

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

April 14, 2014
5:03 – 6:05 p.m.
6:05 – 11:35 p.m.

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

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

ROLL CALL

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

Commissioner Absent: Commissioner Denton

Staff Present: Ursula Luna-Reynosa (Director), John Tilton (City Architect/Planning Manager), Patrick Munoz (City Attorney), Rob Bower (City Attorney), Jennifer Farrell (Deputy City Attorney) and Denise Jacobo (Planning Secretary)

PUBLIC COMMENTS

There were no requests to speak on Closed Session.

RECESS PLANNING COMMISSION MEETING TO A CLOSED SESSION

- a. Conference with legal counsel – anticipated litigation, significant exposure to litigation, Government Code § 54956.9 (b), (1 case)

Chairman Newkirk recessed the meeting into a Closed Session at 5:07 p.m. and reconvened the Planning Commission Meeting at 6:05 p.m.

CALL TO ORDER (6:05 p.m.)

PLEDGE OF ALLEGIANCE – Vice-Chairwoman Claus led the Pledge of Allegiance.

ROLL CALL Vice-Chairwoman Claus, Chairman Newkirk, Commissioner O'Connor, and Commissioner Whittaker

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

April 14, 2014
5:03 – 6:05 p.m.
6:05 – 11:35 p.m.

PAGE 2

Commissioner Absent/Recused Due to Possible Economic Interest: Commissioner Denton

Staff Present: Ursula Luna-Reynosa (Director of Community Development), John Tilton (City Architect/Planning Manager), Christy Teague (Economic Development Manager), Kurth Nelson (Senior Planner), Evan Langan (Associate Planner), Matt Kunk (Senior Civil Engineer), Brad Fowler (Director of Public Works), Patrick Munoz (City Attorney), Rob Bower (City Attorney), Jennifer Farrell (Deputy City Attorney), and Denise Jacobo (Planning Secretary)

CLOSED SESSION REPORT

Jennifer Farrell (Deputy City Attorney) stated that she had nothing to report from Closed Session.

A. APPROVAL OF MINUTES

ITEM 1: Minutes of the regular Planning Commission Meeting of March 24, 2014.

ACTION: Motion made (O'Connor) and seconded (Whittaker) to approve the Minutes of the regular Planning Commission Meeting of March 24, 2014. Motion carried 4-0-1. (AYES: Claus, Newkirk, O'Connor, Whittaker NOES: None ABSENT: Denton ABSTAIN: None)

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
SPECIAL AND REGULAR MEETING MINUTES**

April 14, 2014
5:03 – 6:05 p.m.
6:05 – 11:35 p.m.

PAGE 3

D. PUBLIC HEARINGS

ITEM 2: *(Continued from the regular Planning Commission meeting of December 9, 2013 and February 10, 2014.)* **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 258 rooms that will range from two to five stories in height. The application includes a variance to exceed the maximum allowable building height and to deviate from required building setbacks. A Conditional Use Permit is being requested to allow an alternative to the off-street parking regulations through a shared parking and valet program. A Final Environmental Impact Report (EIR) has been prepared to address potential environmental impacts associated with the project. The subject site 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.**

Applicant/

Owner: Michael Draz/Beverly Hills Hospitality Group

Location: 25325 Dana Point Harbor Drive, 34297 and 34293 Pacific Coast Highway

Recommendation That the Planning Commission take one of the following actions:

1. Adopt Resolution No. 14-04-14-XX denying CDP09-0011, Variance V09-0003, CUP09-0009 and SDP0-0032.
2. Adopt both Resolution No. 14-04-14-XX, certifying Final Environmental Impact Report (EIR SCH#2011061041) and Resolution No. 14-04-14-XX, approving CDP09-0011, Variance V09-003, CUP09-0009 and SDP09-0032 for EIR Modified Alternative Option "B".
3. Adopt only Resolution No. 14-04-14-XX certifying Final Environmental Impact Report (EIR SCH#2011061041).

Environmental: An Environmental Impact Report (EIR SCH#2011061041) has been prepared in accordance with Section 15081 of the California Environmental Quality Act (CEQA) for the project for the Commission's review.

Request: A Coastal Development Permit and Site Development Permit for

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

April 14, 2014
5:03 – 6:05 p.m.
6:05 – 11:35 p.m.

PAGE 4

demolition of existing structures and the construction of a 258 room hotel that will range from two to five stories in height. The application includes a Variance to exceed the maximum allowable building height and to deviate from some of the required setbacks, and a Conditional Use Permit to allow an alternative to off-street parking regulations as well as implementation of a valet parking program for the hotel and accessory uses.

Ursula Luna-Reynosa (Director of Community Development) cited a correction to the recommendations on the Agenda for this item and that the staff report presented this evening is correct. She indicated that staff and the applicant are available to answer any questions that the Commission may have.

Patrick Munoz (City Attorney) provided a briefing on Variance law.

John Tilton (City Architect/Planning Manager) gave the presentation and described the projects modifications from previous designs.

Brad Fowler (Director of Public Works) presented street safety and additional stripping on Pacific Coast Highway.

Coralee Newton (Applicant Representative) presented and introduced modified option B plan, highlighted a number of conditions of approval, and addressed community and Planning Commission concerns.

Chairman Newkirk requested comments and questions from the Commission.

Commissioner O'Connor asked for clarification about the onsite loading dock and how does it function; and how will the hotel comply with 65% usage requirements and inquired about the estimate of daily deliveries.

Bob Theel (Applicant Representative – Dana Point) responded that the 65% requirements, as discussed from the previous meeting, estimate that deliveries range from approximately 6-8 trucks and now it is estimated at 4-6 truck deliveries per day.

Chairman Newkirk inquired about the code requirements for parking.

Ursula Luna-Reynosa (Director of Community Development) clarified the parking space requirements and that City's parking consultant concurs with the shared parking analysis.

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

April 14, 2014
5:03 – 6:05 p.m.
6:05 – 11:35 p.m.

PAGE 5

Chairman Newkirk opened the Public Hearing.

Cheryl Yocum (Dana Point) stated that she was concerned about the financial stability, property taxes still due, height, mezzanine, a tall story building on 1.5 acres and the retaining wall.

Terry Walsh (Dana Point) noted his concerns with garbage deliveries and loading zone on Pacific Coast Highway, not enough parking on site, 55' tour buses at Ritz Carlton and St. Regis, bike lanes lack room and traffic at the intersection due to U-turns on Dana Point Harbor Drive.

Ray Nona (Capistrano Beach) spoke on behalf of Architectural Guild of Orange County. He stated that the Guild supports the hotel at the site. He stated that the exterior design modifications should not be considered independently for site design. He noted that the roof needs to be treated as the fifth elevation. He suggested the applicant revisit the project as they cannot support the proposal as presented.

Wayne Via (Dana Point) stated that the Planning Commission's job is to oversee and enforce the code and enforce zoning regulations. He noted that there are reasons to grant a variance and that does not include for a 4-star hotel.

Margo Black (Dana Point) spoke in favor stating that the proposal beautifies the corner and brings revenue to our City.

Willam Paterson (Dana Point) stated that public safety is a main concern, the size of the hotel exceed the limits, meaning more people, money and cars which open the door to taller buildings causing worse traffic and gridlock which compromises safety.

Susan L Johnson (Dana Point) stated that this project does not meet our standards and requirements and should be rejected.

Keith Fullenwider (Capistrano Beach) stated that variances will establish further precedence and was concerned about traffic impacts at the intersection, employee parking and truck turning radius.

Shelly Blair (Dana Point) stated her concerns with traffic, parking safety issues and use of public land.

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

April 14, 2014
5:03 – 6:05 p.m.
6:05 – 11:35 p.m.

PAGE 6

Raymond Payne (Dana Point) stated that the developer is not listening to the community. He also stated that the proposal is unreasonable because the loading on Pacific Coast Highway has not been removed; there is no justification for height variance considering that other hotel developers gave up lot coverage for height.

Drew Reynolds (Dana Point) stated that he was concerned with the developer's plans noting that the proposal does not fit with development standards and regulations. He stated that public land is a concern as other projects have dedicated land to the City for open space.

Barry Vaniel (Dana Point) stated that the corner is known as the crown jewel. He stated that if the variance for height is approved it will set a dangerous precedent. He asked to downsize the project to comply with the zoning laws.

Carl Iverson (Dana Point) stated that this is the most important decision the Planning Commission will make. He noted that granting of the variance seems like there is "an elephant in the room" and one cannot make any legal findings.

Alan Barbee (Dana Point) stated that the hotel from five to four stories is "bad" noting that Dana Point does not need the hotel's excessive rooftop noise. He also stated that he understands the need to build, but a developer does not need to build beyond zoning restrictions.

Harold Kaufman (Dana Point) spoke in favor of the project noting that the developer made changes on a land that is a ditch and has drainage issues. He stated that he was concerned with the parking but believes that there are ways to increase parking by further excavation.

Kirsten Reynolds (Dana Point) stated that the buildings height, scale and massing are not consistent with the neighborhood and pointed out that the St. Regis is only 30' in height from Niguel Road.

Susan Hinman (Dana Point) stated that use and misuse of zoning code is a concern, the variance requests are outrageous and the project is too dense.

John Murphy (Dana Point) stated that this project was loaded with special privileges and will change the whole City for the worse. He added that the Makar project developer (located at the opposite corner) was much more reasonable.

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

April 14, 2014
5:03 – 6:05 p.m.
6:05 – 11:35 p.m.

PAGE 7

Herb Hueg (Dana Point) stated that the St. Regis doesn't have enough parking. He felt that the developer should stay within codes and follow with rules.

Tom Nulty Jr. (Dana Point) stated that he would agree with the opposed speakers.

Ralph Fisco (Dana Point) spoke in support of the project noting that he views the project as a bridge to draw more tourism, to increase property values and to showcase the jewel of Dana Point.

Anthony Cinguini (Dana Point) spoke in support of the project, hears negativity but no solutions. He described the old site as an eyesore, uncertain if a hotel would work in the area but because it is the entrance to the City he hopes the City continues to work with the developer.

John Nazelrigg (Dana Point) stated that he was concerned with the loading zones, deliveries of 65% is not credible, and the right-hand turn lane which create safety and esthetic issues.

Veronica Scala (Dana Point) stated that she is the owner of Tavern on the Coast and is in support of the project noting that it would be a great addition and beautification to the gateway in Dana Point.

Denise Iger (Capistrano Beach) stated that the plan is an outrageous proposal and was concerned with the loading zone. She further stated that the variance process was established to protect us.

Luis Contreas (Dana Point) stated that he agreed with those opposed to the plan stating that the project does block views, traffic will get worse, parking is not sufficient, cyclists' safety is a concern and park land for free is a problem.

Oscar Banda (Dana Point) stated that he would agree with other concerns. He encouraged denial of the project unless it complies.

James W. Norris (Dana Point) stated that he agrees with the majority of speakers opposing the project.

Craig Sink (Dana Point) stated that the density issue has been covered and it is very high. He stated that he is not against the hotel use, just density, because of the request for a variance, the hardship is self-inflicted. He asked to deny the variance.

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

April 14, 2014
5:03 – 6:05 p.m.
6:05 – 11:35 p.m.

PAGE 8

Lynn Muir (Dana Point) stated that the architecture is lousy, needs to be better integrated and use of the parkland is unusual.

Coralee Newton (Applicant Representative) responded to questions and concerns and, for the record clarified that a variance for parking is not being requested and the front yard variance was removed.

Chairman Newkirk closed the Public Hearing.

Chairman Newkirk requested a recess at 8:51 p.m. and reconvened the meeting at 9:03 p.m.

Commissioner O'Connor stated her concerns with intensity of use; loading on Pacific Coast Highway; traffic; U-turns; on-site loading and noise associated with back-up; additional panel trucks and van traffic up Golden Lantern but agreed a variance will be needed for whatever projects goes here. The site does have unique circumstances.

Vice-Chairwoman Claus stated that she agrees with much of Commissioner O'Connor's concerns. She noted it is a flawed project so try to work out the flaw as did the Makar project across the street. Although it needs more work could be a fantastic opportunity.

Commissioner Whittaker stated that she agrees with many previous comments. She stated she has problems with size of the hotel – 5 story element; use is fine but size is too large; zero setback and no landscaping to soften experience of hotel guests is a problem, so a 10' side yard setback is needed; cannot support loading zone on Pacific Coast Highway at the particular location. Trash pick-up should be on-site. Would love to see a lovely hotel on the corner but cannot consider 4-star hotel status, etc. for a variance and would not want to repeat the Best Western (bulk), even at 120' from highway.

Chairman Newkirk stated it is not a question of what, but of how much. He noted that the lot is relatively flat but small; the EIR outlines a conforming alternative; findings for variance cannot be taken lightly; gross nature of variance request is problematic; calculated square acre density and size is excessive for lot; busiest intersection in town, has lowest on-street parking in town; loading dock on Pacific Coast Highway – gateway to town; and bicycle configuration and safety.

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

April 14, 2014
5:03 – 6:05 p.m.
6:05 – 11:35 p.m.

PAGE 9

ACTION: Motion made (O'Connor) and seconded (Whittaker) to adopt Resolution No. 14-04-14-12 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. Motion carried 4-0-1. (AYES: Claus, Newkirk, O'Connor, Whittaker NOES: None ABSENT: Denton ABSTAIN: None)

Chairman Newkirk declared a 10 minute recess at 9:47 p.m. and reconvened the meeting at 10:00 p.m. He announced that Commissioner Denton has joined the meeting and would be present for the remainder of the meeting.

ITEM 3: Sign Program Permit SPP14-0001 for the multi-tenant commercial office building located at 24672 San Juan Avenue.

Applicant: Muller Realtors and Management Company, Inc.
Owner: John Warren
Location: 24672 San Juan Avenue

Recommendation: That the Planning Commission adopt the attached draft Resolution approving Sign Program Permit SPP14-0001 for the building located at 24672 San Juan Avenue.

Environmental: Pursuant to the California Environmental Quality Act (CEQA), the project is categorically exempt per Section 15301 of the CEQA Guidelines (Class 1 – Existing Facilities) in that the project consists of a minor alteration of an existing structure.

Request: Approval of a Sign Program for a multi-tenant commercial office building located at 24672 San Juan Avenue.

Evan Langan (Associate Planner) presented the staff report.

There being no requests to speak on this item, Chairman Newkirk opened and closed the Public Hearing.

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

April 14, 2014
5:03 – 6:05 p.m.
6:05 – 11:35 p.m.

PAGE 10

Commissioner Whittaker stated that the building proposed signage is excessive.

Ursula Luna-Reynosa (Director of Community Development) clarified the total of 10 suites for ten signs.

Chairman Newkirk recommended the addition of the following new condition: If more than ten signs, then the applicant must return to the Planning Commission.

ACTION: Motion made (O'Connor) and seconded (Claus) to adopt Resolution No. 14-04-14-13 approving Sign Program SPP14-0001 for a multi-tenant commercial office building located at 24672 San Juan Avenue, adding a new condition. Motion carried 4-1. (AYES: Claus, Denton, Newkirk, O'Connor, NOES: Whittaker ABSENT: None ABSTAIN: None)

ITEM 4: (Continued from the regular Planning Commission meeting of March 24, 2014.) Site Development Permit SDP07-15(I) and Conditional Use Permit CUP98-14(M)(II) amending previous approvals to allow the relocation and expansion of approved conference facilities in place of the existing tennis courts, a reduction in the number of detached casitas' from three to two, minor changes to the landscaping palate, and a corresponding revision to the Hotel's shared parking program.

Applicant: Kollin Altomare Architects
Property Owners: SHC Laguna Niguel I, LLC
Location: 1 Ritz Carlton Drive

Recommendation: That the Planning Commission adopt the attached Draft Resolutions (1) approving the addendum to project related Negative Declaration and (2) approving Site Development Permit SDP07-15(I) and Conditional Use Permit CUP98-14(M)(II).

Environmental: An addendum to the previously approved Negative Declaration (State Clearinghouse # 2009041125) has been prepared in accordance with the California Environmental Quality Act (CEQA)

Request: That the Planning Commission adopt the attached Draft Resolutions (1) approving the addendum to project related Negative Declaration and (2) approving Site Development Permit SDP07-15(I) and Conditional Use Permit CUP98-14(M)(II).

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

April 14, 2014
5:03 – 6:05 p.m.
6:05 – 11:35 p.m.

PAGE 11

Kurth Nelson (Senior Planner) presented the staff report and pointed out a recently distributed handout revising General Condition #8 regarding parking for employees.

Chairman Newkirk continued the opened Public Hearing

Ted Harris (Applicant CA Strategies – Sacramento) recommended approval and stated that his team is present to answer any questions.

Irene Fascher (Dana Point) stated that she never saw story poles at the hotel and was concerned about declining property values (next to the hotel's wall). She hoped for more transparency about the noticing and hoped that the Homeowners Association board of directors were made aware about the meeting.

Nigel Longton (Dana Point) stated that he was concerned about the impacts to his home, and said that he did not want to be awake every single night from loud parties.

Judith Hummer (Dana Point) stated that she too was concerned about noise, music and bands from the hotel, and outdoor pool noise which disrupts the adjoining neighborhood.

Ted Harris (Applicant CA Strategies – Sacramento) responded to (1) noise and vibration from hotel functions; clarified that the pavilion would be insulated (per City Code) and doors locked at all times, (2) no assembly of guests or employees between the pavilion and the neighboring Niguel Shores Community, (3) construction of the proposed pavilion would improve existing conditions, and (4) confirmed 10:00 p.m. hour to shut down music.

Commissioner Whittaker inquired about an acoustical report and suggested adding trees to soften the area, and consider enhancing the pedestrian access by including lighting plans.

Ursula Luna-Reynosa (Director of Community Development) referred residents to contact the City's Code Enforcement Department to report ongoing events.

Chairman Newkirk closed the Public Hearing.

Chairman Newkirk reopened the Public Hearing.

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

April 14, 2014
5:03 – 6:05 p.m.
6:05 – 11:35 p.m.

PAGE 12

Ted Harris (Applicant CA Strategies – Sacramento) responded to a residents concern, lighting for the walkway and adding vines and trees to buffer noise.

Jennifer Farrell (Deputy City Attorney) clarified that Condition of Approval #45 includes the landscape plan.

Chairman Newkirk closed the Public Hearing.

Commissioner Denton spoke about noise and directed residents to call Code Enforcement. He stated that since the applicant is open to lighting on the trail, he would like to see the lighting added as part of the condition, and noted that they have a good landscape plan which will nicely soften the look. He stated that he would like to see the Ritz Carlton continue its success.

Commissioner Whittaker agreed with Commissioner Denton about Code Enforcement, and thinks that the new building should attenuate noise. She suggested adding a green wall to the Conditions. She appreciated that the Applicant will add walkway lighting.

Vice-Chairwoman Claus stated that her fellow Commissioners have covered everything and she trusts that the hotel will conform to the conditions.

Commissioner O'Connor stated that she is pleased about the acoustical plan, landscaping, walkway lighting, approves the plan as is, and is fine with adding amended conditions.

Chairman Newkirk suggested adding a noise monitoring system, light monitor, and would like to see employee parking gets a monitoring program and is all located on the site.

Ursula Luna-Reynosa (Director of Community Development) clarified amending Condition #45 to indicate that the landscape plans will look for vines to soften the view; in terms of lighting the trail issue, add a condition that requires a lighting plan to address lighting along the public access path.

Jennifer Farrell (Deputy City Attorney) also clarified Conditions of Approval language directing Applicant to work with Community Development Director to work on a noise mitigation plan.

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

April 14, 2014
5:03 – 6:05 p.m.
6:05 – 11:35 p.m.

PAGE 13

ACTION: Motion made (O'Connor) and seconded (Denton) to adopt Resolution No. 14-04-14-14 adopting an Addendum to the original Negative Declaration for Site Development Permit SDP07-15(I), Variance V07-07, and Conditional Use Permit CUP98-14(M)(II). Motion carried 5-0. (AYES: Claus, Denton, Newkirk, O'Connor, Whittaker NOES: None ABSENT: None ABSTAIN: None)

ACTION: Motion made (Claus) and seconded (Denton) to adopt Resolution No. 14-04-14-15 approving Site Development Permit s DP07-15(I) and Conditional Use Permit CUP98-14(M)(II) to amend the previous approval allowing the relocation and expansion of previously approved conference facilities to the location of the existing tennis courts, a reduction in the number of detached casitas' from three to two, minor changes to the landscaping palate, and a corresponding revision to the Hotel's shared parking program at 1 Ritz Carlton Drive, revising Condition #8 as presented and amending three Conditions of Approval relating to the lighting plan, the landscaping plan, and the noise monitoring program. Motion carried 5-0. (AYES: Claus, Denton, Newkirk, O'Connor, Whittaker NOES: None ABSENT: None ABSTAIN: None)

E. NEW BUSINESS

There were no New Business items.

F. STAFF REPORTS

There were no Staff Reports.

G. COMMISSIONER COMMENTS

Vice-Chairwoman Claus stated that she will not be present at the next Planning Commission meeting.

Commissioner Denton commended Chairman Newkirk for an excellent meeting and to the Staff.

Chairman Newkirk thanked Staff or their efforts through the process.

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

April 14, 2014
5:03 – 6:05 p.m.
6:05 – 11:35 p.m.

PAGE 14

H. ADJOURNMENT

Chairman Newkirk announced that the *next* meeting of the Planning Commission will be held on Monday, April 28, 2014, 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 11:35 p.m.


Gary Newkirk, Chairman
Planning Commission

THESE PROCEEDINGS WERE RECORDED AND A COPY OF THE TAPE IS ON FILE WITH THE CITY OF DANA POINT PLANNING DIVISION.