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

November 17, 2004
7:00 – 9:10 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 – Commissioner Weinberg 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, Todd Litfin (Assistant City Attorney), John Tilton (City Architect/Planning Manager), Kurth Nelson (Planning Consultant), Erica Williams (Senior Planner), Brenda Chase (Senior Planner), and Bobbi Ogan (Planning Secretary)

A. APPROVAL OF MINUTES

ITEM 1: Minutes of the regular Planning Commission Meeting of November 3, 2004.

ACTION: Motion made (O'Connor) and seconded (Schoeffel) to approve the Minutes of the regular Planning Commission Meeting of November 3, 2004. Motion carried 5-0. (AYES: Denton, O'Connor, Powers, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: None)

B. PUBLIC COMMENTS

Jim Miller (Dana Point) stated that he was the owner of the Coffee Importers and that he wanted to remind the Planning Commission and the leaders of the community that the purpose of the revitalization of the couplet was to create a pedestrian-friendly shopping business environment for the residents and guests of Dana Point. He added that the couplet has many existing businesses that are

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

November 17, 2004
7:00-9:10 p.m.

PAGE 2

family owned and that they also live in Dana Point. He stated that Dana Point was a unique community and that the City must not lose its identity when developing the downtown area. He added that what makes a successful downtown besides adequate parking will be the right mix of businesses keeping Dana Point a community for its residents and guests and not for outside interests. He felt that Conditional Use Permits for the downtown area should not be considered until Roma Design makes its final recommendations to the Planning Commission and the City Council.

C. CONSENT CALENDAR

There were no items on the Consent Calendar.

D. PUBLIC HEARINGS

ITEM 2: Coastal Development Permit CDP04-16 to allow the demolition of an existing single-family residence and the construction of a new two story, single-family residence with an attached garage, and associated improvements on a coastal bluff lot, with a Lot Line Adjustment to consolidate two lots into one parcel at 35015 Camino Capistrano.

Applicant: Lynn Muir, Architect
Owner: Raymond Nootens
Location: 35015 Camino Capistrano

Request: A Coastal Development Permit to allow the demolition of an existing single-family residence and the construction of a new two story, 10,254 square foot single-family residence with 1,074 square feet of attached garage space, and associated improvements on a coastal bluff lot, with a lot line adjustment to consolidate two lots into one parcel for the purposes of constructing the proposed residence.

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 CDP04-16.

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

November 17, 2004
7:00-9:10 p.m.

PAGE 3

Kurth Nelson (Planning Consultant) reviewed the staff report.

Chairman Denton opened the Public Hearing.

Raymond Nootens (Oakbrook, IL – Property Owner) stated that he plans to retire in Dana Point. He added that the current house was in poor repair when he purchased it and that he was proposing something that he felt would enhance the value of the neighborhood.

Lynn Muir (Dana Point) stated that Kurth Nelson had done a great job and felt that they could work with the conditions proposed.

Trisha Nootens (Capistrano Beach) felt that the proposed home will be a great asset for Capistrano Beach and that it will help the property values increase.

Donald Matschke (Capistrano Beach) felt that it was a great plan but he had concerns. He stated that he didn't want the fence in the front torn down because the fence was his. He was concerned about the proposed glass wall for the pool because it will send stormwater down the bluff.

Earl Wessel (Capistrano Beach) stated that he was concerned with the location of the pool on the bluff and potential failure of the bluff.

Chairman Denton closed the Public Hearing.

Commissioner Powers stated that he had no problem with the pool and that he would support the project.

Vice-Chairwoman O'Connor stated that she would support the project based on the fact that the home requires no Variances, that the roof height comes within the 28 foot height and that the building footprint was less than the 35 percent allowed.

Commissioner Weinberg stated that he was concerned with the pool and that he could not support the project. He felt that the proposed house design was spectacular.

Commissioner Schoeffel stated that he would support the project.

Chairman Denton felt that the proposed project was good and that it would be a quality home. He stated that he was convinced that the pool would be safe based on the geologists' report.

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

November 17, 2004
7:00-9:10 p.m.

PAGE 4

ACTION: Motion made (Schoeffel) and seconded (O'Connor) to adopt Resolution 04-11-17-50 approving Coastal Development Permit CDP04-16. Motion carried 4-1. (AYES: Denton, O'Connor, Powers, Schoeffel NOES: Weinberg ABSENT: None ABSTAIN: None)

ITEM 3: Coastal Development Permit CDP04-14 and Minor Site Development Permit SDP04-73M to allow a remodel and addition to an existing single story dwelling with non-conforming front and side yard setbacks in the Residential Multiple Family (RMF 22) zone at 24381 Santa Clara.

Applicant: Gerald N. Muir, Architect
Owner: Dwight Layton
Location: 24381 Santa Clara Avenue

Request: Coastal Development Permit and Minor Site Development Permit to allow a remodel and addition to an existing single-story dwelling with non-conforming front and side yard setbacks. Approximately 2,070 square feet will be added to the first floor and 3,233 square feet will be added to create a second floor. A second two-car garage will be added to the rear of the lot with access off of the alleyway

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 an addition to an existing structure not resulting in an increase of more than 10,000 square feet. Furthermore, the project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and is not environmentally sensitive.

Recommendation: That the Planning Commission adopt the attached Resolution and approve Coastal Development Permit CDP04-14 and Minor Site Development Permit SDP04-73M for an addition to an existing non-conforming single-family dwelling.

Erica Williams (Senior Planner) reviewed the staff report.

Chairman Denton opened the Public Hearing.

Gerald Muir (San Juan Capistrano) stated that they concur with staff's comments and conditions. He added that he was available for any questions.

Chairman Denton closed the Public Hearing.

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

November 17, 2004
7:00-9:10 p.m.

PAGE 5

Commissioner Schoeffel felt that it was a great project and that he would support it.

Commissioner Weinberg felt that it was a great project and that it would help improve the neighborhood.

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

Commissioner Powers stated that he would support the project.

Chairman Denton stated that he would support the project.

ACTION: Motion made (O'Connor) and seconded (Schoeffel) to adopt Resolution 04-11-17-51 approving Coastal Development Permit CDP04-14 and Minor Site Development Permit SDP04-73M. Motion carried 5-0. (AYES: Denton, O'Connor, Powers, Schoeffel, Weinberg NOES: None ABSENT: None ABSTAIN: None)

E. PUBLIC MEETINGS

ITEM 4: Appeal of the Community Development Director's determination that the previous entitlement to operate a drive-through restaurant at the property located at 34122 Pacific Coast Highway shall not apply to the proposed coffee house drive-through use and that a Conditional Use Permit is required.

Applicant: Diedrich's Coffee, Inc.
Owner: William L. Steel, Samuel, Green, Steel & Adams, LLP
Location: 34122 Pacific Coast Highway

Recommendation: That the Planning Commission adopt the attached Resolution upholding the Community Development Director's determination.

Kyle Butterwick (Director) reviewed the staff report.

William Steel (Laguna Beach – Legal Counsel for Diedrich) stated that Diedrich has entered into an agreement for a 35-year contingent upon the existing entitlement applying to Diedrich proposed use. He added that when Mega Burger took over from KFC, a new CUP was not required. He felt that Diedrich would be more pedestrian-friendly and traffic-friendly than any other use. He added that there was more than adequate seating inside and outside and that the parking lot was large. He stated that there would be no stacking problems in the

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

November 17, 2004
7:00-9:10 p.m.

PAGE 6

drive-through due to the site design. He added that it was not their intention to put anyone out of business and asked the Commission to uphold their appeal to find that the proposed use by Diedrich is consistent with the existing entitlement.

Matt McGuinness (Laguna Beach) stated that Diedrich was not a big corporation trying to take over the downtown area and felt that their use would be a dramatic improvement versus the existing structure.

Rose Bacinski (Dana Point) stated that she was an architect and consultant for Diedrich. She felt that Diedrich would be a great addition that would improve a distressed site. She asked the Commission to allow Diedrich to use the existing entitlement.

Lynn Muir (Dana Point) stated that the proposed hours of operation did not fit with the existing entitlement. He added that Mega Burger had opened at 7:00 a.m. He felt that the project should be conditioned so that it was a true restaurant and not a coffee house.

Carol O'Connell (Dana Point) stated that the Commission should deny the appeal and support Staff's recommendation. She felt that the use departed from the vision for the community and that it would compete with local businesses.

Jim Miller (Dana Point) felt that no changes should be considered until the plan for the Town Center had been developed. He stated that Diedrich would not be the same business as Mega Burger was and that they would have new peak business hours. He added that Diedrich would be a change of use.

Stan Andrade (Dana Point) stated that Diedrich would be good for the City, but felt that the Director's decision should be upheld until there was more review of the proposed use and design of the building.

Larry Leese (Capistrano Beach) stated that he was a consultant with Diedrich. He felt that people look for quality and that competition makes businesses step up and provide better products for their customers.

Vice-Chairwoman O'Connor disclosed that she did speak to Mr. Steel prior to the hearing. She felt that there was a big difference in use between a restaurant use and a food specialty use. She stated that she agreed with the Planning Director and felt that the appeal should be denied.

Commissioner Powers stated that competition was not the Planning Commission's problem. He didn't agree that this was a new use for this property

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

November 17, 2004
7:00-9:10 p.m.

PAGE 7

and felt that the drive-through runs with the property. He added that he would support the appeal.

Commissioner Weinberg stated that a new CUP would allow for the appropriate studies to be completed regarding the impact on the surrounding area. He added that he would vote to uphold the Director's decision.

Commissioner Schoeffel felt that Mega Burger and Diedrich would not have the same level of business so that it would be a change in use. He stated that there would be a different traffic pattern. He added that the City should have the opportunity to review the project due to the additional impacts to the area and that a new CUP should be required.

Chairman Denton stated that he wanted the City to have the benefit of the review of a CUP.

ACTION: Motion made (O'Connor) and seconded (Schoeffel) to adopt Resolution 04-11-17-52 upholding the Community Development Director's determination. Motion carried 4-1. (AYES: Denton, O'Connor, Schoeffel, Weinberg NOES: Powers ABSENT: None ABSTAIN: None)

F. OLD BUSINESS

There was no Old Business.

G. NEW BUSINESS

There was no New Business.

H. STAFF REPORTS

Kyle Butterwick (Director) reported that the Coastal Commission would be considering acceptance of the suggested modifications that the City had recently approved for the Headlands at their hearing tomorrow. He stated that if that happens that Staff is on schedule to bring forward the Tentative Tract Map and some other entitlement applications to the Planning Commission at the December 1, 2004 Planning Commission meeting. He suggested a field trip of the Planning Commission to the Headlands property on December 1, 2004 prior

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

November 17, 2004
7:00-9:10 p.m.

PAGE 8

to the regularly scheduled meeting. He stated that if the Commission was available that they should meet Staff here at City Hall at 3:00 p.m.

Todd Litfin (Assistant City Attorney) reported that the City has been sued on the mobile home park closure and the City's approval of the Fractional Ordinance.

I. COMMISSIONER COMMENTS

Commissioner Schoeffel wished everyone a happy Thanksgiving.

Commissioner Weinberg asked if there was any way to convince the County of Orange to start working on the bike path near San Juan Creek. He felt that now was the perfect time to work on the path while the weather was dry.

Chairman Denton wished everyone a happy Thanksgiving.

Vice-Chairwoman O'Connor wished everyone a happy Thanksgiving and stated that we all had something to be thankful for this year.

Commissioner Powers stated that he was glad that the basement for the new home on Camino Capistrano was not included in the height measurement. He hoped that the City did not dissolve into doing things that were punitive or things that are reactionary in politics. He hoped that everyone would take their political hats off and focus on land use and the legal issues and that hopefully the Council would do the same. He wished everyone a great Thanksgiving.

J. ADJOURNMENT

Chairman Denton adjourned the meeting to a field trip of the Headlands on Wednesday, December 1, 2004, beginning at 3:00 p.m. (or as soon thereafter) at 33282 Golden Lantern, Dana Point, California.

The meeting adjourned at 9:10 p.m.

Norman Denton, Chairman
Planning Commission