

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

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November 7, 2011  
6:00 – 8:09 p.m.

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

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**CALL TO ORDER** – Chairwoman O'Connor called the meeting to order.

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

**ROLL CALL**

**Commissioners Present:** Commissioner Liz Claus, Vice-Chairman Norman Denton, Commissioner Gary Newkirk, Chairwoman April O'Connor, and Commissioner Tarquin Preziosi

**Staff Present:** Kyle Butterwick (Director), John Tilton (City Architect/Planning Manager), Brad Fowler (Director of Public Works), Jennifer Farrell (Deputy City Attorney), and Denise Jacobo (Planning Secretary)

**A. APPROVAL OF MINUTES**

**ITEM 1:** **Minutes of the regular Planning Commission Meeting of October 17, 2011.**

**ACTION:** **Motion made (Preziosi) and seconded (Claus) to approve the Minutes of the regular Planning Commission Meeting of October 17, 2011. Motion carried 5-0. (AYES: Claus, Denton, Newkirk, O'Connor, Preziosi NOES: None ABSENT: None ABSTAIN: None)**

**B. PUBLIC COMMENTS**

There were no Public Comments.

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

---

November 7, 2011  
6:00 – 8:09 p.m.

PAGE 2

---

**C. CONSENT CALENDAR**

**ITEM 2: A one-year time extension of Site Development Permit SDP08-0031 to allow the construction of a new, two-story, 5,096 square foot mixed-use structure with offices on the first-floor and a residence and additional offices on the second floor; as well as a request for an increase in total permitted lot coverage at 26852 Calle Hermosa.**

Applicant: Pat Meek (Logan Homes)  
Owner: Blue Lantern LLC  
Location: 26852 Calle Hermosa

Request: To grant a second (and final) one-year extension of a discretionary permit originally approved October 28, 2008, providing entitlement to construct a new, two-story, 5,096 square foot mixed-use structure with offices on the first-floor and a residence and additional offices on the second floor; as well as allowing an increase in total permitted lot coverage.

Recommendation: That the Planning Commission approve a (final) one-year time extension of Site Development SDP08-0031.

**ACTION: Motion made (Claus) and seconded (Denton) to approve the Consent Calendar. Motion carried 5-0. (AYES: Claus, Denton, Newkirk, O'Connor, Preziosi NOES: None ABSENT: None ABSTAIN: None)**

**D. PUBLIC HEARINGS**

Commissioner Claus recused herself from the following item at 6:04 p.m.

**ITEM 3: Environmental Impact Report (SCH#2010041056) and Coastal Development Permit CDP11-0003 for a major Public Works project for Pacific Coast Highway/Del Prado Phase I Streetscape Improvements within and along Pacific Coast Highway and Del Prado Avenue between the Streets of Blue Lantern and Copper Lantern.**

Applicant/Owner: City of Dana Point  
Location: The proposed streetscape improvements will take place within the Town Center Plan area along and within Pacific Coast Highway and Del Prado Avenue between the Streets of Blue Lantern and Copper Lantern.

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

---

November 7, 2011  
6:00 – 8:09 p.m.

PAGE 3

---

Request: A Coastal Development Permit for a Major Public Works Project for streetscape improvements along Pacific Coast Highway (PCH) and Del Prado Avenue between the streets of Blue Lantern and Copper Lantern. Implementation of the proposed project will re-establish two-way circulation for Pacific Coast Highway (PCH) and Del Prado Avenue between the Streets of Blue Lantern and Copper Lantern and result in additional public parking.

Environmental: Pursuant to the California Environmental Quality Act (CEQA), the lead agency, City of Dana Point, prepared a Final Project Environmental Impact Report (EIR) and a Supplemental Environmental Analysis for the proposed project (State Clearing House # 2010041056).

Copies of the Final EIR and the Supplemental Environmental Analysis are available at the City's Department of Community Development and can also be viewed on the City's website at [www.danapoint.org](http://www.danapoint.org).

The Final Project EIR and the Supplemental Environmental Analysis has identified potentially significant adverse impacts associated with the implementation of the proposed project. For each potential impact, the EIR has identified mitigation measures to reduce potential impacts, to a level of less than significant that may occur due to the project's implementation. The Mitigation Monitoring and Reporting Program (MMRP) will ensure implementation of the proposed mitigation measures.

Recommendation: That the Planning Commission adopt the attached draft Resolution No. 11-11-07-21, certifying the Final Project Environmental Impact Report No. 2010041056 and associated Mitigation Monitoring and Reporting Program (MMRP) and draft Resolution No. 11-11-07-22 approving Coastal Development Permit CDP11-0003.

**Kyle Butterwick** (Director) introduced City Staff, the Director of Public Works, Mr. Brad Fowler, who will provide an overview and summary of the current status of the project. He also introduced the Mr. David Cosgrove, a representative from the City Attorney's office involved in the legal details of the proposal.

**John Tilton** (City Architect/Planning Manager) provided a brief staff report. He recalled that the City Council's previous decision to approve to the two-way traffic circulation and that this proposal is based on physical improvements described in the Town Center Plan.

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

---

November 7, 2011  
6:00 – 8:09 p.m.

PAGE 4

---

**Brad Fowler** (Director of Public Works) introduced Mr. Keeton Kreitzer from Keeton Kreitzer Associates who prepared the environmental study; Mr. Rich Barreto, Principal at Linscott, Law & Greenspan, Engineers (LLG), who prepared the traffic circulation plan. Both were available to respond to questions. He indicated that a letter of correspondence was received from Wendy McDonald indicating her concern about reestablishing the two-way traffic circulation on PCH and Del Prado, and moving traffic signals on Del Prado, Ruby Lantern and Violet Lantern. He stated that those concerns will be discussed during the course of the evening. He stated that a minor revision to the staff report was made and he directed Mr. David Cosgrove to provide the details.

**David Cosgrove** (Rutan & Tucker LLP) addressed one minor revision in Exhibit C, under the “Statement of Findings and Facts” (I. Introduction, Page 2) number 8, to read:

“The Comments received during the public review period for the Draft EIR were responded to in Response to Comments document dated October 2011, and distributed to each public agency commenter (*adding the words: ‘public agency’*) ten days prior to consideration by the Dana Point *Planning Commission*” (*right now it says the City Council*).

Mr. Cosgrove stated that the City would like to insert “*public agency*” before the “*commenter*” in number 8, and change City Council to “*Planning Commission*”. He suggested that a motion to approve should include those changes.

**Brad Fowler** (Director of Public Works) gave a brief engineering and facility overview of the project description. He stated that he would answer any questions before the discussion on the environmental study.

**Rich Barreto** (Linscott, Law & Greenspan, Engineers) in response to Commissioner Newkirk’s questions, briefly described traffic patterns on Blue Lantern and the section between the alley and Pacific Coast Highway. He also addressed bicycle access at Del Prado and Old Golden Lantern, and how signage and striping will allow bicyclist to share the road with vehicle traffic.

**Keeton Kreitzer** (Keeton Kreitzer Associates) reviewed the environmental document. He also addressed the function and role of the Mitigation Monitoring and Reporting Program (MMRP).

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

---

November 7, 2011  
6:00 – 8:09 p.m.

PAGE 5

---

**Chairwoman O'Connor opened the Public Hearing.**

**Whitney Hodges** (Costa Mesa, Sheppard Mullin Richter & Hampton LLP) stated that she was speaking on behalf of American Commercial Equities (ACE) and they thanked the City for making changes to the project in response to their comments, but they still believe that the traffic, alley, and compensation issues that were raised in their March 21, 2011 letter were not adequately addressed. She stated that ACE and City staff have met continually on these issues and they look forward to continuing to work with the City on those issues.

In response to Commissioner Preziosi, Ms. Hodges clarified that the issue is with the way the project is laid out, some of the easements that will be needed from the properties will restrict access to the parking that already facilitates ACE's properties. She explained how taking out the access and entry ways to the property would force traffic to use the alley, and questioned whether the width of the alley would be an adequate two-way traffic.

**Chairwoman O'Connor closed the Public Hearing.**

**Commissioner Newkirk** stated that he viewed the Town Center as a long term project that has been thoroughly reviewed. He said the change would not be easy but added that it is a positive project that would create a business and community friendly environment, and he is in full support of the request.

**Vice-Chairman Denton** stated that this is a key step to successfully change the Town Center to a business and customer friendly area. The City needs to invest a year for construction of the project which will have an impact on a number of people but, the project would be a great investment for the ultimate future of the downtown. He stated that this is a positive step and one of the finest examples of the City coming together in the review process. He stated that he would vote for the project and looks forward to it starting sooner than later.

**Commissioner Preziosi** stated that he seconds the views of both Commissioner Newkirk and Vice-Chairman Denton. He added that he has been looking forward to a change in downtown with a pedestrian friendly environment and would like to help change the perspective that Dana Point is a gated community. He felt that the City has invested a great deal of time and effort, making the Town Center both pedestrian-friendly and bike-friendly. He also felt that businesses will suffer in the short term because change is painful. Overall for the greater good of the community, this is a long overdue addition and he would be happy to vote in support.

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

---

November 7, 2011  
6:00 – 8:09 p.m.

PAGE 6

---

**Chairwoman O'Connor** stated that she agreed with her fellow Commissioners. She stated that the widening of the sidewalks, addition of trees and the extra landscaping improvements were important to a pedestrian-friendly environment. She added that the extra turn lanes will keep traffic nice and smooth for the residents, visitors and the businesses, a great enhancement to the City.

**ACTION:** Motion made (Denton) and seconded (Newkirk) to adopt Resolution No. 11-11-07-21 certifying Final Project Environmental Impact Report including Supplemental Environmental Analysis (State Clearinghouse No. 2010041056) and a Mitigation Monitoring and Reporting Program for Coastal Development Permit, CDP11-0003 for Pacific Coast Highway/Del Prado Avenue Phase I Streetscape Improvements within and along Pacific Coast Highway and Del Prado Avenue between the Streets of Blue Lantern and Copper Lantern, including the modification to Exhibit C (previously identified to the Planning Commission). Motion carried 4-0-1. (AYES: Denton, Newkirk, O'Connor, Preziosi NOES: None ABSENT: Claus (Recused) ABSTAIN: None)

**Commissioner Claus returned to the meeting at 7:03 p.m.**

**ITEM 4:** A Coastal Development Permit CDP11-0007 and Minor Site Development Permit SDP11-0017(M) to allow the demolition of an existing, single-family dwelling, the construction of a new, two-story, single-family dwelling as well as a new retaining wall proposed in excess of 30 inches in height on a coastal bluff located at 35141 Camino Capistrano. Variance V11-0001 is requested to permit development within the coastal bluff edge setback.

Applicant: Robert Theel (Robert Theel Company)  
Owner: Daniel Rodriguez and Debra Liebert  
Location: 35141 Camino Capistrano

Request: Approval of Coastal Development Permit CDP11-0007, V11-0001 and SDP11-0017(M) to allow the demolition of an existing residential dwelling, the construction of a new, two-story, single-family dwelling as well as a retaining wall proposed in excess of 30 inches in height.

Environmental: Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Community Development Department has

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

---

November 7, 2011  
6:00 – 8:09 p.m.

PAGE 7

---

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: That the Planning Commission adopt the attached Draft Resolution approving Coastal Development Permit CDP11-0007, Variance V11-0001 and Minor Site Development Permit SDP11-0017(M).

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

**Chairwoman O'Connor opened the Public Hearing.**

**Bob Theel** (Dana Point – Applicant) thanked City staff, and stated that the owners fast tracked their application and look forward to receiving approval on their project. He stated that they are in agreement with the staff report and findings of the three land use permits with one minor exception on the landscaping Conditions of Approval Number 15 which states, "...the landscaping will not obstruct views along the coast." He suggested adding the word "public" in front of the word "views" to read "public views". He indicated from the previous 2008 staff report that the land use permits remain current, and in June 2011, the Planning Commission extended the Variance and Coastal Development Permits. He noted that the land use entitlements should stay current during this one-year extension time period, and will not go away until this project has a final approving action.

**James Madden** (Laguna Niguel - Architect) described how the site will drain to cisterns and any overflow sump pumped to the street. He noted that the project was done in an effort to piggy-back on the previously approved project but, they mitigated the height by selecting a flat roof for the entire project for view issues, while abiding by height limits according to the City's requirements. The form of massing would be appealing to the community.

**Carlos Olvera** (Dana Point – Dana Point Historical Society President) stated that he is speaking on behalf of the Historical Society voicing support for the project. He stated that he has worked with staff on the original part of the sidewalk which currently has a stamp in it that reads "Petroleum Securities 1930", a time when Mr. Doheny took over the development of Capistrano Beach in 1929. He stated that the society has asked to have that portion of the sidewalk protected during the construction phase, to maintain that historic element, as noted in Condition #14. He indicated that the installation to that section of sidewalk is covered by the encroachment permit which is handled by Public Works and asked to enter into the record so that the piece of concrete does not get lost.

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

---

November 7, 2011  
6:00 – 8:09 p.m.

PAGE 8

---

**Chairwoman O'Connor closed the Public Hearing.**

**Commissioner Preziosi** stated that he was apprehensive to adding fill to a coastal bluff, but he liked the fact that the applicant decided to mitigate drainage.

In response to Commissioner Preziosi, Jennifer Farrell (Deputy City Attorney) addressed the intent to add the word “public” on Condition #15 and explained that the City determined that the intent of this Condition of Approval was to protect public views along with various provisions of the Coastal Act which are incorporated into our Municipal Code. She added that this change has been made in the past to clarify the intent of this Condition of Approval.

**John Tilton** (City Architect/Planning Manager) agreed with Ms. Farrell, and stated that there is no problem with adding the word “public” in the Condition.

**Commissioner Preziosi** stated that if the project was going to be approved he would like staff or the applicant to ensure that the preservation of the historic sidewalk does not get overlooked.

**Vice-Chairman Denton** was concerned about adding fill to the ravine and asked staff to recall the 2008 Planning Commission approval of the property that required adding fill.

**John Tilton** (City Architect/Planning Manager) clarified that he did not have the exact numbers but that these projects are very similar and he explained that the fill is for the purpose of leveling the pad area where the existing home was somewhat elevated above the ground. He added that there would be no fill proposed beyond the currently disturbed portion of the site due to the existing development.

**Vice-Chairman Denton** replied that it makes him feel better about the fill because it was a concern he had to this project. He stated that he was pleased that they were not raising the height on the project. He urged staff to produce a Coastal Bluff workshop with geotechnical experts to hear more facts and details about setbacks and slope failures.

**Commissioner Newkirk** agreed with his fellow Commissioners. He described how fragile the bluff tops are, how they would weather 50-60 years out, and the need to rely on third-party reviews with high level of scrutiny to prevent major bluff failures.



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

---

November 7, 2011  
6:00 – 8:09 p.m.

PAGE 9

---

**Commissioner Claus** stated that her fellow Commissioners addressed all her concerns.

**Chairwoman O'Connor** stated on the need to having to rely on soils and geotechnical engineers to determine buildable lots. She stated that the Variance is worthwhile and understands its necessity; and did not find any issues with adding the word “public” to Condition #15.

**ACTION:** Motion made (O'Connor) and seconded (Newkirk) to adopt Resolution No. 11-11-07-23 approving Coastal Development Permit CDP11-0007, Variance V11-0001 and Minor Site Development SDP11-0017(M) to allow the demolition of an existing, single-family dwelling, the construction of a new, two-story, single-family dwelling as well as a new retaining wall proposed in excess of 30 inches in height on a coastal bluff located at 35141 Camino Capistrano. A Variance is requested to permit development within a coastal bluff edge setback, including the proposed change to Condition of Approval Number 15. Motion carried 5-0. (AYES: Claus, Denton, Newkirk, O'Connor, Preziosi NOES: None ABSENT: None ABSTAIN: None)

**E. NEW BUSINESS**

There was no New Business.

**F. STAFF REPORTS**

**Kyle Butterwick (Director)**

- He acknowledged that staff will be scheduling a workshop with the Planning Commission to discuss bluff-top development issues.
- The City Council made changes to the Municipal Code in order to change the meeting days to the 1<sup>st</sup> and 3<sup>rd</sup> Tuesday of each month and changed the Planning Commission meeting days to the 2<sup>nd</sup> and 4<sup>th</sup> Monday of each month. This change will take effect in January, 2012.
- He noted that due to the fact that the second November regular meeting date falls on the week of Thanksgiving, the Commission needed to consider holding the meeting. It was the consensus of the Planning Commission to cancel the next Regular Meeting of November 21, 2011 due to the Thanksgiving Holiday.

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

---

November 7, 2011  
6:00 – 8:09 p.m.

PAGE 10

---

- Reported that the California Coastal Commission public hearing was held for the Del Obispo Rezone Coastal Plan Amendment on November 2, 2011, and continued the hearing to the next scheduled meeting to be held next month in San Francisco.
- He provided a brief update on the Doheny Village Public Workshop which was held on Saturday, November 5, 2011 at the Calvary Church. He added that the next stage will be a joint workshop with the Planning Commission and the City Council to summarize the comments from the public workshop and to review important elements of the new plan.
- He reported that the County has released the draft Environmental Impact Report on the Marina Improvement Project of the Harbor. He stated that they have extended the length of time to accept public comments.
- He noted that the Grant awarded to the City was going to absorb the expenses for the preparation of the Doheny Village Plan. He added that the City has pursued another Grant application pertaining to transportation efficiency, concentrating on development around existing urban areas. He briefed the Planning Commission that the City has been able to qualify for \$125,000 to study how the three urban area villages (e.g., Town Center, the Harbor, and Doheny Village) could be improved to help both pedestrian and vehicular connections to the areas as a whole.

**G. COMMISSIONER COMMENTS**

**Commissioner Newkirk** acknowledged the City historian, Doris Walker-Smith's family and expressed condolences.

**Commissioner Claus** echoed the condolences to the Walker-Smith family. She commented that Ms. Walker-Smith developed the concept of saving the history of Dana Point.

**Vice-Chairman Denton** noted that the Walker-Smith memorial service will be held on Saturday, November 26, 2011 at 6:00 p.m. at the Dana Point Senior Center.

**Commissioner Preziosi** also offered condolences to the Walker-Smith family.

**Chairwoman O'Connor** offered condolences to the Walker-Smith family, as well as the Glass family.

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

---

November 7, 2011  
6:00 – 8:09 p.m.

---

PAGE 11

**H. ADJOURNMENT**

**Chairman O'Connor** announced that the *next regular* meeting of the Planning Commission will be held on Monday, December 5, 2011, 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 8:09 p.m.**

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April O'Connor, Chairwoman  
Planning Commission