

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

December 7, 2009
5:30 – 6:04 p.m.
6:06 – 7:09 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.

ROLL CALL

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

PUBLIC COMMENTS

There were no Public Comments.

CLOSED SESSION

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

Chairwoman Fitzgerald recessed the meeting to Closed Session at 5:33 p.m.

Chairwoman Fitzgerald reconvened the meeting at 6:06 p.m.

CALL TO ORDER – Chairwoman Fitzgerald called the meeting to order. All Planning Commissioners were present.

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

REPORT ON CLOSED SESSION

There was no action taken from Closed Session.

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PLEDGE OF ALLEGIANCE – Commissioner O'Connor led the Pledge of Allegiance.

A. APPROVAL OF MINUTES

ITEM 1: Minutes of the regular Planning Commission Meeting of November 16, 2009.

ACTION: Motion made (Denton) and seconded (O'Connor) to approve the Minutes of the regular Planning Commission Meeting of November 16, 2009. Motion carried 5-0. (AYES: Denton, Conway, Fitzgerald, Newkirk, O'Connor NOES: None ABSENT: None ABSTAIN: None)

B. PUBLIC COMMENTS (Continued)

There were no Public Comments.

C. CONSENT CALENDAR

There were no items on the Consent Calendar.

D. PUBLIC HEARINGS

ITEM 2: A request for Historical Resource Designation (HRA09-0005) and participation in the Mills Act Program at 26822 Vista Del Mar.

Applicant/

Owner: Fred & Karen Scuncio

Location: 26822 Vista Del Mar (APN 123-361-10)

Request: The applicant seeks to have a single-family residence located at 26822 Vista Del Mar designated as a historical structure and placed on the Dana Point Historic Resource Register. The applicant also requests a recommendation to enter into an agreement with the City for participation in the Mills Act Program.

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Environmental: This project is categorically exempt (Class 31 - Section 15331 – Historical Resource Restoration/Rehabilitation) from the provisions of the California Environmental Quality Act (CEQA) because it consists of preservation of an existing historical single-family residence.

Recommendation: That the Planning Commission adopt a Resolution designating the single-family residence located at 26822 Vista Del Mar as a locally significant historical structure and recommend to the City Council that the City enter into an agreement with the property owner for participation in the Mills Act Program.

Erica Demkowicz (Senior Planner) presented the staff report.

Chairwoman Fitzgerald opened the Public Hearing.

Carlos Olvera (President of Dana Point Historical Society, Dana Point) stated that he was pleased to be adding another structure to the Historic Register. He noted that they found a historic photo of the site showing an aerial view of the home's original location on Calle Paloma.

Fred Scuncio (Owner, Huntington Beach, CA) thanked the Commission and City staff for supporting the Historical Resource program. He stated that he sought to save the property from demolition to preserve and restore the home.

Barbara Johannes (Dana Point Historical Society, Preservation Chair - Dana Point) thanked the Commission for considering the home, and stated that they are looking forward to seeing the house preserved.

Chairwoman Fitzgerald closed the Public Hearing.

Vice-Chairman Conway thanked the homeowners for keeping the historic home and to the Historical Society for their support in working with the applicants to get them through the process, and added how meaningful it is to Dana Point's future.

Commissioner Newkirk stated that he applauds the homeowners for their efforts on rescuing the house noting how positive it is to preserve history for generations to come .

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Commissioner Denton stated that he supports the project noting how special it is to keep the homes in Capistrano Beach and see its history.

Commissioner O'Connor stated that she appreciates the work that the Historical Society has done to beautify the community and also applicants like the Scuncio's for saving Doheny houses which helps preserve our history. She added that there is overwhelming evidence to give this historical designation.

ACTION: **Motion made (Denton) and seconded (Conway) to adopt Resolution 09-12-07-29 designating an existing single-family residence as a Historic Resource and placing that structure on the Dana Point Historic Resource Register (HRA09-0005) and recommend the City Council enter into an agreement for the Mills Act Program for 26822 Vista Del Mar. Motion carried 5-0. (AYES: Conway, Denton, Fitzgerald, Newkirk, O'Connor NOES: None ABSENT: None ABSTAIN: None)**

The plaque was presented by Chairwoman Fitzgerald to the homeowner(s).

ITEM 3: **Coastal Development Permit CDP09-0001 to allow the repair and re-vegetation of a coastal bluff resulting from a failure at 318 Monarch Bay Drive.**

Applicant/ Todd Skenderian (Architect)
Owner: Toni King
Location: 318 Monarch Bay Drive (APNs 670-141-41 and 670-151-54)

Request: Approval of Coastal Development Permit CDP09-0001 to allow the repair and re-vegetation of a coastal bluff resulting from a failure.

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 Sections 15301 (Class 1 – Existing Facilities) and 15304 (f) (Class 4 – Minor Alterations to Land). A Categorical Exemption has been prepared and will be duly filed per the requirements of the statute.

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Recommendation: Adopt Planning Commission Resolution No. 09-12-07-xx, approving Coastal Development Permit CDP09-0001 for the referenced scope of work.

Evan Langan (Associate Planner) presented the staff report.

Chairwoman Fitzgerald opened the Public Hearing.

Todd Skenderian (Applicant, Laguna Niguel) stated that staff provided a good summary of the request and that he was available to answer any questions.

Chairwoman Fitzgerald closed the Public Hearing.

Commissioner O'Connor spoke in favor of granting the application because the problem will be fixed. She understood the difficult slope issues that the applicants are working with.

ACTION: Motion made (Conway) and seconded (Denton) to adopt resolution 09-12-07-30 approving Coastal Development Permit CDP09-0001 to allow the repair and re-vegetation of a coastal bluff resulting from a failure at 318 Monarch Bay Drive, within the Coastal Zone and appeals jurisdiction of the California Coastal Commission and Residential Single-Family 4 (RSF-4) Zoning District at 318 Monarch Bay Drive. Motion carried 5-0. (AYES: Conway, Denton, Fitzgerald, Newkirk, O'Connor NOES: None ABSENT: None ABSTAIN: None)

ITEM 4: Antenna Use Permits AUP09-0016 to AUP09-0026 to allow for the placement of new cellular antenna facilities on existing light poles, signals and utility poles at eleven (11) different locations throughout the City within the public right of way.

Applicant/ NextG Networks of California
Owner: City of Dana Point
Locations: AUP09-0016: Light/signal pole located at the southwest intersection of Pacific Coast Highway and Ritz Carlton Drive.
AUP09-0017: Light pole located on Crown Valley Parkway, north of Lumeria Lane.

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AUP09-0018: Light pole located on Pacific Coast Highway in front of Sea Terrace Community Park, north of Ritz Carlton Drive.

AUP09-0019: Light/signal pole located at the southwest intersection of Selva Road and Pacific Coast Highway.

AUP09-0020: Utility pole located on Stonehill Drive, east of Golden Lantern.

AUP09-0021: Utility pole located on San Marino Place behind the properties fronting Pacific Coast Highway, west of Malaga Drive.

AUP09-0022: Utility pole located at the southwest intersection of San Marino Place and Ruby Lantern.

AUP09-0023: Light pole located on Niguel Road in front of the Monarch Beach Golf course, north of Stonehill Drive.

AUP09-0024: Light pole located at the northwest intersection of Stonehill Drive and Monarch Beach Drive (Private Street).

AUP09-0025: Light pole located on Street of Golden Lantern, south of Surf Cliff Street.

AUP09-0026: Light pole located on Santiago Drive, north of Trinidad Drive.

Request: Approval of Antenna Use Permits AUP09-0016 to AUP09-0026 to allow the placement and installation of new cellular antenna facilities on existing light poles, signals and utility poles at eleven (11) different locations throughout the City within the public right of way with underground accessory equipment and new underground and overhead fiber optic cables.

Environmental: The proposed 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 filed per the requirements of the statute.

Recommendation: That the Planning Commission adopt the attached draft Resolution No. 09-12-07-xx, approving the proposed Antenna Use Permits.

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John Tilton (City Architect/Planning Manager) presented the staff report on behalf of Saima Qureshy, Senior Planner on the project who could not be present.

Jennifer Farrell (Assistant City Attorney) responded to Chairwoman Fitzgerald's inquiry regarding the State and Federal Laws addressing health issues. She confirmed that so long as the antenna and wireless facility meets the Federal Governments standards for radio frequency emissions, a permit application cannot be denied for any potential health and environmental effects that may come from the radio frequency emissions.

John Tilton (City Architect/Planning Manager) clarified that the provider would be willing to collocate with other carriers.

Commissioner Newkirk asked about the potential for the facility to accommodate other carriers than Metro PCS.

Chairwoman Fitzgerald opened the Public Hearing.

Joe Malone (Applicant, La Verne) described that NextG is a distributor of antennas systems networks (DAS), a telecommunications entity and not a wireless service provider. He responded to Commissioner Newkirk's inquiry, stating that his firm provides coverage for other wireless carriers, and works with cellular carriers to navigate the regulatory environment of cities with the goal of deploying networks. In this case his firm is working with Metro PCS to help provide "network solutions" in the City. He noted that each of the currently proposed node locations can handle two carriers - if more were to be desired, additional nodes would be needed.

He responded to Chairwoman Fitzgerald's inquiry about the proposed locations, stating that because they work to construct public utilities, they try to remain within public rights of way.

Chairwoman Fitzgerald closed the Public Hearing.

Commissioner Denton stated that he sees the current proposal as an improvement over the (Salt Creek Beach Parking Lot) faux lighthouse, equipment atop hotel buildings, and (faux) palm trees and Sequoias. He stated that he supports this approach and was happy that technology is seemingly "catching up with aesthetics."

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Vice-Chairman Conway stated that he felt the visual impact from the subject project would be minimal and that he would support the project.

Commissioner Newkirk stated that building a scalable multi-operator system that can be adjusted via integration of fiber optic cabling (to move information) is a good solution and a great business model.

Commissioner O'Connor stated that she would like to reiterate everything that's been said by her fellow Commissioners. She stated that despite receiving a few letters of opposition, she would take the assistant City Attorneys' advice as the proposed antennas meet the radio frequency emissions set by the FCC.

Chairwoman Fitzgerald stated that she is pleased with this technology.

Joe Malone (Applicant, La Verne) responded to Chairwoman Fitzgerald's concern regarding the Crown Valley Parkway location, and indicated that they were limited in the number of street lights to work with.

Chairwoman Fitzgerald stated that she would like to see the applicant explore relocating the antennas proposed for this location to a less visible locale. She asked her fellow Commissioners for comment.

Kyle Butterwick (Director) stated that simulated utility poles are generally discouraged as a design alteration. He went on to share his thoughts regarding the pros and cons of relocating the subject site.

Commissioner Denton agreed with Mr. Butterwick's point of view and suggested leaving it up to the applicant. He stated that he is in support of the original structure and its proposed location.

Chairwoman Fitzgerald stated that in light of new information provided by the applicant, Mr. Butterwick and Commissioner Denton, that she would be willing to approve the original location as proposed.

Commissioner O'Connor stated that she is fine with the current location.

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ACTION: Motion made (O'Connor) and seconded (Denton) to adopt Resolution 09-12-07-31 approving Antenna Use Permits AUP09-0016 to AUP09-0026 to allow for the placement of new cellular antenna facilities on existing light poles, signals and utility poles at eleven (11) different locations throughout the City within the public right of way. Motion carried 5-0. (AYES: Conway, Denton, Fitzgerald, Newkirk, O'Connor NOES: None ABSENT: None ABSTAIN: None)

ITEM 5: Request for Antenna Use Permit AUP09-0015 to allow the addition of three, new cellular/data transmission antennas within the façade of an existing building at 2 Ritz Carlton Drive.

Applicant/ Jeremy Siegel (Verizon Wireless Real Estate)
Owner: ARR Properties, Inc.
Location: 2 Ritz Carlton Drive (APN 672-081-63)

Request: Approval of Antenna Use Permit AUP09-0015 to allow the addition of three, new cellular/data transmission antennas within the façade of an existing building.

Environmental: The subject project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per Sections 15301 (a) (Class 1 – Existing Facilities). 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 09-12-07-xx, approving the referenced scope-of-work.

Evan Langan (Associate Planner) presented the staff report.

Chairwoman Fitzgerald opened the Public Hearing.

Jeremy Siegel (Applicant, Irvine) stated that the current and new emissions report meets the FCC guidelines.

Chairwoman Fitzgerald closed the Public Hearing.

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Commissioner Denton stated that since the antennae is going into an existing facade in an existing building he felt that so as long as it meets RF standards, the Commission is limited and would support the application.

Commissioner Newkirk stated that he appreciates the efforts of the providers for considering the aesthetics and reducing the visual impacts and felt that the façade is the great solution.

Commissioner O'Connor stated that she agreed with Commissioner Newkirk because she was also concerned with the cumulative effect of antennae. She added that as long as the emissions report complies with the regulations she would support the application.

ACTION: Motion made (Conway) and seconded (Denton) to adopt Resolution 09-12-07-32 approving Antenna Use Permit AUP09-0015 to allow the addition of three, new cellular/data transmission antennas within the façade of an existing building at 2 Ritz Carlton Drive. Motion carried 5-0. (AYES: Conway, Denton, Fitzgerald, Newkirk, O'Connor NOES: None ABSENT: None ABSTAIN: None)

E. NEW BUSINESS

There were no New Business items.

F. STAFF REPORTS

Kyle Butterwick (Director) reported on the California Coastal Commission's efforts of completing the draft language on the Harbor Plan and anticipated that the final changes of the document would return to the City Council early in 2010. He stated that there were a few published public hearings for the Commission's second meeting in December. He stated that with regard to the holiday, there would be no projects ready for the January 4th Planning Commission meeting and that the meeting would be cancelled.

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G. COMMISSIONER COMMENTS

There was a consensus of the Planning Commission to cancel the regular Planning Commission meeting of January 4, 2010.

H. ADJOURNMENT

Chairwoman Fitzgerald adjourned the meeting to the *next regular* meeting of the Planning Commission to be held on Monday, December 21, 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 7:09 p.m.

/s/ Liz Anderson Fitzgerald

Liz Anderson Fitzgerald, Chairwoman
Planning Commission