

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

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November 27, 2007  
7:00 – 8:25 p.m.

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

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

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

**ROLL CALL**

Commissioners Present: Commissioner Michelle Brough, Commissioner Ed Conway, Vice-Chairman Norman Denton, Chairwoman Liz Anderson Fitzgerald, Commissioner J. Scott Schoeffel, and Alternate Michael Dec

Staff Present: Kyle Butterwick (Director), John Tilton (City Architect/Planning Manager), Todd Litfin (Assistant City Attorney), Kurth Nelson (Senior Planner), and Denise Jacobo (Planning Secretary)

**A. APPROVAL OF MINUTES**

**ITEM 1:** Minutes of the regular Planning Commission Meeting of November 13, 2007.

**ACTION:** Motion made (Denton) and seconded (Conway) to approve the Minutes of the regular Planning Commission Meeting of November 13, 2007. Motion carried 5-0. (AYES: Brough, Conway, Denton, Fitzgerald, Schoeffel NOES: None ABSENT: None ABSTAIN: )

**B. PUBLIC COMMENTS**

There were no Public Comments.

**C. CONSENT CALENDAR**

There were no items on the Consent Calendar.

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

---

November 27, 2007  
7:00 – 8:25 p.m.

PAGE 2

---

**D. PUBLIC HEARINGS**

**ITEM 2: Coastal Development Permit CDP07-02, Variance V07-01, and Conditional Use Permit CUP07-34 to allow the construction of a sewer pipeline through Pines Park and down the coastal bluff face within the Park's boundaries connecting to existing sewer facilities along Pacific Coast Highway in the Recreation and Conservation Zoning Districts at 34941 Camino Capistrano..**

Applicant/ South Coast Water District  
Owner: City of Dana Point  
Location: 34941 Camino Capistrano; (APN 123-401-03 and 123-401-06)

Request: Approval of a Coastal Development Permit, Variance, and Conditional Use Permit for the construction of a ten-inch sewer pipeline through Pines Park and down the coastal bluff face within the Park's boundaries connecting to existing sewer facilities along Pacific Coast Highway in the Recreation and Conservation Zoning Districts.

Environmental: A Mitigated Negative Declaration was prepared, circulated and adopted by the Lead Agency (South Coast Water District) a copy of which is available at City Hall.

Recommendation: That the Planning Commission adopt the attached Draft Resolution approving Coastal Development Permit CDP07-02, Variance V07-01, and Conditional Use Permit CUP07-34.

**Kurth Nelson** (Senior Planner) presented the staff report.

In response to a question from Commission Schoeffel, Todd Liffin (Assistant City Attorney) clarified that the request was for a Variance from a standard for an allowed use and not a "use" Variance.

**Kurth Nelson** (Senior Planner) responded to Commissioner Brough's inquiry on site selection; stating that the site was chosen for its topography and its low elevation point allowing gravity flow. In response to Chairwoman Fitzgerald's question about tapping the system into the existing line; Mr. Nelson stated that the applicant did not want to disrupt existing service and not wanting an above ground sewer that could risk spills on the bluff face, the City acknowledged a need for another line and worked together on choosing this site.

**Chairwoman Fitzgerald opened the Public Hearing.**

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

---

November 27, 2007  
7:00 – 8:25 p.m.

PAGE 3

---

**Bob Clark** (Applicant – Water District) stated that the parallel sewer would supplement the existing sewer and provide flexibility, if the lower sewer should fail, there would be another line to convey the flow. He added that the line chosen parallels a large storm drain which already runs through the park. He stated that since this is already disturbed area and the new line would be adjacent to it, this would do less damage to the park.

**Richard Beck** (Consultant for the Applicant – Trabuco Canyon) noted that the total easement width for the temporary construction is 30 feet. He displayed an image and described that the project biologist has found few habitat issues and no bird issues. He added that .05 acres will be temporarily impacted and revegetated, and the rest of the shrubs should fully recover. He stated that the rest of the impacts are associated with non-native species along Pacific Coast Highway and the rest of the park.

**Bob Clark** (Applicant – Water District) responded to Alternate Commissioner Dec's question regarding the installation of hardscapes on the easement. He referred to non-permanent structures that could be constructed within the easement; movable structures (e.g.; picnic tables, walkways, lighting, etc.) that can be relocated would be no problem. He indicated that playground equipment would also be movable.

**Kurth Nelson** (Senior Planner) addressed Chairwoman Fitzgerald's question regarding the relocation of the Canary Island Date Palms. He noted that there was preliminary discussion about moving them to Avenida Las Palmas, which has not been settled. He also stated that Condition #50 addresses that the Parks Manager will review the relocation.

**Richard Dietmeier** (Dana Point) stated that the process of evaluating this sewer line has been ongoing for four years. He stated that the street manhole has an electronic device that monitors the sewer level and it has been reading at its maximum with some regularity. He stated that this parallel alignment is better because it subsequently will be used by the City to connect to a restroom.

**Chairwoman Fitzgerald** noted that the restroom plan is not part of the report, and asked Mr. Dietmeier for clarification on the issue of building the restroom.

**Richard Dietmeier** (Dana Point) confirmed that a restroom would be a City-owned facility, but that the Water District would be prepared to modify the drawing for the connector device that would accommodate the sewer lateral feature.

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

---

November 27, 2007  
7:00 – 8:25 p.m.

PAGE 4

---

**Chairwoman Fitzgerald closed the Public Hearing.**

**Commissioner Schoeffel** stated that he wholeheartedly supports the proposal submitted.

**Commissioner Brough** expressed concern regarding protecting the City from sewer malfunction or damages to the city-owned Park.

**Todd Litfin** (Assistant City Attorney) replied that Condition #19 covers easement maintenance responsibility. He stated that he will include some language to the easement documents to safeguard the City park.

**Commissioner Schoeffel** suggested broadening the definition of non-permanent improvements in the easement document if the Water District was willing to cover costs for the removal and restoration of the site.

**Todd Litfin** (Assistant City Attorney) confirmed that Condition #19 will be modified to reflect that the easement would allow the City to build improvements on the site and any need for the removal and restoration of said improvements would be at the cost of the easement holder (i.e.; the Water District).

**ACTION:** Motion made (Fitzgerald) and seconded (Brough) to adopt Resolution No. 07-11-27-37 approving Coastal Development Permit CDP07-02, Variance V07-01, and Conditional Use Permit CUP07-34 to allow the construction of a sewer pipeline through Pines Park and down the coastal bluff face within the Park's boundaries connecting to existing sewer facilities along Pacific Coast Highway in the Recreation and Conservation Zoning Districts at 34941 Camino Capistrano including modification to Condition #19. Motion carried 5-0. (AYES: Brough, Conway, Denton, Fitzgerald, Schoeffel NOES: None ABSENT: None ABSTAIN: None)

**E. OLD BUSINESS**

There was no Old Business.

**F. NEW BUSINESS**

**ITEM 3: Zoning Code Update Program.**

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

---

November 27, 2007  
7:00 – 8:25 p.m.

PAGE 5

---

Recommendation: No action is required. Receive presentation from the Community Development Planning staff related to the City's Zoning Code Update Program for discussion purposes.

**Kyle Butterwick** (Director) gave a brief introduction of the City's Ordinance.

**John Tilton** (City Architect/Planning Manager) presented the Zoning Code Update Program. He added that the intent is not to develop new codes, but to clean up the current Code.

**Chairwoman Fitzgerald** asked to note the event triggering this process was an application from a builder applying for the seventh year of his permits and the code essentially did not permit the Planning Commission to not continue approving permit extensions. She requested this item be included in the update.

**Commissioner Schoeffel** commented on terms of prioritizing; His preference would be to start with lessening the restrictions on citizens for things having very little impact on surrounding properties of the community (e.g.; wall in the back yard). Second; in terms of compliance with the law, update the Zoning Code with current laws under all circumstances. Lastly; items related to public health and safety should be prioritized in terms of amendments to the Zoning Code to assure that requirements are met without ambiguities.

**Commissioner Conway** commented that this is a welcome update needed to facilitate working with the definitions to streamline and make the code more consistent. He thanked staff for their time working on this.

**Vice-Chair Denton** identified with the last two comments. He added that as a priority, speeding up the application process and a review of fees should be addressed.

**Commissioner Brough** concurred with reviewing application fees. She added that antenna configurations and variances to clarify stealth devices within the distance of 100-feet from residences should be reviewed.

**Kyle Butterwick** (Director) responded to Chairwoman Fitzgerald's inquiry about any specific zone changes affecting Town Center. He stated that there would be no conflicts on what's being considered tonight and the Town Center.

**Chairwoman Fitzgerald** asked to the Commission to hear from the speakers who have requested to speak on this item.

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

---

November 27, 2007  
7:00 – 8:25 p.m.

PAGE 6

---

**Richard Dietmeier** stated that the “chain link fences” item caught his attention. He stated a need to coordinate some of the proposal in detail with the public and other agencies operating within the City’s jurisdiction. He added that there is a need to staff and coordinate with the District, which is willing to work with the City to meet a uniform acceptable set of rules.

**Robert Theel** (Dana Point) encouraged the Planning Commission to go a little further on the updates. He stated that in 1994 the zoning code update was prepared by a consultant firm to blanket the Monarch Beach, Dana Point, and Capistrano Beach areas, which caused conflicts. He stated that there are a lot of things in the code that should not be there. He liked what he heard tonight from the Planning Commissioners and looked forward to continuing this.

**Chairwoman Fitzgerald** acknowledged Messrs. Dietmeier and Theel for their input, and stated that there will be lots of opportunities to make additional comments.

**Kyle Butterwick** (Director) stated that the comments received tonight were constructive. He will be soliciting additional comments and recommendations from the public to put forth an informal focus group exercise to invite individuals to identify some of the proposed modifications. He thanked everyone for their comments.

**G. STAFF REPORTS**

**Kyle Butterwick** (Director) reported that the Harbor Supplemental Text submitted to the Coastal Commission was available on the City’s website. He added that hardcopies may be requested by contacting him or Denise Jacobo at the City.

He also reported that a complete copy of the Notice of Preparation and Initial Study for the proposed Waterside Marina Improvement Project may be reviewed at the Orange County Dana Point Harbor Department or online at [www.dphplan.com](http://www.dphplan.com). He stated that the County will accept comments through the close of business on January 2, 2008. He indicated that the County was sponsoring a public scoping meeting on the Marina Project to be held on Saturday, December 8, 2007, from 11:00 a.m. to 1:00 p.m. at the Dana Point Youth and Group Facility.

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

---

November 27, 2007  
7:00 – 8:25 p.m.

PAGE 7

---

**H. COMMISSIONER COMMENTS**

**Vice-Chair Denton** offered congratulations to Senior Planner, Mr. Kurth Nelson. He also commented to Messrs. Butterwick and Nelson regarding the relocation of the two Canary Island Date Palms at Pines Park as being magnificent palms. He expressed that it would be wonderful to incorporate the palms into Town Center because they display a likeness to Dana Point.

**Commissioner Schoeffel** also acknowledged and commended Mr. Nelson on his new role as a public employee.

**Chairwoman Fitzgerald** also congratulated Mr. Nelson on his new appointment. She thanked Commissioner Conway for his participation on the Turkey Trot. She also gave a sincere thanks to the staffing of the event and stated that it was excellent.

**I. ADJOURNMENT**

**Chairwoman Fitzgerald** announced that the *next regular* meeting of the Planning Commission would be held on Tuesday, December 11, 2007, 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 8:25 p.m.**

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Liz Anderson Fitzgerald, Chairwoman  
Planning Commission