munoz (City Attorney) provided clarification on the completion bond process.

Pastor Ty (Applicant – Dana Point) clarified that he has met with Monarch Bay Villas HOA and Monarch Bay Terrace since 2004.

Commissioner O'Connor acknowledged concerns about lighting impacts, and buffer zones to Monarch Bay Villas (not landscaping). She suggested the applicant consider addressing environmental mitigation measures to protect (gnatcatchers) in the report.

Patrick Munoz (City Attorney) clarified that the hearing would not take more speakers, but the Public Hearing would be left open to allow the Commissioner's to deliberate.

There was a consensus of the Planning Commission to continue this item to the regular Planning Commission meeting of August 17, 2009.

Chairwoman Fitzgerald recessed the meeting at 11:20 p.m. and reconvened the meeting at 11:30 p.m.

ITEM 2: General Plan Consistency Analysis GPC09-0002 and Coastal Development Permit CDP07-20 pertaining to conditional vacation of Scenic Drive and alternate capital improvement project. *(Continued from the regular Planning Commission meetings of June 1, June 15, and July 6, 2009)*

Recommendation: That the Planning Commission adopt resolutions: 1) finding pursuant to Government Code § 65402 that the conditional vacation of a portion of Scenic Drive is consistent with the City's General Plan; and 2) approving a Coastal

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Development Permit CDP07-20, that allows for the vacation, a related lot line adjustment, and an “Alternate Project” if the conditions of the vacation are not satisfied.

Patrick Munoz (City Attorney) recapped the chronology of past events, gave an updated summary of this proposed project and stated that written testimony was received by applicants’ (Dr. and Mrs. Bruggeman) legal representative in support of the vacation.

Chairwoman Fitzgerald opened the Public Hearing.

Bud Bruggeman (Dana Point) stated that he is in support and would like to satisfy the City’s conditions for vacating the street.

Lee Ann Carranza (The Center for Natural Lands Management Representative - Dana Point) stated her concern about potential adverse effect on the Nature Preserve.

Boyd Plowman (Dana Point) stated that he is in support of the vacation without any reservation and the CC&R’s. He added some concerns with the overflow of the Interpretive Center’s parking lot.

Bud Bruggeman (Dana Point) stated that he would not support the capital improvement project because he felt that the plan was incomplete.

Patrick Munoz (City Attorney) clarified that there is still a disagreement among the property owners regarding what would happen after the vacation of the road.

Vice-Chairman Conway asked to clarify the request.

Patrick Munoz (City Attorney) responded that the Commission is considering two things: 1) the Vacation under specific conditions; and 2) an alternative CIP project which would only apply if the neighbors do not come to an agreement.

ACTION: **Motion made (O’Connor) and seconded (Denton) to adopt Resolution 09-07-20-16 finding the vacation of Scenic Drive is consistent with the General Plan approving Coastal Development Permit CDP07-20 to allow the vacation as specified in the Headlands Development and Conservation Plan (HDCP), and a Lot Line Adjustment (with the deletion of the “Alternate Project” capital improvement project). Motion carried 5-0. (AYES: Conway, Dec, Denton, Fitzgerald, O’Connor NOES: None ABSENT: None ABSTAIN: None)**

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E. NEW BUSINESS

There were no New Business items.

F. STAFF REPORTS

There were no Staff Reports.

G. COMMISSIONER COMMENTS

There were no Commissioner Comments.

H. ADJOURNMENT

Chairwoman Fitzgerald adjourned the meeting to the *next* regular meeting of the Planning Commission to be held on Monday, August 3, 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 12:25 a.m.

/s/ Liz Anderson Fitzgerald

Liz Anderson Fitzgerald, Chairwoman
Planning Commission