
**CITY OF DANA POINT
PLANNING COMMISSION
REGULAR MEETING ACTION AGENDA**

September 6, 2006
7:10 p.m. – 12:22 a.m.

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

CALL TO ORDER – Chairman Schoeffel called the meeting to order.

PLEDGE OF ALLEGIANCE – Vice-Chairman Weinberg led the Pledge of Allegiance.

ROLL CALL

Commissioners Present: Commissioner Norman Denton, Commissioner Liz Anderson-Fitzgerald, Commissioner April O'Connor, Chairman J. Scott Schoeffel, and Vice-Chairman Steven Weinberg

Staff Present: Kyle Butterwick (Director), John Tilton (City Architect/Planning Manager), John Ramirez (Assistant City Attorney), Erica Williams (Senior Planner), Christy Teague (Economic Development Manager), Brenda Chase (Senior Planner), and Bobbi Ogan (Planning Secretary)

A. APPROVAL OF MINUTES

ITEM 1: Minutes of the regular Planning Commission Meeting of August 16, 2006.

ACTION: Motion made (O'Connor) and seconded (Denton) to approve the Minutes of the regular Planning Commission Meeting of August 16, 2006. Motion carried 4-0-1. (AYES: Denton, Fitzgerald, O'Connor, Schoeffel NOES: None ABSENT: None ABSTAIN: Weinberg)

B. PUBLIC COMMENTS

Lisa Bartlett (Capistrano Beach) spoke about the median at the end of Doheny Place and Palisades. She stated that the artificial grass and plants did not suit the area and felt that other things could be done that would look natural such as drought tolerant plants or river rock. She added that the Planning Commission needs to take this into consideration because of the artificial plants proposed for the Town Center. She stated that she and her neighbors were in the process of

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putting together a petition to be submitted to the City regarding their interest in having the landscape changed. She invited the Planning Commission to come out and view the median.

Brian Starr (Irvine – Building Industry Association (BIA)) stated that the public hearing for the General Plan Amendment, Inclusionary Housing Program, and the Density Bonus Program was improperly noticed. He added that it was the opinion on the BIA attorneys that the Planning Commission may be in violation of the Brown Act should the public hearing commence tonight. He asked for the item to be continued to allow for proper notice of the hearing to be given to the public.

John Ramirez (Assistant City Attorney) *replied that the law in their view was fairly clear with respect to notice that an allegation with respect to improper notice is in effect cured to the extent that someone has notice and obviously the BIA representatives are here and are free to participate in the hearing and certainly can participate in the deliberative process.*

Kyle Butterwick (Director) stated that this issue was brought to staff's attention this afternoon and that we had an opportunity to consult with the City Attorney and compare closely the notification process and the language in the documents. He added that the representative from the BIA was correct that the public notice which appeared in the newspaper did identify the Community Center as the location for the public hearing on the Housing Element. He stated that however, the official Agenda for this evening had identified the City Council Chambers as the proper venue for the location of the hearing and had been properly posted. He added that staff had placed signage at the Community Center so if anyone did show up expecting to attend the public hearing they would be directed to come back to the City Council Chambers. He stated that there was also Staff at the Community Center that would assist in directing people back to the Council Chambers and if they needed to be transported here to participate in the hearing, that service would be offered to them as well. He added that any comments the Planning Commission might have on the Housing Element tonight will be a recommendation to the City Council and that there will be additional noticing for the City Council as part of their public hearing and deliberations on the Element and that would provide additional opportunity for the public to be heard and represented. He stated that it was his recommendation that the Planning Commission proceed with the hearing.

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C. CONSENT CALENDAR

ITEM 2: General Plan Amendment GPA04-01, Zone Change ZC04-01, Tentative Tract Map TTM16730 and Site Development Permit SDP06-25 for 35200 and 35322 Del Rey.

Recommendation: Approval of language contained in Resolution No. 06-09-06-XX.

ACTION: Motion made (O'Connor) and seconded (Denton) to approve the Consent Calendar. Motion carried 4-0-1. (AYES: Denton, Fitzgerald, O'Connor, Schoeffel NOES: None ABSENT: None ABSTAIN: Weinberg)

D. PUBLIC HEARINGS

ITEM 3: General Plan Amendment (GPA06-01) and Municipal Code Amendment to update the Housing Element and adopt an Inclusionary Housing Program and Density Bonus Program.

Location: Citywide

Environmental: In accordance with CEQA, a draft Negative Declaration has been prepared for the proposed Ordinances. The Housing Element is proposed to be "approved in concept" at this time. CEQA compliance for adoption of the Housing Element will be addressed following comments and certification from the State Housing & Community Development and prior to the City's final adoption of the Element.

Recommendation: That the Planning Commission review the draft Housing Element and related housing programs and adopt the attached Resolutions recommending that the City Council:

1. Approve in concept the updated Housing Element, amend the General Plan and authorize staff to forward it to the State Housing and Community Development for certification (Action Document A);
2. Approve the Negative Declaration for the Inclusionary Housing and Density Bonus Programs (Action Document B);
3. Approve an amendment to the Dana Point Municipal Code Section 4.50 to incorporate an Inclusionary Housing Program (Action Document C); and

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4. Approve an amendment to the Dana Point Municipal Code Section 4.40 to incorporate a Density Bonus Program (Action Document D).

There were six (6) requests to speak on this item.

ACTION: Motion made (Fitzgerald) and seconded (Schoeffel) to adopt Resolution 06-09-06-35 recommending that the City Council "Approve In Concept" a General Plan Amendment to update the Housing Element with amendment. Motion carried 5-0. (AYES: Denton, Fitzgerald, O'Connor, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: None)

ACTION: Motion made (O'Connor) and seconded (Fitzgerald) to adopt Resolution 06-09-06-36 recommending that the City Council approve Negative Declaration establishing Density Bonus and Inclusionary Housing Programs with amendment. Motion carried 5-0. (AYES: Denton, Fitzgerald, O'Connor, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: None)

ACTION: Motion made (Schoeffel) and seconded (Weinberg) to adopt Resolution 06-09-06-37 recommending that the City Council amend the Municipal Code to establish an Inclusionary Housing Program with amendment. Motion carried 5-0. (AYES: Denton, Fitzgerald, O'Connor, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: None)

ACTION: Motion made (Denton) and seconded (Schoeffel) to adopt Resolution 06-09-06-38 recommending that the City Council amend the Municipal Code to establish a Density Bonus Program with amendment. Motion carried 5-0. (AYES: Denton, Fitzgerald, O'Connor, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: None)

ITEM 4: An appeal of a decision by the Director of Community Development regarding Site Development Permit SDP03-52M and Variance V03-23 for a new single-family dwelling at 34111 Street of the Blue Lantern.

Applicant: Robert Theel Company
Owner: James F. DeCarli
Location: 34111 Street of the Blue Lantern

Request: An appeal of the Director's determination that the plans submitted for building permits are in substantial conformance with the original approval of Site Development Permit SDP03-52M and Variance V03-23.

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Environmental: The proposed project qualifies as a Class 3 exemption (Section 15303) pursuant to the applicable provisions of the California Environmental Quality Act (CEQA) in that the project involves the construction of a single-family residence and associated retaining walls.

Recommendation: That the Planning Commission adopt the attached draft Resolution denying the appeal of the Director's decision determining that the construction plans for the new single-family dwelling at 34111 Street of the Blue Lantern are in substantial conformance with approved plans for Site Development Permit SDP03-52M and Variance V03-23.

There were seven (7) requests to speak.

ACTION: Motion made (Fitzgerald) and seconded (Schoeffel) to adopt Resolution 06-09-06-39 denying the appeal of the Director's decision. Motion carried 3-1-1. (AYES: Denton, Fitzgerald, Schoeffel NOES: O'Connor ABSENT: Weinberg ABSTAIN: None)

E. PUBLIC MEETINGS

There were no Public Meetings.

F. OLD BUSINESS

There was no Old Business.

G. NEW BUSINESS

There was no New Business.

H. STAFF REPORTS

Kyle Butterwick (Director) reported that the City Council would be conducting a public hearing on the Harbor Plan at their meeting next week. He stated that there have been some changes to the Plan since the Planning Commission had last reviewed it.

He stated that at the last City Council meeting, that the City Council had supported the Planning Commission's determination on the Chula Vista approval.

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He added that subsequent to the Council's approval of that project the neighbors appealed before the Coastal Commission a question and request for the Commission to entertain an appeal of the City Council's determination based on some issues relative to the Coastal Act. He stated that the Coastal Commission had responded back today denying the request of any consideration of any future appeal before the Coastal Commission. He added that the City's decision on the Chula Vista project stands.

John Tilton (City Architect/Planning Manager) reported that there had been two (2) open house meetings for the Town Center. He stated that about 200 people had attended.

I. COMMISSIONER COMMENTS

Commissioner Denton stated that the Town Center open house was well done and that he had received positive comments from the public. He added that he was excited to see progress on the Plan.

Commissioner Fitzgerald stated that the work on the Housing Element was well done.

J. ADJOURNMENT

Chairman Schoeffel announced that the *next regular* meeting of the Planning Commission will be held on Wednesday, September 20, 2006, beginning at 7:00 p.m. (or as soon thereafter) in the Dana Point Community Center located at 34052 Del Obispo, Dana Point, California.

The meeting adjourned at 12:22 a.m.