

From: Danny P. Giometti <DGIOMETTI@DanaPoint.org>
Sent: Thursday, December 8, 2022 4:47 PM
To: Brenda Wisneski <BWisneski@DanaPoint.org>
Cc: Allison Peterson <APeterson@DanaPoint.org>; Vanessa Rivera <VRivera@DANAPOINT.ORG>
Subject: FW: 432 Monarch Bay / Applicant's Letter to Neighbors

Per the request of Mr. Stauff include these items in the file as part of the public record.

From: Stauff, Clyde <Clyde.Stauff@colliers.com>
Sent: Thursday, December 8, 2022 4:44 PM
To: Danny P. Giometti <DGIOMETTI@DanaPoint.org>
Subject: 432 Monarch Bay / Applicant's Letter to Neighbors

Dear Danny,

Attached is the Applicant's letter that was sent to the neighbors regarding the ADU. It is clear from the letter that the motive is not to build an ADU, it is simply to increase the height of the home and circumvent the CC&Rs and height restrictions. The Applicant admits in the letter that is the objective.

Also, attached is our letter of objection which we previously sent to the residence. The site photographs that were computer generated are accurate based on the dimensions taken off the Applicant's plan.

We would appreciate it if you could include these items in the file.

Thank you for your assistance.

Clyde F. Stauff, SIOR

Vice Chair | Greater Los Angeles

Stauff/Gan Industrial Team

clyde.stauff@colliers.com

CA Lic. 00464008

Direct: +1 949 724 5543 | Mobile: +1 714 264 8539

3 Park Plaza, Suite 1200 | Irvine, CA 92614 | USA

Don't Let an ADU Block Your View!

Dear Neighbor,

The owner of 432 Monarch Bay Drive has applied to the City of Dana Point to build a second story Accessory Dwelling Unit (ADU). The Monarch Bay Homeowners Association and Architectural Control Committee has stated their unanimous disapproval of this project per the enclosed October 26, 2022 letter.

FAQs

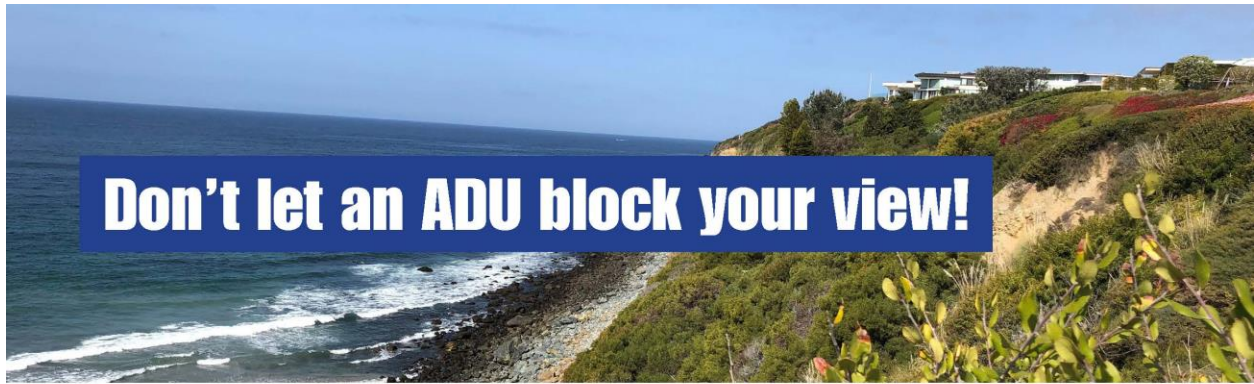
1. Q: What is an Accessory Dwelling Unit (ADU)?

A: An Accessory Dwelling Unit (ADU) is allowed under California Assembly Bill AB-9. This gives homeowners the right to build rental units in communities that were previously restricted by R-1 zoning. The AB-9 law could potentially override CC&Rs that protect Monarch Bay residents from encroachment into view corridors, height restrictions, side yards, rear yard setbacks, etc.

2. Q: What is the purpose of an ADU?

A: The ADU law was intended to provide low-income housing options in the State of California. The law allows for substandard construction (modular housing), on street parking, and monthly rental targets of \$1,200 per month or lower. Short-term rentals such as Airbnb are permitted.

continued on next page



Don't let an ADU block your view!

FAQs continued

3. **Q: How could the applicant obtain approval if the Monarch Bay HOA and ACC have denied permission to build the ADU?**

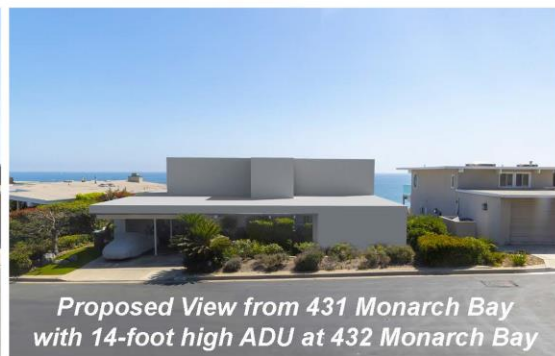
A: The applicant applied directly to the City of Dana Point Planning Department despite the unanimous disapproval by the Monarch Bay Architectural Control Committee (ACC) and Homeowners Association (HOA). The ADU law places the approval in the City of Dana Point's jurisdiction.

4. **Q: Do the recorded Monarch Bay CC&Rs and height restrictions protect my property from blockage of our existing ocean view by ADUs?**

A: That issue will be discussed at the planning commission hearing on Monday, November 14th at 6:00pm. The construction of this project would obliterate our ocean view (per the diagram below). If this project were approved, this would set a precedent that would then result in a "domino effect" of others applying for second story ADUs that could block your view as well.



Existing View from 431 Monarch Bay



Proposed View from 431 Monarch Bay with 14-foot high ADU at 432 Monarch Bay

5. **Q: If the applicant previously agreed to the height restriction, and to abide by the CC&Rs and ACC guidelines (in writing), why would the applicant pursue this project in violation of a written agreement not to do so?**

A: Because the ADU law could be used as a vehicle to circumvent the CC&Rs and allow the applicant to add previously prohibited square footage and view blockage.

6. **Q: If my ocean view were blocked, wouldn't this significantly impact the value of my property?**

*A: Of Course! Monarch Bay homeowners stand to lose **millions of dollars in property value** if height restrictions and view blockage protections are overridden. Those who block neighbors' views to add ocean view square footage would gain significant property value at the expense of their neighbors' property values and enjoyment of their homes.*

7. **Q: Can the City of Dana Point Planning Department and ADU Coast Guidelines stop this?**

A: If there is enough neighborhood "pushback" on ADUs in Monarch Bay, it is likely the Planning Commission will deny the ADU permit and support the CC&Rs and HOA/ACC objections.

8. **Q: Does the 432 applicant have other options to build an ADU?**

A: The applicant has the option of excavating underneath an existing carport for parking and constructing the ADU where the carport currently exists without impacting the existing height or side yard guidelines.

9. **Q: How can I protect my view?**

A: We can all express our opposition to the construction of second story ADUs to the City of Dana Point Planning Department.



What can you do to help?

We would appreciate your support in the following manner:

- 1. Email a letter of opposition to the Dana Point Senior Planner, Mr. Danny Giometti, at the City of Dana Point**

Danny Giometti
Senior Planner
949.248.3569
dgiometti@danapoint.org

- 2. Object at the ADU Public Hearing 11/14/2022 @ 6PM**

Attend the public hearing and voice your objection on Monday, November 14th, 2022 at 6:00pm at Dana Point City Council Chambers located at 33282 Golden Lantern, Suite 210, Dana Point, CA.

If there are any questions regarding this issue, please feel free to call or email me. My contact information is below.

Thank you for listening. Let's preserve our views, protect our property rights, and protect our community.

Clyde Stauff
431 Monarch Bay
clyde.stauff@colliers.com
cell - 714.264.8539





October 26, 2022

CITY OF DANA POINT PUBLIC HEARING MEETING NOTICE

SUBJECT: 432 Monarch Bay Drive, Monarch Beach, CA 92629

Dear Residents:

In follow up to the variance letter the Association previously sent to you in June 2022, the Owners for the above referenced property have submitted plans to the City of Dana Point Planning Department which have been unanimously denied by the Monarch Bay Association Architectural Committee. These plans submitted to the City propose to add a second story level to an existing single-story home identifying that structure as an Accessory Dwelling Unit ("ADU"). This home is within the Mall, Tract #4472, which is restricted pursuant to the CC&Rs to not exceed the height of the existing roof height on the interior streets of the Mall. The plans submitted to the City of Dana Point Planning Department would exceed the allowable height referenced directly above.

Pursuant to the City procedures, a Public Hearing has been scheduled before the Planning Commission for Monday, November 14th at 6:00 pm in the City Council Chambers, 33282 Golden Lantern, Suite 210, Dana Point. It is important for all homeowners to express their opinion to the Planning Commission for this submittal, as this decision could have a tremendous impact on all owners in the community if the Planning Commission agrees to over-rule the Association's Governing Documents. If an additional story is approved for this location, it could set precedent that future submittals can be similar to or greater than this structure changing the view corridors protected by the CC&Rs throughout the community.

The submitted plan labels the second story structure as an ADU. The State of California, as a public policy initiative, adopted legislation to encourage affordable rental units to be built as ADUs to existing homes.

As stated, the home is located within the Mall area and any change to the existing roof line or the footprint of the building requires a variance; which was unanimously denied by the Architectural Committee. The proposed plan on file with the City exceeds both the existing footprint and height limitations specifically set out in the CC&Rs. The structure as designed and submitted to the City will not conform to the Monarch Bay Architectural Guidelines and will not be compatible with the height, setback or architectural design of the primary home and surrounding land uses as required in the ADU Coastal Guidelines.

If you have an opinion on this issue and want to be heard, you have the right to attend the Planning Commission meeting. If however you want to be heard and you are unable to attend the Planning Commission meeting, you may submit your written comments to City of Dana Point Planner, Danny Giometti by November 10th via email at: dgiometti@danapoint.org.

Respectfully,

THE MONARCH BAY ASSOCIATION
ARCHITECTURAL CONTROL COMMITTEE

KEYSTONE | 949.833.2600 | kppm.com
reconnect@keystonepacific.com
monarchbayhoa.com



“It’s no wonder that truth is stranger than fiction. Fiction has to make sense.” ~ Mark Twain

December 5, 2022

Dear Neighbors,

We are the owners of 432 Monarch Bay, and we invite you to drive down the streets in the mall to fully understand and appreciate the construction that is occurring. We are writing in response to the emails that have been distributed regarding our home rebuild project.

Contrary to what has been implied in the ACC emails, we have been working with the Architectural Committee since our first complete and detailed submittal in October 2020. We hired our architect in July 2020 with the hopes of being able to begin building in mid 2021. Our desire was and still is to work with the ACC and get their approval to build our family home. We built our current family home in Dana Point in 2005 and we had no delays; our home was completed within the year of our plan submittal. Our original detailed and extensive plans for 432 were submitted over 2 years ago and included a subterranean walkout with a private room for my elderly father and our family. We designed the **subterranean walkout** to be the least impactful to our neighbors across the street.

You will see our current home at 432 Monarch has a flat roof with only 2”x 4” wood planks as the ceiling/roof and there is no insulation. The ceiling height is only 6’-8” in some areas. One half of our home’s height is currently below street grade. We need an increase in height to keep the entrance of our home at street level. It is the lowest height in the entire neighborhood, other mall homes have been allowed to expand in height on both sides of the street. The ACC quickly rejected our **new build plans** without review or discussion due to our need for a height variance. We appealed to the board who also rejected our plans without review. They would not consider a minor height variance on a new build. **The fact that we can get a height increase on a remodel but not on a rebuild is illogical and it is the cause for our need of an ADU.**

We wanted to continue working with the ACC for approval. Our only choice left was to design a **remodel** and once again ask for a small height variance. We redesigned our home along with the request for an increase in height. After 11 months of working with the ACC on a remodel our plans **were approved with the height increase so our home entrance would not be below the street grade. Due to current city guidelines, our building a subterranean walkout would not be allowed on a remodel. So we would not have a space for my father and family on a remodel.**

Our need to add a 2nd story ADU would not be necessary if our original plans were not turned down by the ACC. There are currently many other homes with ADU units in Monarch Bay. Our home project is the first time the ACC has sent emails advising neighbors to contact the city to dispute the plans. Contrary to the information distributed about our family home we have no intention of renting the ADU unit separately, we need a separate living space for our father and family.

2/2

Our original subterranean plans also included a request to keep our existing patio. Due to the current definition of lot coverage, our existing patio would now need a variance. The subterranean walkout we designed to accommodate the neighbors across the street, causes the existing patio to be more than 30" above grade and therefore it would have to be calculated in our lot % coverage, according to current architectural guidelines. This is a unique situation affecting only mall owners on our side of the street.

In June 2022 – We submitted to the city our ACC approved plans for a remodel along with plans for an attached second story ADU with an additional attached ADU mandatory garage. We followed the State mandated ADU Guidelines for a second dwelling, allowing for my elderly father and other family members to have accessible access to our home. The City of Dana Point accepted our ADU plans understanding we met the State Mandated Requirements and knowing our design for the alternative subterranean walkout for our ADU needs was rejected by the Monarch ACC.

July 8, 2022 – We submitted the ADU Unit with the ACC approved remodel plans to the Monarch ACC committee. We were rejected again without a discussion.

<u>OUR OPTIONS</u>	<u>NEW SUBTERRANEAN HOME BUILD</u>	<u>REMODEL</u>
ACC Allows us 1' Height Increase	NO	YES
SUBTERRAIN WALKOUT ALLOWED PER CITY	YES	NO
LIVING QUARTERS FOR FATHER & FAMILY	YES	YES W/ADU
ALLOWED TO KEEP OUR EXSISTING PATIO PER ACC	NO	YES

Driving down our street in the mall you will quickly see the truth and the fiction of the disparity between what the ACC has approved for our neighbors across the street. There is no dispute; our side of the street is making sacrifices for our neighbors across the street who live along Pacific Coast Highway. We as neighbors are asking for fair and equitable treatment under the law. We are asking for variances that affect only our side of the street, just as they have made special allowances for the homes that back up to PCH. We have taken 2 ½ years to respond honestly, fairly, and quickly to their concerns. We ask that you evaluate the circumstances before making a decision that affects our family home.

Thank you for your time,
Tim and Mary McFadden