

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

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May 13, 2013  
6:00 – 7:53 p.m.

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

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**CALL TO ORDER** – Chairman Newkirk called the meeting to order.

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

**Commissioner Whittaker** requested a moment of silence in honor of fallen U.S. Army Soldier, Specialist Brandon J. Prescott, who lost his life in the line of duty on May 4<sup>th</sup> in Afghanistan.

**ROLL CALL**

Commissioners Present: Vice-Chairwoman Liz Claus, Commissioner Denton, Chairman Gary Newkirk, Commissioner April O'Connor, and Commissioner Susan Whittaker

Staff Present: Ursula Luna-Reynosa (Director), John Tilton (City Architect/Planning Manager), Jennifer Farrell (Deputy City Attorney), Kurth Nelson (Senior Planner), Saima Qureshy (Senior Planner), Erica Demkowicz (Senior Planner), Jason Geldert (Senior Civil Engineer), and Denise Jacobo (Planning Secretary)

**A. APPROVAL OF MINUTES**

**ITEM 1: Minutes of the regular Planning Commission Meeting of April 22, 2013.**

**ACTION: Motion made (Denton) and seconded (Claus) to approve the Minutes of the regular Planning Commission Meeting of April 22, 2013. Motion carried 5-0.** (AYES: Claus, Denton, Newkirk, O'Connor, Whittaker NOES: None ABSENT: None ABSTAIN: None )

**B. PUBLIC COMMENTS**

There were no Public Comments.

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**C. CONSENT CALENDAR**

There were no items on the Consent Calendar.

**D. PUBLIC HEARINGS**

**ITEM 2: Conditional Use Permit CUP13-0002 and Minor Site Development Permit SDP03-60(M)(I) to locate private recreational use structures in the open space portion of a 14.66 acre vacant lot with an associated request to amend a previously approved Minor Site Development Permit for retaining walls and the relocation of proposed structures within the property at 32354 Caribbean Drive.**

Applicant: Black Swan Advisors  
Owner: Caribbean Dana Point Investors, LLC  
Location: 32354 Caribbean Drive

Request: A Conditional Use Permit to locate private recreational use structures in the Open Space portion of a 14.66 acre vacant lot with an associated request to amend a previously approved Minor Site Development Permit for retaining walls and the relocation of proposed structures within the Residential Single Family 2 portion of the same lot.

Environmental: A Mitigated Negative Declaration (MND) was prepared for and approved by the Planning Commission at a hearing during their July 6, 2005, meeting.

Recommendation: That the Planning Commission adopt the attached Draft Resolution approving Conditional Use Permit CUP13-0002 & Minor Site Development Permit SDP03-60(M)(I).

**Chairman Newkirk** inquired if any commissioner needed to make a matter of record any ex parte contact with any interested party on this issue.

**Vice-Chairwoman Claus** disclosed an ex parte contact that occurred several weeks ago when she and her husband were having dinner at a local restaurant in which a conversation started with the couple sitting at the next table and the person turned out to be the applicant. During the course of the conversation the applicant said that he was bringing a project before the Planning Commission, and that was the extent of the conversation. She admitted that she found out about the project when her packet arrived.

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**Chairman Newkirk** stated that he visited the site. He disclosed that he had a discussion with Bob Theel on the telephone to clarify the property line locations and the staking. He noted that according to the submitted packet, the project predates members on the Commission other than Commissioner Denton. He had requested that the applicant be prepared to fill in some of the blanks, and provide a timeline by which the project has progressed. He also noted that there was an auction sign on the property.

**Kurth Nelson** (Senior Planner) presented the staff report. He also pointed out that before the presentation, the Commission Secretary distributed a copy of a slightly revised Condition #8, and he reviewed the handout. He stated that it is important to note that the City is focused on getting the retaining walls and the land side along Caribbean Drive approved and permitted first before any construction on the dwelling takes place.

**Chairman Newkirk opened the Public Hearing**

**Charles McLaughlin** (Applicant Representative- Newport Beach) conceded to everything asked by the Coastal Commission in an effort to move the project forward.

**Thomas Stewart** (Architect Representative - Laguna Beach) stated that he would be happy to answer questions or provide background. He clarified as to why the building was relocated.

**Kevin Trigg** (Project Geologist - San Clemente) clarified four landslides and their location on the site.

**Salvatore T. DeMascio** (Dana Point) stated that he lives directly below the project site. He stated that he is opposed to the project because he was concerned about the landslide issue.

**Kenneth P. Brown** (Dana Point) stated that he lives across the street from the project site. He spoke of 280-person petition to have the project developed. He stated that the site was very stable and that Monarch Bay Terrace HOA would like to see the site developed to remedy the landslide issue.

**Tom O'Keefe** (Attorney for the Owner - San Clemente) stated that the project will improve site conditions and the owners would like the project to move forward.

**Chairman Newkirk closed the Public Hearing**

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**Commissioner O'Connor** stated that she felt that the project has been fully vetted since 2005. She stated that she would support the project moving forward, noting the reduction in structures and footprint but expressed concerns about the retaining walls. She stated that she is in favor of the project.

**Commissioner Whittaker** expressed reliance on the geologist in which she believes the project will mitigate the slope condition. She expressed concern about the single family structure in Open Space zone, noting that there is no way to prevent the structure from being used for living purposes instead of recreation.

**Vice-Chairwoman Claus** spoke of past hearings and processes. She stated that she would be in support of the project.

**Commissioner Denton** spoke of the site and the potential development that would help stabilize the property and be made safer, noting that the Orange County Fire Authority roadway is needed. He stated that he supports the findings to meet the Coastal Commissions requirements and feels that it is time to move forward. He also noted his support because of the smaller footprint of the home and retaining walls.

**Chairman Newkirk** stated that he concurs with his fellow commissioners noting that the project has been fully vetted. He stated that he supports the project noting the good effort and hard work.

**ACTION:** Motion made (O'Connor) and seconded (Denton) to adopt Resolution No. 13-05-13-07 approving Conditional Use Permit CUP13-0002 and Minor Site Development Permit SDP03-60(M)(I) to locate private recreational use structures in the Open Space Zoned portion of a 14.66 acre vacant lot with an associated request to amend a previously approved Minor Site Development Permit for retaining walls and the relocation of proposed structures within the property at 32354 Caribbean Drive, with modifications to Condition 8. Motion carried 4-1. (AYES: Claus, Denton, Newkirk, O'Connor NOES: Whittaker ABSENT: None ABSTAIN: None)

**ITEM 3:** Coastal Development Permit CDP13-0002 and Site Development Permit SDP13-0001 to demolish existing structures on two adjoining lots, and a corresponding lot line adjustment to allow the construction of a new, two-story, single-family dwelling with attached garage space, and a two-story, detached accessory structure and six (6) foot high wall in the front yard at 35475 and 35481 Beach Road.

Applicant: Smith Brothers Construction

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Owner: Muller-Aloha LLC  
Location: 35475 and 35481 Beach Road

Request: Approval of Coastal and Site Development Permits to demolish existing structures on separate adjoining lots, and a corresponding lot line adjustment allowing the construction of a new single-family dwelling and detached accessory structure and related exterior improvements on the merged lots located in the City's Floodplain 3 (FP-3) and Coastal Overlay Districts.

Environmental: Pursuant to the California Environmental Quality Act (CEQA), staff finds the project is Categorically Exempt per Section 15303 (a) (Class 3 – New Construction or Conversion of Small Structures) since the project involves the construction of one single-family residence and an associated detached accessory structure.

Recommendation: That the Planning Commission adopt the attached Draft Resolution approving Coastal Development Permit CDP13-0002 and Site Development Permit SDP13-0001.

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

**Chairman Newkirk opened the Public Hearing**

**Geoff Sumich** (Designer - San Juan Capistrano) clarified "Ohana unit" and the layout of the property. He presented a small scale model of the project and described its Hawaiian elements incorporated in the design for functionality.

**Chairman Newkirk closed the Public Hearing**

**Commissioner Denton** stated that this is a wonderful project and the presentation caught his attention. He stated that the project was approved by the City in the past, and he would support the project.

**Commissioner O'Connor** stated that the project is an improvement to the site, and that she would support the project.

**Commissioner Whittaker** stated that the design is beautiful, and the project is consistent with the zoning code, and would be in support of the project.

**Vice-Chairwoman Claus** stated that the presentation was excellent and she would support the project.

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**ACTION:** Motion made (Claus) and seconded (Denton) to adopt Resolution No. 13-05-13-08 approving Coastal Development Permit CDP13-0002 and Minor Site Development Permit SDP13-0001 to demolish existing structures on two adjoining lots, and a corresponding lot line adjustment to allow construction of a new, two-story, single-family dwelling with attached, garage space, and a two-story, detached accessory structure and six (6) foot high wall in the front yard at 35475 and 35481 Beach Road. Motion carried 5-0. (AYES: Claus, Denton, Newkirk, O'Connor, Whittaker NOES: None ABSENT: None ABSTAIN: None)

**ITEM 4:** Site Development Permit SDP12-0020 and Tentative Tract Map TTM17493 to amend the previously approved project SDP91-07/TTM14589 to allow a for new lot configuration, and architectural design for six residential units/ three duplex buildings on Lot 13 of Tract 14589 within the Monarch Beach Resort Specific Plan Area.

Applicant/

Property Owner: Michael Gagnet/ City Ventures Home Building LLC  
Location: Current golf course maintenance facility located on the west side of Niguel Road; Lot 13 of Tract 14589

Request: Approval of Site Development Permit SDP12-0020 and Tentative Tract Map TTM17493 to amend the previously approved lot configuration and architectural design of residential units for Lot 13 of Tract Map 14589.

Environmental: A Mitigated Negative Declaration (SCH No. 91121010) was prepared in accordance with Section 15070 of the California Environmental Quality Act (CEQA) for the Monarch Beach Resort Specific Plan as adopted by City Council Resolution No. 92-02-25-2

Recommendation: That the Planning Commission adopt the attached draft resolution approving Site Development Permit SDP12-0020 and Tentative Tract Map TTM17493.

**Saima Qureshy** (Senior Planner) presented the staff report. She clarified the project pad elevations noting its compliance with the new height standards.

**John Tilton** (City Architect/Planning Manager) introduced Jason Geldert, Senior Civil Engineer who was available to answer any questions.

**Jason Geldert** (Senior Civil Engineer) clarified public access and where it will be located.

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**Chairman Newkirk opened the Public Hearing**

**Michael Gagnet** (Project Applicant – Dana Point) clarified that this was the final piece of Monarch Beach Specific Plan involving the relocation of the maintenance facility. He clarified the construction of paved access road, and the phasing of the project.

**Chairman Newkirk closed the Public Hearing**

**Commissioner Denton** remarked that he was happy to see that the project was downsized noting that it is a good project. He stated that he would like to see it proceed, seeing that there are no variances required, noting that the access road once completed adds a lot to the specific area. He stated that he would be in full support of the project.

**Vice-Chairwoman Claus** spoke in favor stating that she is in full support of the project.

**Commissioner O'Connor** stated the reconfiguration of past approval and felt that the project has a good maintenance plan with the landscaping. She stated that she would be in favor of the project.

**Chairman Newkirk** stated that he agrees with his fellow commissioners.

**ACTION:** Motion made (Denton) and seconded (Claus) to adopt Resolution No. 13-05-13-09 approving Site Development Permit SDP12-0020 and Tentative Tract Map TTM 17493 to amend previously approved SDP91-07/TTM14589 to allow for a new lot configuration, and architectural design for six residential units/ three duplex buildings on Lot 13 of Tract 14589 in the Monarch Beach Resort Specific Plan Area. Motion carried 5-0. (AYES: Claus, Denton, Newkirk, O'Connor, Whittaker NOES: None ABSENT: None ABSTAIN: None)

**E. NEW BUSINESS**

There was no New Business.

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**F. STAFF REPORTS**

There were no Staff Reports.

**G. COMMISSIONER COMMENTS**

**Commissioner O'Connor** reported that she attended the Bike Race and felt that it was a great event for the community.

**Chairman Newkirk** reported that he attended the Bike Event stating that the race was good.

**H. ADJOURNMENT**

**Chairman Newkirk** announced that the *next* meeting of the Planning Commission will be held on Monday, June 10, 2013, beginning at 6:00 p.m. (or as soon thereafter) in the City Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

**The meeting adjourned at 7:53 p.m.**

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Gary Newkirk, Chairman  
Planning Commission