

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

July 6, 2009
7:00 – 8:19 p.m.

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

CALL TO ORDER – Chairwoman Fitzgerald called the meeting to order.

PLEDGE OF ALLEGIANCE – John Chaffetz led the Pledge of Allegiance.

ROLL CALL

Commissioners Present: Vice-Chairman Ed Conway, Commissioner Michael Dec, Commissioner Norman Denton, Chairwoman Liz Anderson Fitzgerald, and Commissioner April O'Connor

Staff Present: Kyle Butterwick (Director of Community Development), John Tilton (City Architect/Planning Manager), Jennifer Farrell (Deputy City Attorney), Kurth Nelson (Senior Planner), Evan Langan (Associate Planner), and Denise Jacobo (Planning Secretary)

A. APPROVAL OF MINUTES

ITEM 1: Minutes of the regular Planning Commission Meeting of June 15, 2009.

ACTION: Motion made (O'Connor) and seconded (Denton) to approve the Minutes of the regular Planning Commission Meeting of June 15, 2009. Motion carried 5-0. (AYES: Conway, Denton, Dec, Fitzgerald, O'Connor NOES: None ABSENT: None ABSTAIN: None)

B. PUBLIC COMMENTS

There were no Public Comments.

C. CONSENT CALENDAR

There were no items on the Consent Calendar.

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D. PUBLIC HEARINGS

ITEM 2: General Plan Consistency Analysis GPC09-0002 and Coastal Development Permit CDP07-20 pertaining to conditional vacation of Scenic Drive and alternate capital improvement project. (Continued from the regular Planning Commission meetings of June 1 and June 15, 2009)

Recommendation: That the Planning Commission continue the item to the next regularly scheduled Planning Commission meeting of July 20, 2009.

ACTION: Motion made (Denton) and seconded (Conway) to continue this item to the next regular Planning Commission meeting of July 20, 2009. Motion carried 5-0. (AYES: Conway, Dec, Denton, Fitzgerald, O'Connor NOES: None ABSENT: None ABSTAIN: None)

ITEM 3: Coastal Development Permit CDP09-0003 to allow the demolition of an existing single-family residence, and; the construction of a new, two-story, single-family residence at 23772 Salvador Bay Drive.

Applicant/ Stan Schrofer (Stan Schrofer Architects)
Property Owner: Dan and Lisa McKenzie
Location: 23772 Salvador Bay Drive (APN 672-131-40)

Request: Approval of Coastal Development Permit CDP09-0003 to allow the demolition of an existing single-family residence; and the construction of a new, two-story, single-family residence at 23772 Salvador Bay Drive.

Environmental: Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Community Development Department has analyzed the subject project. Staff finds the project is Categorical Exempt per Section 15303 (a) (Class 3 – New Construction or Conversion of Small Structures).

Recommendation: Adopt Planning Commission Resolution No. 09-07-06-xx, approving Coastal Development Permit CDP09-0003 for the referenced scope of work.

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Evan Langan (Associate Planner) presented the staff report. He responded to Commissioner Dec's inquiry about a nearby project's story poles. They were as a requirement of the HOA, not the City. Mr. Langan agreed with Chairwoman Fitzgerald that the project was originally denied by the Niguel Shores Architectural Committee, and then approved by the Board of Directors in the appeal.

Commissioner O'Connor disclosed the fact that the applicant is her dermatologist and, as she had no financial interest, she was advised by the City Attorney not to recuse herself from the item.

Chairwoman Fitzgerald opened the Public Hearing.

Stan Schrofer (Architect, San Clemente) stated that the project has gone through several reviews with the HOA because some of the neighbors opposed the scale. He stated that he had designed other projects in the neighborhood similar in scale which have been approved. He stated that the home fits into the neighborhood with homes that have been redesigned to fit the needs of the community. Mr. Schrofer offered to answer any questions from the Commission.

Chairwoman Fitzgerald closed the Public Hearing.

Commissioner O'Connor stated that she was in favor of approving the project because it lies within the required setbacks and heights and indicated there is no variance required.

Vice-Chairman Conway felt that the project is slightly out of scale; but stated that he is in favor of the project because the quality of work, and it meets all of the requirements.

Commissioner Denton stated that he agreed with Commissioner Conway because it will enhance the area and no variance is involved. He is in support of the project.

Commissioner Dec stated that he concurs with his fellow Commissioners because other homes nearby were being enlarged and he felt that this would be the start of more to come which would be an overall improvement to the area.

Chairwoman Fitzgerald stated that she agreed with her fellow Commissioners that neighborhoods which have grown up are starting to age on a certain scale. She added that the development and land is viewed by people as valuable

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enough to consider building bigger houses. She stated that this particular project is well designed by a respected architect, meets all the City standards, and has been approved by the HOA board of directors

ACTION: Motion made (Denton) and seconded (Fitzgerald) to adopt Resolution 09-07-06-13 to approve Coastal Development Permit CDP09-0003 for the demolition of an existing single-family residence, and; the construction of a new, two-story, single-family residence in the Residential Single-Family 7 (RSF-7) zoning district and Planned Residential Development 3 (PRD-3) overlay district at 23772 Salvador Bay Drive. Motion carried 5-0. (AYES: Conway, Dec, Denton, Fitzgerald, O'Connor NOES: None ABSENT: None ABSTAIN: None)

ITEM 4: Site Development Permit SDP07-15 to allow additions to the Ritz-Carlton Hotel totaling 30,396 square feet along with exterior hardscape, landscape, pool, and guestroom patio area improvements, Variance V07-07 to allow the new additions to be built as high as the existing structure, and Conditional Use Permit CUP98-14(M)(I) to amend the Hotel's existing Shared Parking Program. A Negative Declaration has been prepared for the proposed project.

Applicant/ Donna Jones, Sheppard Mullin (The Ritz-Carlton)
Property Owner: SHC Laguna Niguel I, LLC
Location: 1 Ritz Carlton Drive (APN 672-171-03)

Request: The applicant is requesting a Site Development Permit to allow expansions totaling 30,396 square feet and upgrades including the creation of 27 new guest rooms through the conversion of existing meeting space, infill additions between wings of the hotel, and three new detached casitas, a new meeting space, and improvements to the hotel's exterior hardscape, landscape, pool, and guestroom patio areas. A Variance from the maximum building height regulations is required to allow the new additions to be built as high as the existing structure. A Minor Conditional Use Permit is requested to amend the existing shared parking program.

Environmental: A Negative Declaration (State Clearinghouse No. 2009041125) has been prepared in accordance with the California Environmental Quality Act to address environmental impacts associated with the project.

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Recommendation: That the Planning Commission adopt the attached Draft Resolutions (1) approving the project related Negative Declaration and (2) approving SDP07-15, V07-07, and Conditional Use Permit CUP98-14(M)(I).

Kurth Nelson (Senior Planner) presented the staff report. He stated that the Hotel and its representatives were in attendance to answer any questions from the Commission. Mr. Nelson responded to Planning Commissioner questions. He summarized the variance request; the bungalow set backs; the shared parking program; and the ocean rock lighting. He noted the project and rock lighting would be further addressed by the state Coastal Commission with a Coastal Development Permit.

Chairwoman Fitzgerald opened the Public Hearing.

Cory Warning (Strategic Hotel & Resorts *Ritz Carlton* - Chicago, IL) thanked the Planning Commission for their time and cooperation and stated that several representatives were present to answer any questions.

Judith Hummer (Dana Point) stated that she lives adjacent to the hotel and supports the hotel, but would like neighborly consideration. She commented that her view is impacted by the proposed expansion. She stated that her main concerns included lighting; noise factors e.g., trash dumpsters; mechanical sounds; parties; storage yard, and windows and doors. She commented that she prefers that the hotel consider an enclosed courtyard to settle many of these issues; and install soundproof features for the banquet facility expansion and eliminate doors and windows facing the Niguel Shores neighborhood.

Chairwoman Fitzgerald asked Mr. Nelson if he would like to address any of these issues.

Kurth Nelson (Senior Planner) responded that there are no window openings directly facing Niguel Shores to the east. He confirmed that the addition's façade, facing the south, will have covered balconies as opposed to enclosed ones. He stated that the roof elevation won't go higher than the existing hotel.

John Tilton (City Architect/Planning Manager) noted that there is a requirement relative to all of the mechanical equipment on site to be screened from view, and to comply with the City's noise ordinance. He recommended that any of the residents contact the code enforcement division to take a decibel reading of any noise impacts.

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Commissioner Denton asked if the City had received any noise complaints with regard to amplified noise (parties, entertainment) beyond the 10:00 p.m. timeframe. Mr. Nelson responded that he is not aware of any noise complaints related to the Ritz Carlton.

Kyle Butterwick (Director) elaborated that it is not uncommon for hotel resorts to have occasional special events that require a separate permit which is processed for review prior to approval which may add conditions to help regulate and control amplified sound/music and large gatherings, etc. He added that the Ritz Carlton has been sensitive to noise issues.

Donna Jones (Applicant – San Diego) responded to Commissioner Dec's inquiry about any known increase or decrease of sound coming from the mechanical equipment and verified that the mechanics would be situated in the same location and noted that the new equipment should be quieter than what exists there today. Ms. Jones responded to Commissioner O'Connor's question about the existing public path near the bungalows and that it will be slightly altered.

Michael Kollin (Project Architect - Long Beach) responded to Commissioner O'Connor's inquiry as to how the exact setback for the first bungalow was calculated from the rest. He stated that it was determined to maintain the Fire access and the other bungalows were situated to maintain openness from a design standpoint. He further explained that the construction on the paths should not be extensive and the public's access would be maintained before, during and after construction.

At a request from a previous speaker, **Chairwoman Fitzgerald** granted Dana Point resident, Judith Hummer the opportunity to ask a question of the applicants.

Judith Hummer (Dana Point) asked if glass panes could be installed to buffer noise from the new the conference area.

Michael Kollin (Project Architect - Long Beach) responded to Ms. Hummer stating that he had designed the hotel back in 1997, and confirmed that the type of glass they are considering would be an insulated glass system at the balconies.

Chairwoman Fitzgerald closed the Public Hearing.

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Commissioner Denton stated that his years of experience with the Ritz Carlton Hotel showed that they are an excellent neighbor which is attributed to the fact that there are no serious concerns. There was a quality approach to the design back in 1997-1999 and the new mechanical equipment will be well shielded. He added that it is a nice addition to a jewel in Dana Point. He added that the Ritz Carlton's outreach to neighbors is a testament to the class of their organization.

Vice-Chairman Conway spoke in favor of the expansion and remodel stating that he is in full accord with Commissioner Denton's comments about the Ritz Carlton being good neighbors.

Commissioner O'Connor was concerned that one bungalow is too close to a neighbor, but she expressed that the hotel is a beautiful amenity to the City. She spoke in favor of the lighting, the landscaping, and the Variance request is at or below the existing height of the building.

Commissioner Dec spoke in favor stating because it is a great project that is the highest and best use for the site.

ACTION: Motion made (Denton) and seconded (Conway) to adopt Resolution 09-07-06-14 to approve Negative Declaration for Site Development Permit SDP07-15, Variance V07-07, and Conditional Use Permit CUP98-14(M)(I). Motion carried 5-0. (AYES: Conway, Dec, Denton, Fitzgerald, O'Connor NOES: None ABSENT: None ABSTAIN: None)

ACTION: Motion made (Denton) and seconded (Dec) to adopt Resolution 09-07-06-15 to approve Site Development Permit SDP07-15 for expansions and improvements to the Ritz-Carlton Hotel, Variance V07-07 to allow the new additions to be built as high as the existing structure, and Conditional Use Permit CUP98-14(M)(I) to amend the Hotel's existing Shared Parking Program at 1 Ritz Carlton Drive. Motion carried 5-0. (AYES: Conway, Dec, Denton, Fitzgerald, O'Connor NOES: None ABSENT: None ABSTAIN: None)

E. NEW BUSINESS

There were no New Business items.

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F. STAFF REPORTS

Kyle Butterwick (Director) provided the Commission with several updates:

- The City had full crowds who attended the Fourth of July weekend fireworks display in the Dana Point Harbor, everything worked without a hitch.
- The next Public Hearing scheduled for July 20, 2009 will be held at the Dana Point Community Center at 6:00 p.m. in order to accommodate an anticipated level of interest for the continued South Shores Church project. He added that the Scenic Drive project would be first on the agenda.
- He noted that, if there was any interest for the Planning Commissioners to schedule a site visit to the South Shores Church premises with City staff, to give him a call. He advised that there would be an arrangement to meet in groups of two.
- Doheny House Litigation – The property owner/developer of the Doheny House has filed a lawsuit against the City. Any contact from the property owner, the press, or any other individuals concerning this project should be referred to the City Attorney's office.
- He provided a handout on the terms of the St. Regis foreclosure. He indicated that the foreclosure has advanced to a public auction scheduled to be held on Tuesday, July 7, 2009 at 1:00 p.m. in Santa Ana.
- He reported the St. Regis Hotel swimming pool is available to the public but noted that the hotel has factored in a (hefty) daily fee. Staff will be in contact with the hotel to remind them that they need signage on the pool gate indicating that the pool is available to the public.

G. COMMISSIONER COMMENTS

Commissioner Dec complimented John Tilton and Erica Demkowicz on their efficiency with answering questions.

Commissioner Denton thanked the City for another fantastic Fourth of July fireworks show and, based on the fact that other cities have cancelled their events, this was an even bigger turnout than in past years.

Vice-Chairman Conway stated that the Fourth of July display in Dana Point was "another day in paradise".

Chairwoman Fitzgerald reiterated that the Fourth of July display was great and came off without a hitch.

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H. ADJOURNMENT

Chairwoman Fitzgerald adjourned the meeting to the *next regular* meeting of the Planning Commission to be held on Monday, July 20, 2009, beginning at 6:00 p.m. (or as soon thereafter) in the Dana Point Community Center located at 34052 Del Obispo Street, Dana Point, California.

The meeting adjourned at 8:19 p.m.

Liz Anderson Fitzgerald, Chairwoman
Planning Commission

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