

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

March 2, 2009
6:00 – 10:17 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.

ROLL CALL

Commissioners Present: Commissioner Ed Conway, Commissioner Michael Dec (arrived at 6:05 p.m.), Chairman Norman Denton, and Commissioner Liz Anderson Fitzgerald

Staff Present: Kyle Butterwick (Director of Community Development), John Tilton (City Architect/Planning Manager), Todd Litfin (Assistant City Attorney), Erica Demkowicz (Senior Planner), and Denise Jacobo (Planning Secretary)

CLOSED SESSION

- A. **Conference with legal counsel – anticipated litigation, significant exposure to litigation, pursuant to Government Code § 54956.9 (b)(1), (1 case)**

Chairman Denton recessed the meeting into a Closed Session at 6:02 p.m.

Chairman Denton reconvened the meeting at 7:00 p.m. All Planning Commissioners were present.

PLEDGE OF ALLEGIANCE – Commissioner Fitzgerald led the Pledge of Allegiance.

REPORT ON CLOSED SESSION

Chairman Denton stated that there was no report on the Closed Session.

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

March 2, 2009
6:00 – 10:17 p.m.

PAGE 2

A. APPROVAL OF MINUTES

ITEM 1: Minutes of the regular Planning Commission Meeting of February 2, 2009.

ACTION: Motion made (Fitzgerald) and seconded (Conway) to approve the Minutes of the regular Planning Commission Meeting of February 2, 2009. Motion carried 4-0-0. (AYES: Conway, Dec, Denton, Fitzgerald NOES: None ABSENT: None ABSTAIN: None)

B. PUBLIC COMMENTS

Mary Jeffries (Dana Point) distributed a handout of photos and information to consider for upcoming art in public places' projects in Dana Point. She also submitted a document for the record relating to the Makar property.

C. CONSENT CALENDAR

There were no items on the Consent Calendar.

D. PUBLIC HEARINGS

ITEM 2: Coastal Development Permit CDP07-05 to allow the demolition of an existing single family dwelling commonly referred to as the Doheny House. The Doheny House is approximately 5,260 square feet, contains an attached three car garage and was designated as a historic structure on the City's Historic Resource Register in 1997. A Conditional Use Permit (Conditional Use Permit CUP07-07) is required to remove the house from the City's Historic Resource Register in conjunction with the proposed project. The proposed project was analyzed in an Environmental Impact Report (SCH#2006101042). The subject site is addressed as 35101 Camino Capistrano and is located in the Residential Single Family (RSF3) Zoning District.

Applicant:

Owner: Paul Douglas/Carl Grewe

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

March 2, 2009
6:00 – 10:17 p.m.

PAGE 3

Location: 35101 Camino Capistrano

Request: The existing dwelling is a locally designated historic resource and is located on five bluff top lots in the City's local coastal zone appeal jurisdiction. The applicant is requesting a Coastal Development Permit and Conditional Use Permit to demolish the existing historic single family dwelling and attached three car garage in conjunction with the removal of the structure from the City's Historic Resource Register.

Environmental: Pursuant to the provisions of the California Environmental Quality Act (CEQA), an Environmental Impact Report (SCH#2006101042) was prepared for the proposed project.

Recommendation: Take public testimony, evaluate alternatives and provide staff direction as to the preferred alternative.

Kyle Butterwick (Director of Community Development) gave a brief background about the project.

Erica Demkowicz (Senior Planner) gave background history of the Doheny House, described the applicant's request as well as alternatives that were included in the EIR for the project.

Chairman Denton opened the Public Hearing.

John Erskine (Applicant's Representative – Nossaman LLP, Irvine) submitted written testimony, read its contents, and requested it be made part of the record.

Paul Douglas (Applicant – Dana Point) contended that the house was not historic as described; the (historic preservation) research findings appear irrelevant (e.g., the structure is not the original, it is lacking original architecture, etc.); and the architect is unknown and inconclusive. He further stated that no reasonable person would select any of the alternatives described in the report and EIR.

Carlos Olvera (President of the Dana Point Historical Society - Dana Point) submitted his written material, and representing the Historical Society, read portions of a letter opposing the permit request.

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

March 2, 2009
6:00 – 10:17 p.m.

PAGE 4

Harold Kauffman (Dana Point) spoke in favor of the permit request commenting that the listing of the Doheny House on the City's Historic Resource Register was not as significant as the historical and architectural status of the Dolph Estate.

Carol Wilson (Capistrano Beach) spoke against the permit request commenting that the house should be preserved as historical and the City should not be intimidated by any threat of lawsuits.

Joanna Adrian (Dana Point) spoke in support of the permit request expressing concern about property rights history in the City.

Malcolm Wilson (Capistrano Beach) stated his disapproval of the permit request commenting that the home has plenty of attributes worthy of saving and preserving on its present site with its direct connection to the Doheny's.

Dorothy Easley (Dana Point) spoke in opposition of the permit pointing the need to save and protect the house for future generations and preserve California's history.

Pam Tappan (Capistrano Beach) stated that the residents of Capistrano Beach are outraged by any change to the property and commented that the Capistrano Beach residents deserve more respect. She suggested the "No Project/No Build" alternative for the most important historic structure in Capistrano Beach.

Michael Treadway (Dana Point) spoke in support of the permit commenting that the house deviates from Spanish Colonial architecture, is an "eyesore," and expressed his belief to preserve and protect the rights of owners of property.

Jill McGovern (San Juan Capistrano) stated that she had toured the property and was concerned that the interior condition of the house was in disarray indicating that it would be unlikely and costly for anyone to purchase the property in order to preserve it. The City, she pointed out, should have carried out on the previous proposal. She suggested an alternative to relocate the home to Via California.

Gwen Simmons (Capistrano Beach) said she befriended, previous owner, Louise Leyton and gave a brief biography of Ms. Leyton to emphasize her importance to the community. She then showed an original canvass painted by Ms. Leyton to portray her legacy to children as well as tourists. She spoke in favor of saving the house.

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

March 2, 2009
6:00 – 10:17 p.m.

PAGE 5

Doris Walker (Dana Point) narrated from the memoir of Louise Leyton who resided at two separate locations in Capistrano Beach from 1929-1978; which included the Doheny house. The house and relationships of what occurred at the house and the surrounding area of Capistrano Beach are part of what influenced the creation of the Dana Point Historical Society.

Barbara Johannes (Preservation Chair of Historical Society – Dana Point) submitted her written statement and read its contents. She further pointed out that the City cannot allow the demolition of the Doheny house.

Michael Thompson (Capistrano Beach) spoke against demolition, commenting that he grew up across the street from the Doheny house playing on the bluffs as a child. He explained that the Doheny's created Capistrano Beach and it is a special part of the heritage of Dana Point.

Richard Gardner (Capistrano Beach) spoke in opposition suggesting that the owner should merge the parcels into one, and the City could purchase, restore and sell the Doheny House as a single family dwelling with a caveat to protect the "jewel of Capistrano Beach" from being demolished.

Cecilia Kutcher (Capistrano Beach) spoke in opposition commenting her agreement with the previous speaker.

Chris Major (Capistrano Beach) spoke against losing the historic property suggesting that all that is left that is historic should be preserved.

Matthew Major (Capistrano Beach) spoke in opposition commenting that Capistrano Beach has a distinct personality and the Doheny House is a part of it.

Mike Cotter (Vice President San Clemente Historical Society – San Clemente) submitted his written statement and read its contents verbatim to oppose the demolition or relocation of the historic Doheny House.

Mary Ann Comes (President, San Clemente Historical Society – San Clemente) spoke against the project suggesting the "No Project/No Build Alternative." She mentioned that the Dolph Mansion is a prime example of restoration. She stated that the EIR is incomplete citing a San Clemente case which did not follow CEQA.

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

March 2, 2009
6:00 – 10:17 p.m.

PAGE 6

Carl Iverson (Laguna Beach) stated his disapproval of having the house removed commenting that the Doheny House should be recognized as a National Register candidate and described it as the soul of the Community and its' heritage. Once something historic is gone, it is gone.

Raad Ghantous (San Clemente) spoke in opposition pointing out that the final EIR seems convoluted; the alternatives do not comply with lot sizes and density; and, the project is inconsistent with the General Plan. He further stated that approval of the project would impact a historic resource without providing any developmental benefits as the existing parcels do not conform to code.

Georgette Korsen (San Clemente Historical Society Board - San Clemente) stated her disapproval of the EIR commenting that the property is an irreplaceable asset; and is not a property rights issue. She urged to preserve the City's treasure from falling to development.

Glenn Bromage (Capistrano Beach) spoke against demolition commenting that just because the house is dilapidated does not mean it is not worth saving. He further stated that the property and house together represent Capistrano Beach.

Thomas Olds (San Clemente) stated that he had lived in the Doheny House for twelve years and identified that the home is "unusual." He further stated that the Doheny house is the flavor of the community and should be preserved.

Anna Brace (Capistrano Beach) questioned the communities' collective values and values in the General Plan. She identified concern that lathe and plaster do not move well. She stated that she has met with homeowners in her community and they oppose the demolition commenting that if allowed, voters may ask for a referendum.

Paul Douglas (Applicant – Dana Point) referenced the City's Adoptive Re-Use Study and his previous proposal. He stated that the other alternatives in the EIR are not feasible. He further pointed that the City cannot place the house on the Historic Register unless it is done by the property owner.

Chairman Denton asked Mr. Douglas to clarify his previous proposal.

Paul Douglas (Applicant – Dana Point) said that it was to move the house on the southern two lots in agreement with the Historical Society but that it was no longer an alternative to demolition at this time.

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

March 2, 2009
6:00 – 10:17 p.m.

PAGE 7

Chairman Denton recessed the meeting at 9:38 p.m. and reconvened the meeting at 9:55 p.m.

Chairman Denton closed the Public Hearing.

Commissioner Conway thought the house and site was magnificent, spoke in favor of a win-win solution commenting that he observed the history of the Doheny House when he walked through it. He stated that Alternative #2 seemed reasonable.

Commissioner Dec noted that the house is the basis of the soul of the community. He also discussed the issue of property rights, also agreed with Commissioner Conway but wanted to hear other comments.

Commissioner Fitzgerald provided an overview of the Planning Commission's role and responsibility to make land use decisions. She recommended hearing more discussion on the alternatives, but it would not be a good decision to demolish.

Chairman Denton stated that the property is more of a "jewel" than the Dolph House even though the home is in disrepair. He expressed his belief in property rights, but this is an exception; this is California history. He stated that he was intrigued by the prior alternative suggested by the applicant to move the house to the southern two lots and hoped to be able to revisit this alternative. That is not an option at this time and the applicant is asking the Commission provide a "yes" or "no" vote on the item. Because he felt that the property is worth saving, he would vote against demolition.

Commissioner Fitzgerald questioned the ability to deny the permit without considering other alternatives.

Commissioner Dec spoke in agreement with Commissioner Conway's comments.

ACTION: Motion made (Fitzgerald) and seconded (Denton) to deny Coastal Development Permit CDP07-05/Conditional Use Permit CUP07-07 and directed staff to return at the next regular meeting on March 16, 2009 with a resolution reflecting the Commissions' decision. Motion carried 4-0-0. (AYES: Conway, Dec, Denton, Fitzgerald NOES: None ABSENT: None ABSTAIN: None)

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

March 2, 2009
6:00 – 10:17 p.m.

PAGE 8

E. NEW BUSINESS

There was no New Business.

F. STAFF REPORTS

Kyle Butterwick (Director of Community Development) invited the Commission to attend a workshop on “Community Dialogue on Housing our Communities” at the Norman P. Murray Community and Senior Center on March 10th from 9:30 a.m. to 12 noon.

G. COMMISSIONER COMMENTS

Chairman Denton thanked staff for their work on the project (Item #2).

Commissioner Fitzgerald also thanked staff for their fine work and Chairman Denton. She stated that she felt that the audience was heard tonight.

H. ADJOURNMENT

Chairman Denton announced that the *next regular* meeting of the Planning Commission will be held on Monday, March 16, 2009, 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 10:17 p.m.

Norman Denton, Chairman
Planning Commission