

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

March 27, 2017
6:01 P.M. – 8:27 P.M.

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

CALL TO ORDER

Chairman Nelson called the Regular Meeting of the Dana Point Planning Commission to order at 6:01 p.m.

PLEDGE OF ALLEGIANCE

Commissioner April O'Connor led the Pledge of Allegiance.

ROLL CALL

Planning Commission Members Present: Chairman Eric Nelson, Vice-Chairman Scott McKhann, Commissioner April O'Connor, Commissioner Danni Murphy, Commissioner Roy Dohner

Staff Present: Ursula Luna-Reynosa (Director), Morgan Gallagher (Deputy City Attorney), Matt Schneider (Planning Manager), Belinda Deines (Senior Planner), Sean Nicholas (Senior Planner), Danny Giometti (Associate Planner) and Shayna Sharke (Senior Administrative Assistant)

A. APPROVAL OF MINUTES

ITEM 1: Minutes of the Regular Planning Commission Meeting of February 27, 2017.

ACTION: Motion made (Murphy) and seconded (McKhann) to approve the Minutes of the Regular Planning Commission Meeting of February 27, 2017. Motion carried 3-1-1.

AYES: McKhann, Murphy, Nelson, O'Connor
NOES: None
ABSENT: None
ABSTAIN: Dohner

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B. PUBLIC COMMENTS

Drew Reynolds (Dana Point) presented his concern regarding parking in the Lantern Village Area. He stated that there are more vehicles and congestion due to small homes being renovated into larger homes with additional cars, but without additional garage or parking requirements. He submitted documents illustrating his statements.

Ursula Luna-Reynosa (Director) replied to Mr. Reynolds, informing him of an upcoming Public Workshop regarding parking in the City, including the Lantern District. She stated that information regarding the workshop will be published on the DanaPoint.org website and notification will be sent out via mail, in the Dana Point Times, and social media outlets once a date has been confirmed.

C. CONSENT CALENDAR

There were no items on the Consent Calendar.

D. PUBLIC HEARING

ITEM 2: Minor Site Development Permit SDP17-0006(M) and Administrative Modification of Standards AMS17-0031 to allow an addition of 357 square feet to an existing legal non-conforming single-family dwelling in the Residential Single Family 7 (RSF-7) and Planned Residential District 3 (PRD-3) Zone at 7 New York Court.

Applicant: Edleston

Location: 7 New York Court (APN 672-411-40)

Recommendation: That the Planning Commission adopt the attached resolution approving Minor Site Development Permit SDP17-0006(M) and Administrative Modification of Standards AMS17-0031.

Environmental: The project is Categorically Exempt from the provisions set forth in the California Environmental Quality Act (CEQA) per Section 15301 (Class 1 – Existing Facilities) in that the Project proposes nominal additions to an existing residential dwelling.

Request: Approval of a Minor Site Development SDP17-0006(M) to permit the addition of 357 square feet to an existing, nonconforming single-family dwelling.

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Sean Nicholas (Senior Planner) provided a Staff Report and answered questions of the Planning Commission.

Ursula Luna-Reynosa (Director) stated that the City cannot legally enforce CC&Rs because they are a civil matter. Projects are evaluated within the City Municipal Codes.

Chairman Nelson opened the Public Comments at 6:28 p.m.

Tom Brabeck (Dana Point) spoke on behalf of the owner. He requested that the Planning Commission remove the 18th condition of approval on the basis that CC&Rs are between the homeowner and the Home Owner Association. He stated that CC&Rs have previously not been enforced by the City Attorney and Planning Commissioners.

John Siragusa (President of Home Owners Association) stated that the project was originally approved in 2015 by the HOA, but the approval expires after 6 months. Their process has been updated to include review by an architect. He added that because there is a zero lot line and the project does not conform to the 5-foot easement, the new windows will affect the neighbors privacy. Mr. Siragusa stated that if this project is approved by the Planning Commission, the HOA will appeal to the City Council.

Chairman Nelson closed the Public Comments at 6:35 p.m.

Commissioner Dohner stated that he is a part of a Home Owners Association and sympathizes with concerns over privacy and views as part of a privilege that members pay for. He added that the HOA must uphold their own CC&Rs. Commissioner Dohner stated that he would support approval of the project because it was previously approved by the HOA and it complies with City Code.

Commissioner O'Connor stated that while the Planning Commission can't enforce CC&Rs she finds it difficult to approve an expansion to an existing non-conforming structure. She stated that she would like to table the project to let the HOA and the applicant work out some of the issues.

Commissioner Murphy agreed with Commissioner O'Connor adding that the CC&Rs are in place for a reason, but the City cannot get involved with these disputes.

Vice-Chairman McKhann asked the City Attorney why we request HOA review if the City is not able to consider their approval or rejection when approving a project. He stated that he is sympathetic to the homeowner and stated that he is in favor of the project because it complies with City Codes, and is in favor of removing Condition 18. He added that regardless of how the Planning Commission votes, the HOA and the applicant can discuss the project further.

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Chairman Nelson stated that he is in support of collaboration between the City and the HOA as an additional process. He stated that he is also in support of removing condition 18 and requested that the window along the left elevation is removed. He also stated that a condition should be included requiring the applicant to obtain an encroachment agreement from the neighbor during construction.

Morgan Gallagher (City Attorney) advised that the agreement between neighbors during construction would be a private matter.

Commissioner O'Connor suggested that the item be tabled until additional information can be provided by staff.

Tom Brabeck (Dana Point) stated that the applicant is out of the country and the process is creating a hardship for him.

Chairman Nelson made a motion to continue the Public Hearing to allow staff time to present additional information.

Ursula Luna-Reynosa (Director) stated that staff will bring the item back as soon as possible.

Vice-Chairman McKhann asked for clarification on the justification of tabling the item.

Chairman Nelson expressed multiple concerns about new windows at the left elevation where there is zero lot line.

Vice-Chairman McKhann asked if the motion should include a condition requiring an encroachment agreement.

Chairman Nelson stated that he didn't include that due to the City Attorney advisement.

Commissioner O'Connor stated that she is also interested in such a condition.

Commissioner Dohner stated that most HOAs have a provision within their CC&Rs regarding zero lot line situations, but it is not within the City's purview to consider privacy issues.

Chairman Nelson stated that the Planning Commission should look at a project in totality, adding that they shouldn't protect, but also shouldn't ignore the privacy matter, and they did not have enough information to make a ruling.

Vice-Chairman McKhann stated that the privacy issue would not be better if the windows were setback 5 feet.

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Chairman Nelson stated that 5 feet would make a difference. The neighbor has outside living space with no side yard and typically you see a solid wall at the property line with a zero lot line.

Commissioner O'Connor reiterated Chairman Nelson's concern that an opening on a zero lot line is a building code issue.

Chairman Nelson moved that the item be continued so that staff can respond to concerns raised.

ACTION: Motion made (Nelson) and seconded (O'Connor) to continue the Public Hearing regarding Site Development Permit SDP17-0006(M) and Administrative Modification of Standards AMS17-0031. Motion carried 3-2-0.

AYES: Murphy, O'Connor, Nelson
NOES: McKhann, Dohner
ABSENT: None
ABSTAIN: None

ITEM 3: Antenna Use Permit AUP16-0001 and Conditional Use Permit CUP17-0001 to allow the installation of a roof-mounted commercial wireless telecommunication antenna facility of an existing building located at 24661 Del Prado Avenue.

Applicant: Sprint PCS / Patrick and Rebecca Prendivelle

Location: 24661 Del Prado Avenue (682-323-16)

Recommendation: That the Planning Commission adopt the attached draft Resolution approving Antenna Use Permit Application (AUP16-0001) and Conditional Use Permit (CUP17-0001).

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

Request: Approval of an antenna use permit (AUP) and conditional use permit (CUP) to allow the installation of a roof-mounted commercial wireless telecommunication antenna facility on an existing building located at 24661 Del Prado Avenue.

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Commissioner O'Connor recused herself at 7:03 p.m. to avoid any perceived conflict of interest due to her friendship with the property owner.

Danny Giometti (Associate Planner) provided a Staff Report and answered questions of the Planning Commission.

Chairman Nelson opened the Public Comments at 7:12 p.m.

Maree Hoeger (Sprint) stated that the antenna are in full compliance with the FCC Standards and cell companies, such as Sprint, are regulated by the FCC, not local jurisdictions. She added that mitigation measures are put in place to protect workers who will come into close proximity to the antennas, such as signage and physical boundaries. Additionally, she stated that they need the antenna to be a certain height in order to propagate the signal and gain the desired coverage. Because of the planned Union Bank demolition, Sprint is forced to move their antenna and without a new location they will lose essential coverage including 911 services to Town Center and the Dana Point Harbor. She stated that they exhausted all site options in the area. Additionally, she informed the Planning Commission that the spark arrester design option is necessary for ventilation purposes.

Dana Yarger (Dana Point) spoke in opposition of the project. He stated that the view from his building faces the antenna and distributed pictures to the Planning Commission. He suggested that a temporary tower be built until the Union Bank site has been rebuilt. Mr. Yarger added that the antenna would have to be disclosed during real estate transactions and may effect future development.

Peggy Sue Grey (Dana Point) spoke in opposition of the project. She stated that her child has epilepsy and has done research on the negative effects of EMFs on people with epilepsy. She stated that there is currently only one antenna on the Union Bank building, so having the six proposed antennas seems excessive. Ms. Grey distributed documents showing her research on the effect of EMFs on people with epilepsy.

Kathleen Travers (Dana Point) spoke on behalf of the HOA for the townhomes located in close proximity on Del Prado. She stated that their board is adamantly opposed and has great concerns that their property values will be effected if the antennas are installed.

Ron Grey (Dana Point) spoke in opposition of the project. He stated that there is not enough information regarding the EMFs over 25 feet and his son's window is within range.

Chairman Nelson closed the Public Comments at 7:41 p.m.

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Commissioner Murphy stated that she is concerned with how much research, communication and outreach was performed. She added that she would like more information.

Ursula Luna-Reynosa (Director) requested that the City Attorney clarify the jurisdiction of the City in regards to antenna use applications.

Morgan Gallagher (City Attorney) stated that according to State law, the City cannot regulate based on health and safety concerns as long as the applicants comply with FCC standards. The Planning Commission is tasked with evaluating the aesthetic aspect of the project.

Commissioner Dohner stated that he does not see an issue of leaving the antenna at its current location on the Union Bank property until the building is demolished.

Chairman Nelson stated that the Planning Commission is limited on what it can do and he understands the concerns.

Vice-Chairman McKhann stated that he is sympathetic to the concerns, but the health and safety aspect is out of their hands. He stated that the aesthetics are done well.

Commissioner Murphy stated that she is sympathetic to the concerns of the residents, but must follow the law.

ACTION: Motion made (Nelson) and seconded (McKhann) approving Resolution No. 17-03-27-07, Antenna Use Permit AUP16-0001 and Conditional Use Permit CUP17-0001 to allow the installation of a commercial wireless telecommunication antenna facility on the exterior of an existing building located at 24661 Del Prado with the modification requested by the applicant to add a spark arrester. Motion carried 4-0-1.

AYES: McKhann, Murphy, Nelson, Dohner
NOES: None
ABSENT: None
ABSTAIN: O'Connor

Commissioner O'Connor re-entered Council Chambers at 7:50 p.m.

F. OLD BUSINESS

There was no Old Business.

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G. NEW BUSINESS

ITEM 4: ANNUAL HOUSING ELEMENT PROGRESS REPORT

Applicant: City of Dana Point

Location: Citywide

Recommendation: That the Planning Commission review the 2016 Annual Housing Element Progress Report and receive and file the report.

Environmental: In accordance with CEQA, a Negative Declaration was prepared as required for adoption of the Housing Element. The Annual Housing Element Progress Report does not require further CEQA action.

Request: To review the Annual Housing Element Progress Report for 2016 as required by the State law to show progress on the General Plan Housing Element.

Belinda Deines (Senior Planner) provided a Staff Report and answered questions of the Planning Commission.

Commissioner O'Connor stated that it is difficult to find affordable housing in coastal areas and while it may have a negative connotation, this type of housing is important to provide our local teachers, firefighters, etc., an opportunity to live where they work.

ACTION: Motion made (O'Connor) and seconded (Dohner) to receive and file the report. Motion carried 5-0-0.

ITEM 5: PRESENTATION FOR OUTGOING COMMISSIONER APRIL O'CONNOR

Chairman Nelson thanked April O'Connor for her time and experience on the Planning Commission. He stated that she left her mark as a leader and added that she made a true difference on the Commission and within the City.

Commissioner O'Connor thanked her mentors and former members of the Planning Commission, Norm Denton and Scott Schoeffel. She provided the Planning Commissioners words of advice that they had given to her. She added that this was a wonderful time in her life and she appreciates the staff and all of the commissioners that she has worked with. She stated that the City of Dana Point deserves everyone's best effort.

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Commissioner Murphy stated that she remembers meeting Commissioner O'Connor during a meeting at the Community Center and recalled the great control and poise that Commissioner O'Connor held.

Ursula Luna-Reynosa (Director) stated that she has enjoyed working with Commissioner O'Connor and thanked her for her service. She stated that she had great composure and was firm, yet gentle, during hearings over controversial projects. She appreciates Commissioner O'Connor's belief that everyone deserves to speak and be heard.

Commissioner O'Connor was presented with a plaque and City tile commemorating her service to the City of Dana Point.

H. STAFF REPORTS

I. COMMISSIONER COMMENTS

Commissioner Murphy complimented Ursula Luna-Reynosa and Chairman Nelson on their presentations during the Planning Commissioner Academy.

Commissioner Dohner stated that he attended a Coffee Chat where staff presented. He added that there was a good sized crowd and the updates provided by staff were appreciated.

Vice-Chairman McKhann thanked Commissioner O'Connor for her guidance and leadership and hopes to continue their conversations.

J. ADJOURNMENT

Chairman Nelson adjourned the meeting at 8:27 p.m. and announced that the *next* Regular Meeting of the Planning Commission will be held on Monday, April 10, 2017, 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.



Eric A. Nelson, Chairman
Planning Commission