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

January 19, 2005
7:00 – 9:35 p.m.

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

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

PLEDGE OF ALLEGIANCE – Vice-Chairwoman O'Connor led the Pledge of Allegiance.

ROLL CALL

Commissioners Present: Chairman Norman Denton, Vice-Chairwoman April O'Connor, Commissioner Greg Powers, Commissioner J. Scott Schoeffel, and Commissioner Steven Weinberg

Staff Present: Kyle Butterwick (Director), Patrick Munoz (City Attorney), John Tilton (City Architect/Planning Manager), Kurth Nelson (Planning Consultant), Robert Kain (Permit Coordinator), Paul Huckabee (Planning Consultant), and Bobbi Ogan (Planning Secretary)

A. APPROVAL OF MINUTES

ITEM 1: Minutes of the regular Planning Commission Meeting of December 15, 2004.

ACTION: Motion made (O'Connor) and seconded (Powers) to approve the Minutes of the regular Planning Commission Meeting of December 15, 2004 with amendment to Page 4. Motion carried 5-0. (AYES: Denton, O'Connor, Powers, Schoeffel, Weinberg 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: Coastal Development Permit CDP04-19 to allow the demolition of an existing single-family residence and the construction of a new two (2) story, 7,305 square foot single-family residence with 903 square feet of attached garage space, and associated improvements on a coastal bluff lot at 24342 Santa Clara Avenue.

Applicant: Richard Hanson, Architect
Owner: Timothy and Mary McFadden
Location: 24342 Santa Clara

Request: A Coastal Development Permit to allow the demolition of an existing single-family residence and the construction of a new two (2) story, 7,305 square foot single-family residence with 903 square feet of attached garage space, and associated improvements on a coastal bluff lot.

Environmental: The proposed project qualifies as a Class 3 (Section 15303) pursuant to the applicable provisions of the California Environmental Quality Act (CEQA) in that the project entails the demolition of an existing single-family residence and the construction of a new single-family residence replacing the existing residence.

Recommendation: That the Planning Commission adopt the attached Resolution approving Coastal Development Permit CDP04-19.

Kurth Nelson (Planning Consultant) reviewed the staff report.

Chairman Denton opened the Public Hearing.

David Poggi (Laguna Niguel) stated that he was the owner of the apartments located across the street as well as the condo association president. He asked for the new home to be restricted to one-level to preserve the ocean views from his property. He also requested that the construction be limited to week days only.

Gus Matty (Dana Point) stated that he was concerned about losing his view by the new home. He asked for the construction to be limited to one-year in length and

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asked for no construction to be allowed on the weekend. He was concerned about the noise from the construction.

Timothy McFadden (Dana Point – Owner) stated that they would do their best to finish the home in a timely manner. He added that the estimated length for construction is fourteen (14) months. He stated that they will try to be good neighbors.

Chairman Denton closed the Public Hearing.

Vice-Chairwoman O'Connor stated that she would support the project.

Commissioner Weinberg stated that he would support the project.

Commissioner Schoeffel stated that he would support the project.

ACTION: Motion made (Schoeffel) and seconded (O'Connor) to adopt Resolution 05-01-19-01 approving Coastal Development Permit CDP04-19. Motion carried 5-0. (AYES: Denton, O'Connor, Powers, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: None)

ITEM 3: A Variance V04-07 to allow the addition of a pitched roof element to an existing single-family residence that is nonconforming to the regulations for building height at 34185 Blue Lantern.

Applicant: Mary Opel
Owner: Richard Faris and Mary Opel Faris
Location: 34185 Blue Lantern

Request: A Variance to allow the addition of a pitched roof element to an existing single-family residence that is nonconforming to the regulations for building height.

Environmental: The proposed project qualifies as a Class 1 (Section 15301) pursuant to the applicable provisions of the California Environmental Quality Act (CEQA) in that the project involves the minor alteration of an existing structure.

Recommendation: That the Planning Commission adopt the attached draft Resolution denying Variance V04-07.

Kurth Nelson (Planning Consultant) reviewed the staff report.

Chairman Denton opened the Public Hearing.

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Mary Opel (Dana Point – Owner) stated that the reason for their Variance request was due to the roof leaking and causing problems.

Gene Abernathy (Dana Point) stated that the proposed roof increase would block the view from his lower deck. He added that another way needed to be found to fix the leaking problem without increasing their height.

Steven Kearns (Laguna Niguel – Architect) stated that they proposed a truss roof on top of the current roof so the homeowners wouldn't have to move out during the repair. He added that the home was under 2,500 square feet and felt that it only looked large because it cascades up the slope in the rear.

Clarence Owen (Dana Point) stated that he supported the Variance request because he would rather look at a brand new red tiled roof than was currently exists. He added that his home is located directly next door.

Jack Hamilton (Dana Point) stated that if the Variance was granted that the home would be in even more nonconformance. He added that there was no reason to increase the height and if allowed, a covenant should be required restricting the space from being used as habitable space. He felt a precedent would be set if the roof pitch was allowed.

Chairman Denton closed the Public Hearing.

Commissioner Schoeffel stated that he agreed with staff's recommendation for denial.

Commissioner Weinberg stated that he would support staff's recommendation.

Chairman Denton felt that there was no evidence of hardship for the Variance request.

Vice-Chairwoman O'Connor stated that she would support staff's recommendation.

Commissioner Powers felt that there was no hardship and that he would agree with staff's recommendation.

ACTION: **Motion made (Schoeffel) and seconded (Powers) to adopt Resolution 05-01-19-02 denying Variance V04-07. Motion carried 5-0. (AYES: Denton, O'Connor, Powers, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: None)**

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ITEM 4: An amendment to the approval of Variance V02-12 which permitted the construction of a new two-story single-family residence on a steeply sloped, vacant lot that will exceed the City's 24-foot height limit for flat roof structures.

Applicant/

Owner: Benny Varkel

Location: 33771 Robles Drive

Recommendation: That the Planning Commission accept the applicant's request to withdraw the application to amend the previous approval.

Kyle Butterwick (Director) stated that due to the applicant's change of mind, that he would recommend that the Planning Commission continue this item to the next regular Planning Commission meeting of February 2, 2005 to allow staff to prepare a staff report.

Chairman Denton opened the Public Hearing.

Benny Varkel (Laguna Niguel – Owner) requested that the Planning Commission consider his application. He stated that he would agree to a continuance of his item.

There was a consensus of the Planning Commission to continue this item to the next regular Planning Commission meeting of February 2, 2005.

ITEM 5: Master Coastal Development Permit CDP04-23, Tentative Tract Map TTM16331, and Master Site Development Permit SDP04-69 to subdivide and develop approximately 121 acres located on the Dana Point Headlands.

Applicant/

Owner: Headlands Reserve LLC

Location: 121.3 acres generally located at the northwest corner of Pacific Coast Highway and Street of the Green Lantern

Request: To approve a master coastal development permit to subdivide 121.3 acres into 126 numbered lots and 27 lettered lots to ultimately allow development of 118 single-family homes, 4.4 acres of Visitor/Recreational Commercial development including one 65-90 room hotel and three lots adjacent to Pacific Coast Highway for commercial development not to exceed 35,000 square feet with a 40-bed hostel, a 27.9 acre conservation park and approximately 40.8 acres of additional parks and open space. The master

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coastal development permit and a master site development permit are also requested for the residential and public park areas.

Environmental: An Environmental Impact Report was certified by the Dana Point City Council on January 22, 2002. An Addendum to the Environmental Impact Report and a revised Statement of Overriding Considerations was approved on September 22, 2004. The proposed project substantially conforms to the development analyzed in those documents.

Recommendation: That the Planning Commission approve Master Coastal Development Permit CDP04-23, Tentative Tract Map TTM16331, and Master Site Development Permit SDP04-69.

Kyle Butterwick (Director) provided an overview of the entitlements granted to date for the Headlands project. He also emphasized that the applications considered by the Planning Commission this evening are required to be consistent with the approved Coastal Land Use Plan and Headlands Development and Conservation Plan.

Paul Huckabee (Planning Consultant) reviewed the staff report.

Chairman Denton opened the Public Hearing.

Kevin Darnall (Del Mar – Headlands Reserve, LLC) stated that the underlying approval was for 125 homes, but they had reduced that number by seven (7) to improve the project.

Tony Finizza (Dana Point) stated that it was time to get started and that he supports the project.

Bill Johnson (Dana Point) stated that he supports the project.

Katherine Balli (Dana Point) stated that she supports the project.

Tris Krogius (Dana Point) stated that he supports the project.

Peter Crowhurst (Dana Point) felt that the revetments have done no harm to the beach and that there is just as much sand now as there was in the past. He stated that the supports the project.

Randy Grofik (Dana Point) stated that he still had some concerns with Planning Area 4 and the 40-bed hostel. He felt that there should be thought put into what

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types of businesses would be successful because the existing businesses do not do well in that area.

Kirk Lapple (Dana Point) felt that the project would be good for the businesses, residents, and Dana Point visitors. He stated that he supports the project.

Pam Tappan (Capistrano Beach) questioned whether the condition on the funicular was a conflict with the Coastal Commission suggested modifications. She asked for a completion schedule for the public amenities and stated that she was concerned that the amenities would not be completed once the homes were built.

Fred Johnston (Dana Point) felt that this was an excellent project and that he supports it.

Bud Bruggeman (Dana Point) stated that he was in favor of this project but that he was concerned that the proposed perimeter gates and fencing would be inadequate to keep the public out of the park at night. He was also concerned that there may not be enough funding for full-time security which would lead to failure of the public to follow the rules of the park.

Jim Seitz (Dana Point) asked whether the City has a valid State-approved General Plan with a housing element and what provisions have been made in the project to meet the City's affordable housing requirement as mandated by the State.

Stan Andrade (Dana Point) stated that he supports the project. He felt that the commercial component would help the existing commercial area and that the residents were ready to enjoy the property.

Kevin Darnall replied in response to the comments on the funicular and maintenance that the developer was required to enter into a maintenance agreement and that they have agreed to the condition that a Community Facilities District will be put into place to provide that maintenance. He added that the Development Agreement requires the developer to implement all of the community facilities and amenities prior to the first residential occupancy. He stated that they were working out the issues of the implementation of the Headlands Conservation Park with the appropriate agencies. He added that in the HDCP that a six-foot high fence would be constructed around the parking lot area and at the gates so when the park closes, the public would not be able to access the property. He felt that a lot of the concerns had been addressed and provided for in the amended HDCP.

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Paul Huckabee stated in response to the question of affordable housing that there was a condition in the CDP and the TTM that requires that the applicant to comply with any in-lieu fees for affordable housing that the City has.

Patrick Munoz (City Attorney) stated that there were three (3) lawsuits against the City that have been brought by Mr. Seitz and two (2) other individuals all resulting from the Marina Mobile Home Estates Closure Report challenging the General Plan. He added that the City will know soon whether there is a concern there. He stated that the General Plan has been evaluated by his firm and that it was found to be legally sound.

Kyle Butterwick (Director) stated that the City and landowner are actively engaged at the present time regarding the details for the habitat management plan and the resource management plan. He added that one of the tonight speakers did bring up a good point about security and that he felt that it was a legitimate concern that would be explored in the management plan.

Chairman Denton closed the Public Hearing.

Commissioner Schoeffel felt that the Headlands project was one of the best projects on the California coast. He stated that in all of his experience that he has never seen a project like this before that has completely harmonized all of the various needs of a community. He stated that he would support the three (3) entitlements for this project.

Commissioner Weinberg felt that everyone will win with this project. He stated that it was a beautiful property and that now the community will get some good use out of it. He added that he supports the project.

Chairman Denton stated that it was exciting to see this project come together and that he would support the approval.

Vice-Chairwoman O'Connor felt that this project struck a balance between private benefit and public good. She stated that it was a wonderful plan and the best thing for our community. She added that she supports the project.

Commissioner Powers hoped that once this project moved forward that it would heal some of the divisiveness in the community. He stated that he would support the approval.

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ACTION: Motion made (Schoeffel) and seconded (Weinberg) to adopt Resolution 05-01-19-03 approving Master Coastal Development Permit CDP04-23. Motion carried 5-0. (AYES: Denton, O'Connor, Powers, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: None)

ACTION: Motion made (Schoeffel) and seconded (Weinberg) to adopt Resolution 05-01-19-04 approving Tentative Tract Map TTM16331. Motion carried 5-0. (AYES: Denton, O'Connor, Powers, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: None)

ACTION: Motion made (Schoeffel) and seconded (Weinberg) to adopt Resolution 05-01-19-05 approving Master Site Development Permit SDP04-69. Motion carried 5-0. (AYES: Denton, O'Connor, Powers, Schoeffel, Weinberg NOES: None ABSENT: None 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 there has been a slight delay on the workshops for the Town Center Specific Plan. He stated that they were originally scheduled for the end of this month, but they will take place at the end of February, or the first part of March. He stated that staff has been working with Roma on new phases for the public improvements. He reported that the City would be receiving the draft EIR on the Harbor Revitalization Plan early this summer and that the final draft of the General Plan would be completed soon. He stated that the next six months will be very busy for the Planning Commission and City staff. He stated that the City Council would be considering the appeal of

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the Planning Commission's ruling on the Diedrichs proposal at their meeting next Wednesday.

John Tilton (City Architect/Planning Manager) stated that one of the reasons for Staff wanting to work out the phasing issues with respect to the Town Center Specific Plan recommendations is because the new Public Works Director has been very instrumental in pointing out the details that require attention before any recommendations should be finalized for the workshops.

I. COMMISSIONER COMMENTS

Commissioner Powers commended Commission Schoeffel and Chairman Denton on the approval of the Headlands project.

Vice-Chairman O'Connor stated that she was glad that this evening went well and that the City has Commissioners that are experienced and that can handle these issues. She hoped that Commissioner Schoeffel and Chairman Denton consider re-applying for the Planning Commission again.

Chairman Denton stated that it was satisfying to him to see the room less divisive and after eight years have a project really come together was the proof to him that approval was the right action.

Commissioner Weinberg asked if the Planning Commission could be proactive instead of reactive and as the Planning Commission to get involvement from the community to solve the height problem and come up with a recommendation to give to the City Council.

Commissioner Schoeffel thanked Chairman Denton for his leadership throughout the years of Headlands hearings and the many other issues that have come before the Planning Commission.

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J. ADJOURNMENT

Chairman Denton announced that the *next regular* meeting of the Planning Commission would be held on Wednesday, February 2, 2005, beginning at 7:00 p.m. (or as soon thereafter) in the Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

The meeting adjourned at 9:35 p.m.

Norman Denton, Chairman
Planning Commission