

CITY OF DANA POINT
M E M O R A N D U M

DATE: SEPTEMBER 16, 2014
TO: CITY MANAGER/CITY COUNCIL
FROM: JOHN TILTON, CITY ARCHITECT/PLANNING MANAGER *J.T.*
SUBJECT: CITY COUNCIL MEETING SEPTEMBER 16, 2014, AGENDA ITEM 24

After the Agenda Packet had been delivered to City Council, it was brought to staff's attention that the numbering sequence of the Findings for a Variance in Action Document C was incorrect.

Please replace pages 15, 16, and 17 of your Agenda report with the attached pages.

Attachments (3)

Agenda Item No. 24
9/16/14

**CITY COUNCIL RESOLUTION NO. 14-09-16-
CDP09-0011, V09-0003, CUP09-0009 AND SDP09-0032
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1. The Project proposed is consistent with the General Plan; in that the proposed uses are principally permitted and, other than for building height and setbacks, the development conforms to the development regulations and development guidelines of the Dana Point Specific Plan while offering a variety of commercial uses that serves the needs of tourists and other visitors to the coast.
2. That the use, activity or improvement(s) proposed by the application is consistent with the Zoning Code; in that, with the exception of the building's height and setbacks addressed as part of this application, the Project conforms to the applicable development standards in the Zoning Code. Additionally, the Zoning Code provides for exceptions (variances) to the Zoning Code when specific findings are made. Additionally, the site is suitable for the proposed development in that hotels and restaurants are permitted uses within both the C-VC and C-CPC zones of the Dana Point Specific Plan.
3. That the approval of the permit application is in compliance with the California Environmental Quality Act (CEQA); in that an EIR was prepared and circulated for public review and comments to consider potential significant effects on the environment anticipated as result of the Project.
4. That the location, size, design and operating characteristics of the proposed use will not create significant noise, traffic, or other conditions that may be objectionable, detrimental or incompatible with other permitted uses in the vicinity; in that the EIR concluded that there are two categories with 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 mitigate the other categories that were identified with potentially significant impacts and, for the environmental impacts that cannot be mitigated, a Statement of Overriding Considerations was adopted.

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5. General Welfare. The application will not result in conditions or circumstances contrary to the public health and safety and general welfare; **in that the stated intent and purpose of the subject zoning districts is “to supply the needs of tourists and other visitors to the coast while preserving unique natural features of the environment” and “to offer a wide variety of commercial uses”.**

6. There are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations in that; **as compared to other properties in the same vicinity and zone, the subject property has a unique configuration with a long and narrow “wing” that is a full floor level lower than the neighboring property to the west. This condition, combined with minimum required side and rear setbacks, creates a very narrow shape of developable land thereby justifying a variance from minimum building setbacks in this area of the site. *The subject property is also unique because it is subject to two different zoning designations, which is not common in this zone and vicinity.* In addition, the overall shape of the site, made up from three separate parcels, is unique compared to others, is at the lowest grade of Pacific Coast Hwy and is flanked by steep parkland hillsides to the south. These conditions, combined with a required ten foot dedication for arterial highway (PCH) widening and minimum PCH and Harbor Drive setbacks, constrain the ability to develop the site horizontally as opposed to vertically, thereby justifying a variance for building height.**

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7. Approval of variance application will not 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, when the specified conditions are complied with in that; **hotels in the same vicinity have been allowed to depart from height limitations when developing and expanding. The Laguna Cliffs Marriott, located in the same vicinity and zone, exceeds the applicable 35-foot height limit by at least 20-feet and was granted a variance for height. The Best Western Hotel, in the same vicinity and zone across Pacific Coast Highway, was subject to a 35-foot height limit and, although not granted a variance, is up to 45-feet high as measured by the applicable code provisions and 60-feet high if measured from the sidewalk along Pacific Coast Highway. In the same vicinity, the Doubletree Hotel at 34402 Pacific Coast Highway was granted a variance to exceed a 35-foot height limit and encroach into that property's rear-yard setback. The Ritz Carlton also exceeds 35-feet in height and was recently granted a height-variance as part of an expansion approved by the City. Because other hotels in the surrounding area have either been granted height variances or were constructed above the 35-foot height limitation without a variance, approval of the application will not 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.**
- D) Based on the evidence presented at the public hearing, the City Council adopts the following findings and approves Conditional Use Permit CUP09-0009, subject to conditions:
1. The use or Project proposed is consistent with the General Plan; **in that development regulations of the Orange County Zoning Code allows shared parking programs and the program provides a reasonable, accountable and enforceable means for all uses to share parking, the parking demand will be continually met as well as providing fifty additional public parking spaces for visitors to the coast.**