

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

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November 2, 2009  
6:00 – 6:51 p.m.

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

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

**PLEDGE OF ALLEGIANCE** – Commissioner Denton led the Pledge of Allegiance.

**ROLL CALL**

**Commissioners Present:** Commissioner Norman Denton, Chairwoman Liz Anderson Fitzgerald, Commissioner Gary Newkirk, and Commissioner April O'Connor

**Commissioner(s) Absent:** Vice-Chairman Ed Conway

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

**A. APPROVAL OF MINUTES**

**ITEM 1:** **Minutes of the regular Planning Commission Meeting of October 19, 2009.**

**ACTION:** **Motion made (Denton) and seconded (Newkirk) to approve the Minutes of the regular Planning Commission Meeting of October 19, 2009. Motion carried 3-0-1-1. (AYES: Denton, Fitzgerald, Newkirk NOES: None ABSENT: Conway ABSTAIN: O'Connor)**

**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: Site Development Permit SDP08-0033 to allow the construction of a new, three-story duplex on vacant land at 34072 Colegio Drive.**

Applicant/

Owner: Steven Lomanaco (Palermo Construction)

Location: 34072 Colegio (APN 682-292-09)

Request: Approval of Site Development Permit SDP08-0033 to allow for the construction of a new, three-story duplex on vacant land.

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 Categorically Exempt per Section 15303 (a) (Class 3 – New Construction or Conversion of Small Structures).

Recommendation: Adopt Planning Commission Resolution No. 09-11-02-26, approving Site Development Permit SDP08-0033.

**Evan Langan** (Associate Planner) presented the staff report.

**There being no requests to speak on this item, Chairwoman Fitzgerald opened and closed the Public Hearing.**

**Commissioner O'Connor** was supportive of the project.

**ACTION: Motion made (O'Connor) and seconded (Denton) to adopt Resolution 09-11-02-26 approving Site Development Permit SDP08-0033 to allow for the construction of a new, three-story duplex on vacant land at 34072 Colegio Drive. Motion carried 4-0-1. (AYES: Denton, Fitzgerald, Newkirk, O'Connor NOES: None ABSENT: Conway ABSTAIN: None)**

**ITEM 3: Antenna Use Permit AUP08-0002 and Coastal Development Permit CDP08-0010 to allow for the placement of a new cellular antenna facility (light standard right-of-way installation), as well as underground, accessory equipment, within the Coastal Zone and adjacent to the Northeast corner of Harbor Drive, Golden Lantern and Lantern Bay Park.**

Applicant: George Ramirez (The Planning Consortium on behalf of T-Mobile USA)

Owner: City of Dana Point

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Location: Right-of-way in the vicinity of the intersection of Golden Lantern and Harbor Drive and Lantern Bay Park (APN's 682-311-04/-05)

Request: Approval of Antenna Use Permit AUP08-0002 and Coastal Development Permit CDP08-0010 to allow the placement of new cellular antenna facilities (light standard right-of-way installation), including the replacement of an existing, 30 foot tall traffic signal/light standard with a new signal/light standard of identical height, and topped by a new, 24-inch diameter by six foot tall Radome housing, as well as a new, at-grade vent stacks and underground equipment vault.

Environmental: The subject project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per Sections 15303 (d) (Class 3 – New Construction or Conversion of Small Structures). A Categorical Exemption has been prepared and will be duly filed per the requirements of the statute.

Recommendation: That the Planning Commission adopt the attached, Draft Resolution 09-11-02-27, approving the referenced scope-of-work.

**Evan Langan** (Associate Planner) presented the staff report. To clarify details of the projects scope of work and to remove redundancies or conflicts that would occur with the project's (forthcoming) lease agreement he requested several modifications to the staff resolution.

**Chairwoman Fitzgerald opened the Public Hearing.**

**Dean Brown** (Applicant's Representative – Orange) thanked City staff for their assistance. He stated that everyone was considerate of the surrounding aesthetics for wireless services by carefully selecting a site where the equipment would be hidden and that he agreed with all conditions of approval. He indicated that Mr. Ramirez was also present to answer any questions that the Commission may have.

In response to Chairwoman Fitzgerald's inquiry about the possibility of collocating, Mr. Brown indicated that additional height over and above their facility, as well as an increase in the diameter of the pole would be required to handle the additional cabling. He added that collocating is not typically done (by multiple carriers) because of the amount of utility poles and traffic signals located at intersection sites and public rights-of way.

**John Tilton** (City Architect/Planning Manager) provided details about right-of-way installations noting that there are fewer available private sites for antenna

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installations. He added that the City carefully reviews all Antennae Use Permit applications to find the least intrusive type of installation.

**Kyle Butterwick** (Director) noted the existence of a cell tower on the County property (Dana Point Harbor shipping yard), and they have expressed accommodating more than one carrier in the area.

**John Tilton** (City Architect/Planning Manager) confirmed that there are several carriers in the Harbor, he stated that it is difficult to force carriers to collocate (without an applicant) unless they have an applicant who wants to go in an area, they will be encouraged to collocate.

**Chairwoman Fitzgerald closed the Public Hearing.**

**Commissioner Newkirk** stated that the location was unobtrusive, and indeed an ideal location, but felt it would be nice to collocate in “prime spots” in order to maximize the “best” locations.

**Chairwoman Fitzgerald** agreed with Commissioner Newkirk, stating that rather than building more structures, applicants should be encouraged to collocate.

**Commissioner O'Connor** spoke in favor (of the request) stating that she prefers the proposed design to a fake tree.

**Commissioner Denton** agreed with Commissioner O'Connor's comments.

**Chairwoman Fitzgerald** indicated that the Commission may have a 2-2 vote. She stated that she would be in favor if the applicant were to collocate.

**Commissioner O'Connor** stated that it would be unfair to force the applicant to find additional carriers in order to collocate.

**Commissioner Denton** agreed with Commissioner O'Connor, stating it would be unfair to force the applicant to delay their project, perhaps forever, while searching for another carrier with which to collocate.

**Commissioner Newkirk** agreed with Commissioner Denton and Commissioner O'Connor, stating that he would rather “leave the door open” for collocations in that location in the future.

**Chairwoman Fitzgerald** requested George Ramirez to approach the podium.

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**George Ramirez** (The Planning Consortium, Real Estate Vice-President – Laguna Niguel) explained the collocation design and the difficulty in acquiring another carrier. He offered a potential solution in that a condition be added to the project resolution stipulating that should another carrier wish to collocate, T-Mobile would cooperate in facilitating that collocation.

**Chairwoman Fitzgerald** stated that she would be supportive of including a condition that T-Mobile cooperate with collocation if an opportunity arose. She asked for the Resolution to be amended and presented at the next Planning Commission meeting. All of the Commissioners were supportive of the additional proposed condition.

**ACTION:** Motion made (O'Connor) and seconded (Denton) to adopt Resolution 09-11-02-27 approving Antenna Use Permit AUP08-0002 and Coastal Development Permit CDP08-0010 to allow for the placement of a new cellular antenna facility (light standard right-of-way installation), as well as underground, accessory equipment, within the Coastal Zone adjacent to the Northeast corner of Harbor Drive, Golden Lantern and Lantern Bay Park with modifications and revisions as recommended by staff under AUP Finding #5, Project Condition of Approval #2, the elimination of #14 and; the addition of new Condition of Approval #14. Motion carried 4-0-1. (AYES: Denton, Fitzgerald, Newkirk, O'Connor NOES: None ABSENT: Conway ABSTAIN: None)

**ITEM 4:** Water Efficient Landscape Ordinance – Zone Text Amendment ZTA09-0001.

Applicant: City of Dana Point – Community Development Department  
Location: Citywide

Request: Request for Zone Text Amendment ZTA09-0001 to amend the City's current Landscape Ordinance by adding provisions of the Orange County Model Water Efficient Landscape Ordinance in accordance with State of California mandates pursuant to the States adoption of Assembly Bill 1881 (Laird, Water Conservation) amending the Water Conservation in the Landscape Act.

Environmental: The proposed project is found not to have a significant effect on the environment and is therefore exempt from the provisions of California Environmental Quality Act (CEQA) pursuant to Article 19, Section 15307, Class 7 – Actions by Regulatory Agencies for Protection of Natural Resources.

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Recommendation: That the Planning Commission approve the attached draft Resolution, recommending City Council approval and adoption of the proposed Zone Text Amendment.

**John Tilton** (City Architect/Planning Manager) provided an overview of the project and the Commission's need to make a recommendation to the City Council.

**Kyle Butterwick** (Director) stated the minor changes were made to the proposed Model Ordinance to maintain consistency with Dana Point's existing requirements. Since its original adoption in 1993, this particular Ordinance amendment involves more demanding submittal requirements (for large complex projects) on the part of an applicant.

**Chairwoman Fitzgerald** opened the item for discussion.

**Commissioner Newkirk** requested clarification on Zone Text Amendment Section 9.55.050(b) and asked how the City would monitor landscaped properties.

**Kyle Butterwick** (Director) clarified that the intent of this Ordinance is not any type of retroactive application.

**John Tilton** (City Architect/Planning Manager) responded that whether non-residential development is new or existing landscape and were to be significantly modified for more than 2500 square feet then the rule would apply.

**Commissioner O'Connor** felt fine if this was for recreational uses but stated that it would be outrageous to place it on individuals.

**John Tilton** (City Architect/Planning Manager) responded to Commissioner Denton's inquiry on reclaimed water stating that most of the City's parkways, major parks, and major highways are maintained by reclaimed water.

**ACTION:** Motion made (Denton) and seconded (Fitzgerald) to adopt Resolution 09-11-02-28 recommending City Council approval of Amendment ZTA09-0001 of Chapter 9.55 of the Municipal Code updating the Landscaping Standards of the City to include Local Water Efficient Landscape Provisions in accordance with the Water Conservation in Landscaping Act of 2006 (AB1881). Motion carried 3-0-1-1. (AYES: Denton, Fitzgerald, Newkirk NOES: None ABSENT: Conway ABSTAIN: O'Connor)

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**E. NEW BUSINESS**

There were no New Business items.

**F. STAFF REPORTS**

**Jennifer Farrell (Assistant City Attorney)** gave an update on the Court's final ruling on medical marijuana dispensaries.

**G. COMMISSIONER COMMENTS**

**Commissioner O'Connor** welcomed Gary Newkirk to the Planning Commission.

**H. ADJOURNMENT**

**Chairwoman Fitzgerald** adjourned the meeting to the *next regular* meeting of the Planning Commission to be held on Monday, November 16, 2009, beginning at 6:00 p.m. (or as soon thereafter) in the Council Chamber located at 33282 Golden Lantern, Suite 210, Dana Point, California.

**The meeting adjourned at 6:51 p.m.**

*/s/ Liz Anderson Fitzgerald*

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Liz Anderson Fitzgerald, Chairwoman  
Planning Commission