

**RESOLUTION NO. 14-04-14-xx**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DANA POINT, CALIFORNIA, DENYING COASTAL DEVELOPMENT PERMIT (CDP09-0011), VARIANCE (V09-0003), CONDITIONAL USE PERMIT (CUP09-0009) AND SITE DEVELOPMENT PERMIT (SDP09-0032) FOR THE DEMOLITION OF EXISTING STRUCTURES AND THE CONSTRUCTION OF A NEW 248,850 SQUARE FOOT HOTEL WITH 250 ROOMS THAT WILL RANGE FROM TWO TO FIVE STORIES IN HEIGHT AT THE SOUTHWEST CORNER OF DANA POINT HARBOR DRIVE AND PACIFIC COAST HIGHWAY IN THE COASTAL COUPLET COMMERCIAL (C-CPC) AND COASTAL VISITOR COMMERCIAL (C-VC) ZONES OF THE DANA POINT SPECIFIC PLAN.**

**Applicant:** Michael Draz/Beverly Hills Hospitality Group

The Planning Commission for the City of Dana Point does hereby resolve as follows:

WHEREAS, the applicant filed a verified application for a Coastal Development Permit, Variance, Conditional Use Permit and Site Development Permit for the demolition of existing structures and the construction of a new 248,850 square foot hotel with 250 rooms that will range from two to five stories in height and Variances to exceed the maximum allowable building height and to deviate from required building setbacks. The subject site, Assessor Parcel Nos. 682-166-21, 682-166-22 and 682-166-08, is located at the southwest corner of Dana Point Harbor Drive and Pacific Coast Highway in the Coastal Couplet Commercial (C-CPC) and Coastal Visitor Commercial (C-VC) zones of the Dana Point Specific Plan ("Project"); and

WHEREAS, said verified application constitutes a request as provided by the Dana Point Specific Plan and Title 7 of the Orange County Code of Ordinances; and

WHEREAS, the Planning Commission did, on the 11<sup>th</sup> day of November 11, 2013, hold a duly noticed public meeting at the subject site and as prescribed by law; and

WHEREAS, the Planning Commission did, on the 18th day of November, 2013, hold a duly noticed public study session regarding the project as prescribed by law; and

WHEREAS, the Planning Commission did, on the 9<sup>th</sup> day of December, 2013 hold a duly noticed public hearing as prescribed by law to consider the Project and continued the public hearing to a date certain of February 10, 2014 and again continued the public hearing to a date certain of April 14, 2014; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments of all persons desiring to be heard, the Commission considered all factors relating to the Project, found that the variance for building height is not justified, should not be approved and, therefore, the application for all discretionary permits should be denied.

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NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the City of Dana Point as follows;

- A) The above recitations are true and correct.
  
- B) Based on the evidence presented at the public hearing, the Planning Commission adopts the following findings denying Variance V09-0003:
  - 1. The use or project proposed is inconsistent with the General Plan in that the proposed building height and setbacks do not conform to the development regulations and development guidelines of the Dana Point Specific Plan.
  - 2. The use, activity or improvement(s) proposed by the application is not consistent with the Zoning Code in that, the building's height and setbacks addressed as part of this application do not conform to the applicable development standards in the Zoning Code.
  - 3. The approval of the permit application is not in compliance with the California Environmental Quality Act (CEQA) in that the EIR identified unavoidable and potentially significant impacts that cannot be mitigated – Aesthetics and Land Use. Mitigation measures and/or project design features contained within the EIR will not mitigate the potentially significant impacts of the Project and the benefits of the Project did not outweigh the environmental risks involved with the Project.
  - 4. General Welfare. The application would result in conditions or circumstances contrary to the public health and safety and general welfare.
  - 5. There are no special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, that deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations.
  - 6. Approval of variance application would constitute a grant of special privileges which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations.

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PASSED, APPROVED, AND ADOPTED at a regular meeting of the Planning Commission of the City of Dana Point, California, held on this 14<sup>th</sup> day of April, 2014 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Gary Newkirk, Chairman  
Planning Commission

ATTEST:

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Ursula Luna-Reynosa, Director  
Director of Community Development