

**CITY OF DANA POINT
PLANNING COMMISSION
AGENDA REPORT**

DATE: OCTOBER 6, 2014

TO: DANA POINT PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT DEPARTMENT
URSULA LUNA-REYNOSA, DIRECTOR
SAIMA QURESHY, AICP, SENIOR PLANNER

SUBJECT: TENTATIVE TRACT MAP TTM 17751, COASTAL DEVELOPMENT PERMIT CDP14-0008, SITE DEVELOPMENT PERMIT SDP14-0006, CONDITIONAL USE PERMIT CUP14-0005, AND VARIANCE V14-0004 FOR THE DEMOLITION OF CURRENT STRUCTURES ON SUBJECT PROPERTIES AND CONSTRUCTION OF A NEW THREE PHASED MIXED USE PROJECT FEATURING 32,500 SQUARE FEET OF RETAIL SPACE ON THE GROUND FLOORS AND 109 RESIDENTIAL CONDOMINIUMS ON THREE LEVELS ABOVE, WITH TWO LEVELS OF SUBTERRANEAN PARKING ON SEVEN NON-CONTIGUOUS LOTS AT 34135 PCH, 24471 DEL PRADO, 34129 PCH (PHASE 1); 34137 PCH, 24501 DEL PRADO (PHASE 2); and 34155 PCH, 24591 DEL PRADO (PHASE 3) LOCATED IN THE CITY'S TOWN CENTER PLAN AREA. (Continued from the regular Planning Commission meetings of July 14, August 11, August 22 and September 22, 2014)

RECOMMENDATION: That the Planning Commission adopt the attached draft resolution approving Tentative Tract Map TTM 17751, Coastal Development Permit CDP14-0008, Site Development Permit SDP14-0006, Conditional Use Permit CUP14-0005, and Variance V14-0004 (Action Document 1).

APPLICANT/ OWNER: Majestic Housing & Development LLC/ Peggy Tabas

REQUEST: Approval of Tentative Tract Map TTM 17751, Coastal Development Permit CDP14-0008, Site Development Permit SDP14-0006, Conditional Use Permit CUP14-0005 and Variance V14-0004 for the properties located at 34135 PCH, 24471 Del Prado, 34129 PCH (Phase 1); 34137 PCH, 24501 Del Prado (Phase 2); and 34155 PCH, 24591 Del Prado (Phase 3) to allow the demolition of current structures on-site and construction of a new mixed use project on seven non-contiguous lots featuring 32,500 square feet of ground floor retail spaces, and 109 residential condominiums. Parking needs for the project will be met by providing 287 spaces below grade on two subterranean levels, 10 new on-street spaces, 4 new spaces along the alley, and by paying parking in-lieu fees for 27 spaces.

LOCATION: Phase 1: 34135 PCH (APN 682-232-06), 24471 Del Prado (APN 682-232-07), 34129 PCH (APN 682-232-11); Phase 2: 34137 PCH (APN 682-321-01), 24501 Del Prado (682-321-14); Phase 3: 34155 PCH (APN 682-321-07), 24591 Del Prado (APN 682-321-08)

NOTICE: The public hearing for this agenda item is continued from the noticed public hearing of September 22, 2014. No new noticing was provided.

ENVIRONMENTAL: Pursuant to the California Environmental Quality Act (CEQA), staff finds the project is Categorically Exempt per Section 15332 (Class 32 – In-fill Development Projects). CEQA guidelines - Section 15332 “In-fill Development Projects” provides that projects that are in-fill development projects on lots that are 5 acres or less, are surrounded by urban uses, and do not have significant effects relating to Land Uses, Biological Resources, Traffic, Noise, Air Quality or Water Quality and can be adequately served by all required utilities and public resources are Categorically Exempt from the provisions of CEQA. The proposed project meets the necessary conditions to qualify for this exemption.

The project does not result in any impacts related to land use in that the project does not: a) Divide an established community, b) conflict with any applicable land use plan, policy or regulation adopted for the purpose of avoiding or mitigating an environmental effect and c) conflict with any applicable habitat conservation plan or natural community conservation plan. There will be no impacts to Biological Resources as all the subject sites are currently improved with various structures. A preliminary Water Quality Management Plan has been prepared for the project. Compliance with the pWQMP will ensure there are no impacts to water quality. The proposed new uses will be required to comply with the City's Noise Ordinance therefore the project will not result in any significant or potentially significant Noise impacts.

The traffic study, prepared for the adoption of the Mitigated Negative Declaration (MND) for the adoption of Town Center Plan and the Environmental Impact Report (EIR) adopted for the streetscape Improvements Project for TC anticipated a build out scenario of 237 residential units, 81,224 square feet of office space and 192,165 square feet of retail/restaurant uses. The two documents concluded no traffic related impacts will occur for the above stated build out scenario

with the incorporation of the mitigation measures that have already been implemented. Since the proposed project is below the build-out threshold, the project also will have no significant impacts related to traffic. The project itself does not directly cause air quality impacts other than air quality impacts associated with vehicle emissions related to traffic and any construction related impacts. The project is conditioned to comply with the Air Quality related mitigation measures as stipulated in the MND adopted for the Town Center.

ISSUES:

1. Is the proposal consistent with the Dana Point Town Center Plan?
2. Is the project compatible with, and an enhancement to the site and surrounding neighborhood?
3. Does the project satisfy all required findings pursuant to the DPZC, DPTCP, and LCP for the approval of a Tentative Tract Map, Coastal Development Permit (CDP), Site Development Permit (SDP), Conditional Use Permit (CUP) and Variance (V)?

BACKGROUND: The Planning Commission has conducted four previous public hearings to review this project, the second and third meetings functioning as study sessions to provide the public the opportunity to comment on design revisions. The meetings occurred on the following dates:

- July 14, 2014
- August 11, 2014
- September 8, 2014
- September 22, 2014

At the first meeting of July 14, 2014, the Commission considered the proposed mixed-use project. After presentations from City staff and the applicant and hearing testimony from public speakers, the Commission continued the hearing to August 11, 2014 to give the applicant a chance to revise their design in light of the public comments and the Commission's directions.

At both the August 11, 2014 and September 8, 2014 meetings, the applicant presented their revised design concepts, enhanced elevations, and details on loading spaces.

The project was continued on September 22, 2014 to October 6, 2014, since the project plans needed further corrections.

DISCUSSION:

The revised project design needs the approval of a 1) tentative tract map to allow the sale of residential units individually, 2) Coastal Development Permit since the project

sites are located within the City's Coastal Overlay District, 3) Site Development Permit since the proposed project is for non-residential development exceeding 2,000 gross square feet, and for elevator towers projecting above the height allowance 4) Conditional Use Permit to allow roof decks for all three phases of the project, guard rails for the roof deck to extend above the height limit, and a shared parking arrangement between retail and residential guest spaces and, 5) a Variance to allow four story structures for all three phases; and a parking Variance to pay in-lieu fees for 27 parking spaces.

Proposed Project: After four public hearings and receiving public input, the applicant has revised the following features of the proposed project:

- Phase 2 is redesigned to be within the 40' height limit and therefore does not need a height variance.
- Phases 2 and 3 now have one less residential unit each.
- Private ground floor open spaces will now be open to the public as plazas.
- Thirty-seven (36) additional parking spaces are added to the project, reducing the in-lieu spaces from 63 to 27.
- Dedicated loading spaces are added on Amber Lantern for Phase 1 and along the alley for Phases 2 and 3.
- Enhanced paving is proposed for portions of the alleys.
- All four sides of the buildings are articulated with trellises, wall art, brick and stone veneers, variety of roof edges and shutters.
- The number of roof access elevators are reduced with only one elevator accessing the deck for each phase.
- Additional bicycle stalls are added for residential use for a total of 28 stalls.
- Internal service pathways are identified for commercial uses to show that sidewalks will not be used for trash hauling or loading.

The table below summarizes the proposed project's features. In summary, the proposed project is for a partial four-story (three stories on PCH and Del Prado) mixed-use, commercial/residential project in three phases/buildings with ground floor commercial fronting on PCH and Del Prado and residential stories above with two levels of below grade parking.

Table 1: Project Details

	Retail	Phase 1 Residential Units			Retail	Phase 2 Residential Units			Retail	Phase 3 Residential Units		
		1 bd rm	2 bd rm	3 bd rm		1 bd rm	2 bd rm	3 bd rm		1 bd rm	2 bd rm	3 bd rm
1 st Floor	13,200 sf	-	6	-	10,200 sf	-	-	-	9,100 sf	-	1	-
2 nd Floor	-	-	6	1	-	1	4	1	-	3	6	-
3 rd Floor	-	1	12	3	-	-	12	1	-	-	9	2
4 th Floor	-	1	15	-	-	-	13	-	-	-	9	2
Total	13,200 sf	2	39	4	10,200 sf	1	29	2	9,100 sf	3	25	4

One residential unit in Phase 2 and six units in Phase 3 are proposed as live/work units with work/commercial space located at the street level and attached residential space on the floor above. In summary, the project includes a total of 32,500 square feet of commercial space and 109 dwelling units.

Parking for all the phases is proposed on two subterranean levels for each phase resulting in 287 spaces, 10 on-street spaces and 4 spaces in the alley. The applicant is proposing to pay in-lieu parking fees for 27 spaces.

Development Standards and Design Guidelines: The following discussion details development standards and design guidelines contained in the DPTCP and the project's compliance with these standards and guidelines.

Minimum Lot Size: The DPTCP requires that minimum lot size shall be 5,000 square feet with a minimum lot width of 50' and minimum lot depth of 80'.

Proposed Project: All the proposed lots for three phases/sites comply with this standard.

Maximum Density: No more than 20% of the units can be studios and at least 20% of the units have to be two bedroom or larger. The standard Floor Area Ratio (FAR) shall be 2.5.

Proposed Project: The project does not propose any studio units and 96% of the units are two bedrooms or larger. The FAR for Phases 1 and 2 is 2.3 and for Phase 3 is 2.5.

Height: Building height in the DPTCP is measured from the relative vertical elevation taken at the level of the sidewalk at the midpoint of the front property line. The maximum allowed height limit is 40 feet.

Proposed Project: The DPTCP indicates that height should be measured "from the level of the sidewalk at the midpoint of the front property line". In this case, there are two front property lines; PCH and Del Prado. The DPTCP is silent on how this situation should be handled. Staff selected PCH as the front property line. The project's height, as measured from the midpoint at the sidewalk level on PCH, for all the three phases is designed to the maximum 40 foot height limit and the project is therefore in compliance with this standard.

Number of Stories: The maximum number of stories allowed in TC is three stories.

Proposed Project: Portions of the project which front on PCH and Del Prado are in compliance with this standard. However, parts of the buildings that are interior to the sites and portions that front on Amber and Violet Lantern Streets are designed to be four stories high while remaining within the 40' height limit. The four story design is not in compliance with the DPTCP standards and therefore approval of a Variance is requested by the applicant.

The visual impacts of a three versus four story structure can be construed as negligible since the overall height of the structure will remain at 40'. It should be

noted that the view simulations that were completed as part of the approval of the Town Center Plan considered heights at 40 feet, 50 feet and 60 feet, and identified that there were no view impacts. (Supporting Document 4).

The view analysis which was performed for the MND for TC Plan by Focus 360 included view simulations from three view points above and north of the TC. The MND identified "No Impacts" as it relates to public views and stated that "At each building site location, four examples of building heights are shown and were analyzed based on the following: 35 feet (the current height), 40 feet, 50 feet and 60 feet. Heights at 35 feet and 40 feet represent a three story building with 50 feet representing a four story building and 60 feet a five story building. Per the view analysis performed by Focus 360, there would not be substantial view blockage to the Pacific Ocean as many buildings in the Town Center are already 40 feet in height. Additional analysis was conducted which included the staking of buildings to represent 40 feet. No potential view impacts were noted from several public and private locations. Therefore, no significant impacts are anticipated to occur as a result of the proposed project."

The project site was staked/story poled and pictures were taken from surrounding streets and view points. The pictures of story poles showed no undue impacts of views from those locations.

Staff maintains that the DPTCP did not contemplate a project site spanning between PCH and Del Prado and therefore many of the development standards are not well suited for strict application to this project. For example, the DPTCP indicates that height should be measured "from the level of the sidewalk at the midpoint of the front property line". As previously noted, in this case there are two front property lines; PCH and Del Prado. The DPTCP is silent on how this situation should be handled. The author of the DPTCP has acknowledged that land assembly was not contemplated during the creation of the DPTCP.

There is also language in the DPTC plan as follows: "Count 2 stories of above-grade structured parking as a single story when fronted by single story of useable groundfloor space, such as a shop front". While the situation of counting two stories of residential as one is not the exact same situation of counting two levels of parking as one, the same intent is achieved which results in groundfloor commercial space with a minimum height of 18 feet floor to ceiling along the major corridors.

The assemblage of land to create a project that spans between PCH and Del Prado results in a unique situation that was not contemplated in the DPTCP resulting in the need to make interpretations. Staff's obligation is to consider, in making such interpretations, whether the cumulative vision of the DPTCP as outlined by numerous goals and policies is furthered.

Permitted Encroachments into Maximum Building Height and Roof Decks: The DPTCP requires the approval of a CUP to allow roof decks in the inner portion of the Town Center couplet and to allow 42" high guardrails for these decks to extend above the height limit, if they are setback a minimum of 5' from the face of the building. Stairwells and elevator towers that provide access to roof decks are conditionally permitted if setback a minimum of 5' from the face of the building. Any CUP for the roof decks requires the following two additional findings be made for the approval:

1. The approval will not result in an undue impact on the quiet use, enjoyment or privacy of surrounding properties; and
2. The approval will not result in undue adverse impacts on ocean views from surrounding properties.

Proposed Project: The project is proposed with roof decks for all the three phases along Del Prado frontages located within the inner portion of the couplet. The guard rails, access elevators and stairs are located 5' away from the face of the buildings. Access elevators and stairway towers may extend above the 40 foot height limit and in so doing must be considered as part of the CUP process. The DPTCP does not specify a height limit for stairwells and elevators providing access to roof decks. The following table shows the height of the proposed elevators and stair towers for each phase that provide access to the roof decks and their height above the 40' height limit for the buildings:

Table 2: Roof deck access elevators and stair towers height		
	Elevator height above 40'	Stair towers height above 40' height limit
Phase 1	14'	9.8' (faces PCH and west elevation)
Phase 2	18.3'	8.6' (faces Amber Lantern), 9.3' (faces east elevation)
Phase 3	17'	9' (faces Violet Lantern); 5' (faces west elevation)

The roof decks provide common open space for future residents of the project. The roof deck guardrails are 42 inches higher than the allowed height limit of 40 feet and are five feet away from the face of the buildings where they exceed the maximum building height. It is anticipated that ocean views will not be impacted from surrounding properties as evidenced by the view simulations that were completed as part of the approval of the Town Center Plan which considered heights at 40 feet, 50 feet and 60 feet and identified that there were no public view impacts. Additionally since all the surrounding properties are developed with commercial or mixed use projects it is anticipated that there will be no adverse impacts.

Conditions of approval are added in the resolution to restrict the use of roof decks for residents of the project and to obtain a Special Event Permit from the City, if any event is planned that can generate excessive noise or light. The height of landscaping and any outdoor furniture is also restricted to 42".

Elevators not providing access to the roof decks: Approval of a Site Development Permit is required if elevators which are not intended for roof deck access extend above

the 42" height allowance above the 40' height limit:

Proposed Project: The project has one elevator for each Phase which does not provide access to the roof deck. Due to manufacturer specifications, these elevators extend above the height allowance and exceed the 42' height allowance above the 40' height limit by 6" for Phase 1, 5.8' for Phase 2 and 5.5' for Phase 3. These elevators are required in order for the project to be in compliance with ADA requirements. It should be noted that elevators and stairs that provide access to the roof deck are permitted by the approval of a CUP and are discussed in the section above.

Design of Ground Floor Retail: The DPTCP states that for ground floor building frontages on PCH and Del Prado, the floor-to-floor dimension between the finished floor of the ground floor and the floor above shall be at least 18', with a minimum depth of 40' and interior finished floor shall be level with the sidewalk at least every 50 linear feet. Pedestrian access to the retail space is also required to be flush with the sidewalk.

Proposed Project: The project is designed with retail spaces that are 40' deep and are flush with the sidewalk along PCH and Del Prado frontages. Due to the slope along PCH and Del Prado frontages, the height of retail suites ranges in height from 21.5' to 16' for Phase 1; 23'-10" to 17' for Phase 2; and 23' to 19' for Phase 3. Due to the site topographic variation, a minimum floor-to-floor height of 16' is considered acceptable since other portions of the project provide higher than 18' ceiling heights.

Setbacks and Build to Lines: Buildings with frontage on PCH are required to provide a 10' easement along the site's frontage and on Del Prado and Lantern Streets the frontage must be built to the front property line or within ten (10) feet of it, for a minimum of 75 percent of the lot width. Next to the interior side property line starting 40 feet back from the building façade, an additional five (5) foot setback is required.

Proposed Project: The project is designed in compliance with this standard for all the three phases.

Additional Setback: The DPTCP also states that projects may be constructed to the front and side property lines. For lots greater than 80 feet in length, such as the subject lots, an uninterrupted building façade shall provide an additional ten (10) foot setback for a distance of 20 feet along the frontage to help break up the massing of the building.

Proposed Project: The project is designed with additional setbacks/indentations of varying depths and lengths. The uninterrupted façade length also varies throughout the project. At one location, the uninterrupted façade is longer than 80', at 93' but other portions are indented shorter than 80' of uninterrupted façades. Additional indentations of varying sizes throughout the project are provided with shorter dimensions than the maximum 80'. The design can be considered to meet the intent of the standard which stipulates varying facade lengths to avoid monolithic frontages.

Phase 1: The total building frontage along PCH is 197' and has one indentation/setback which is 22' long and 10' deep for a total of 220 square feet. The uninterrupted façade is at 93' along this frontage when measured from the corner of PCH and Amber Lantern. The total building frontage along Amber Lantern is 230' and has two indentations; one is a total of 44' long with a depth of 10' for 22' of the 44' and a 5' depth for the remaining 22'. The other indentation is 35' long with a depth of 5' for 10' of the 35' and a 10' depth for the remaining 25'. The cumulative amount of square footage resulting from the indentations along Amber Lantern totals 630 square feet. The elevation along Del Prado provides an indentation of 10'x21.67' after a 65' long façade for a total of 216.7 square feet. These massing breaks are closer than what is required in the DPTCP. By providing additional step backs along Del Prado and Amber Lantern, the project can be considered to meet the intent of the standard; however, strict adherence to this standard, to have an indentation of 10'x20' along each building frontage that exceeds 80 linear feet, renders the PCH frontage to not be in compliance with this standard.

Phase 2: The total building frontage along PCH is 141.2'. An indentation of 24.5'x10' (245 square feet), exceeds the standard. The total building frontage along Amber Lantern is 250' and provides three indentations; one is a total of 40' long with a depth of 5' for 20' of the 40' and 10' for the remaining 20', another indentation is a total of 30' long with a depth of 9.5' for 20' of the 30' and 5' depth for the remaining 10', and another indentation is 9' long with a depth of 5'. The cumulative amount of square footage resulting from the indentations along Amber Lantern totals 585 square feet. All the additional setbacks are provided closer than the requisite 80' of the façade length, therefore resulting in more breaks into massing than would have occurred if the project was providing a break after every 80'. The indentations, in certain areas, are less than 10' deep and do not strictly comply with the standard. The façade along Del Prado provides an indentation of 9.6' (less than 10' required by DPTCP) with a length of 26' (more than 20' as stipulated in the DPTCP) for a total area of 250 square feet.

Phase 3: The building frontages along PCH and Del Prado are less than 80' long and therefore the requirement to provide additional setbacks does not apply. However, the project is designed with an additional setback of 10' deep for a length of 22' along both of these frontages, resulting in additional setbacks which are not required by the DPTCP (440 square feet). The total Violet Lantern building frontage is 371.5' and provides four indentations; one is 20' long with a depth of 5', one is 19.5' long with a depth of 10', one is 30' long and 10' deep, and one is 25' long with a depth of 10'. The cumulative amount of square footage resulting from these

indentations along Violet Lantern totals 845 square feet. These additional setbacks are provided closer than the requisite 80' resulting in more breaks into massing than would have occurred if the project was providing breaks after every 80' long facade.

The applicant has stated that a strict application of this code would result in practical difficulty in the layouts of the floor plans. To mitigate this condition they have provided additional indentations of varying sizes throughout the project with a closer dimension than the required 80'-0". In fact, the cumulative amount of square footage resulting from the indentations provided by the proposed project exceeds the amount of square footage that would have resulted if the minimum standard had strictly been applied, as shown on the below chart:

Table 3: Additional Stepbacks

	Phase 1		Phase 2		Phase 3	
	<i>Required</i>	<i>Provided</i>	<i>Required</i>	<i>Provided</i>	<i>Required</i>	<i>Provided</i>
PCH	370 SF	220 SF	200 SF	245 SF	0 SF	220 SF
Amber/Violet	400 SF	630 SF	400 SF	585 SF	600 SF	845 SF
Del Prado	200 SF	217 SF	200 SF	250 SF	0 SF	220 SF
Total	970 SF	1,067 SF	800 SF	1,080 SF	600 SF	1,285 SF

Upper level setbacks: On upper levels, additional setbacks are required to reduce the massing of structures. Along PCH, portions of the buildings above second floor or 30', whichever is lower, are required to be set back twenty (20) feet; and along Del Prado and North-South streets a setback of ten (10) feet is required for frontages above 20 feet. The Design Guidelines further articulate this standard by stating "Upper stories should be stepped back and balconies, bay windows, eaves and other architectural elements should project out or be recessed into the primary wall. Instead of a single stepback yielding a "wedding cake" form, portions of the upper story may be flush with the wall below to create an interesting and complex massing."

Proposed Project: The project is designed with additional 10' setbacks on upper levels as stipulated in the development standard. However, portions of the building are flushed with the story below as stipulated in the Design Guidelines to avoid the "wedding cake" form which has resulted in a design with portions that are stepped back additional 10' for the upper level and other portions that are at the same setback as the floor below. The design conforms to the idea of avoiding a "wedding cake" form as stated in the Design Guidelines; however, it does not comply with the strict reading of the development standard which states that the entire upper level has to provide an additional setback. The table below provides the percentage of each elevation which is setback additional 10'.

Table 4: Upper level setbacks

	Elevation Facade	Percentage of the façade which is 10' setback
Phase 1	P.C.H.	42%
	Amber Lantern	62%
	Del Prado	44%
Phase 2	P.C.H.	63%
	Amber Lantern	45%
	Del Prado	81%
Phase 3	P.C.H.	70%
	Violet Lantern	56%
	Del Prado	65%

Open Space: The DPTCP does not require minimum landscape coverage. Private open space required for each residential unit is 100sf/unit and Common Open Space requirement is 100sf/unit. The standards stipulate that it may not be possible to provide for residential private and common open space individually and therefore, for flexibility, up to 50% of the units may satisfy their open space requirement by adding it to the required common open space.

Proposed Project: The project is designed with 100 square feet of private open space for all the proposed units utilizing private balconies or patios, thereby complying with the standard.

Phase 1's common open space requirement is 4,500 square feet. This Phase is designed with a 2,000 square foot roof deck, which will be for the exclusive use of the project's residents, and an 8,300 sf courtyard space on the ground floor which will be open to the public during day hours .

The common open space requirement for Phase 2 is 3,200 sf. The project will provide a roof terrace of 3,000 square feet, which will be for the exclusive use of the project's residents, and a courtyard of 4,900 square foot, which will be open to the public during the day.

Phase 3 is required to provide 3,200 sf of common open space. This phase will provide a 1,600 square foot roof deck, which will be for the exclusive use of the project's residents, and a 2,100 square foot courtyard which will be open to the public during the day.

In all, the project will provide a total of 21,900 square feet of common open space of which 15,300 square feet will be open to the public and 6,600 square feet will be for exclusive private use. The DPTCP requires a minimum of 10,900 square feet of Common Open Space. The remaining 4,300 square feet that is required after applying the 6,600 square feet of roof deck area will be satisfied utilizing the public plaza area. The remaining 11,000 square feet of public plaza area (15,300 less 4,300) will be available to satisfy the City's Subdivision Code.

The Subdivision Code requires the provision of on-site park land dedication or payment of park in-lieu fees for projects with 50 or more units. Since the project is providing on-site, public courtyards, that area will be counted towards the project's parkland dedication requirement. The project is conditioned to comply with the City's Subdivision Code and conditioned to require a deed restriction be recorded on the courtyard areas so they remain open to the public in perpetuity.

Parking/Access Requirements: Parking requirements for projects in the TC area are as stipulated in the Citywide Zoning Code. Section 9.35.080 (a) of the Zoning Code stipulates that for uses which are not specifically listed in the Code for parking requirements, the Director of Community Development can determine the parking requirement based on a similar use which has the most similar traffic and parking generation characteristics.

In the absence of specific parking standards for mixed-use projects, parking requirements are determined by separately calculating the number of spaces for residential and commercial components of the project which are then added together. The residential units are considered multiple family pursuant to the City's parking code and the parking requirement is based on number of bedrooms in each unit. Parking for commercial use is based on gross floor area.

The Zoning Ordinance provides three ratios for commercial/retail uses:

For individual use on a separate lot - 1 stall/300 sf
 For multi-tenant with less than 25,000 sf – 1 stall/220 sf
 For multi-tenant with more than 25,000 sf – 1 stall/250 sf

The traffic and parking generation characteristics of commercial/retail uses in a mixed use project can be considered similar to any of the above stated uses. The Director has decided to use the more restrictive standard of 1 stall per 250 square feet so the project would result in the provision of additional spaces. If a ratio of 1 space per 300 square feet was to be used for the project, it would have resulted in requiring 22 less parking spaces for the commercial use. The 1 stall per 300 square feet standard is more in-line with a 'park once/ shared parking' environment as later discussed in this staff report.

The table below illustrates the code standards that have been determined to be utilized as the commercial parking standard for the project:

Table 5: Parking Code Requirements				
	Residential			Commercial
	Covered Spaces	Uncovered Spaces	Guest Spaces	
1 bed room units	1	0.5	0.2	More than 25,000 sf 1 space/250 sf
2 bed room units	1	1	0.2	
3 bed room units	2	0.5	0.2	

The Code also allows an 8% reduction in the number of spaces for projects where more than 50 spaces are required, provided that same number of bike stalls are incorporated in the design.

Table 3 below illustrates the required number of parking spaces for the project when calculated in accordance with the above stated standards:

Table 6: Required Parking Spaces

	Phase 1			Phase 2			Phase 3		
	Residents	Guest	Retail	Residents	Guest	Retail	Residents	Guest	Retail
Req. car spaces	91	9	53	65	6	41	65	6	36
w/ 8% reduction	84	8	49	60	6	38	60	6	33
Req. bike stalls	7	1	4	5	0	3	5	0	3

Proposed Project: To provide for the above stated required parking and bike stalls, the applicant is providing on-site, on-street, and off-alley parking and bike stalls, requesting approval of shared parking arrangement between commercial and guest spaces and a Parking Variance to pay parking in-lieu fees for 27 of the required spaces. A total of 287 parking spaces will be provided by the project in two level subterranean parking garages, 10 new on-street parking spaces will be generated due to the project's improvements along the street frontages on Amber Lantern and Violet Lantern Streets and 4 additional stalls on-site will be provided along the alley on Phase 2. It should be noted that the project is also providing additional 6 tandem spaces in Phase 1 and 5 tandem spaces in Phase 2 which are not counted in "provided" spaces by the project. The following table compares the required and provided parking for the project:

		Spaces Required	Spaces Provided
Phase 1	Residents only Spaces	84	84 and 6 additional tandem stalls which are not counted in "provided" spaces
	Guest spaces	8	
	Retail Spaces	49	33 (shared guest/retail spaces)
	On-street spaces		3
	Credited on-street spaces from Phase 2		4
	Bike Stalls	12	12
	In-lieu Spaces		9
Phase 2	Residents only Spaces	60	61 and 5 additional tandem stalls which are not counted in "provided" spaces
	Guest spaces	6	34 (shared guest/retail spaces)
	Retail spaces	38	
	On-street spaces		4 (counted in Phase 1)

	Alley spaces		4
	Bike Stalls	8	8
	In-lieu Spaces		0
Phase 3	Residents only Spaces	60	63
	Guest spaces	6	12 (shared guest/retail spaces)
	Retail spaces	33	
	On-street spaces		3
	Bike Stalls	8	8
	In-lieu Spaces		18

Shared Parking: The project needs the approval of a CUP to allow for shared parking arrangement between residential guest and retail spaces. The City's parking consultant, LLG, conducted a shared parking analysis for this request with a focus on the retail component's weekday and weekend hourly parking demand and the resident guest hourly parking demand for a weekday and weekend. The analysis concludes that adequate parking spaces for each phase for resident's guest and retail users can be provided.

Credit for on-street and alley spaces: The project applicant will need to make improvements and reconfiguration of the public right of way along Amber Lantern, Violet Lantern and the alley. Because of changing parallel parking spaces to diagonal on these two streets, there will be a net gain of parking spaces along each phase's frontage. The project is therefore, credited with these additional spaces provided by the project. The net gain of spaces for Phase 1 is 3 spaces, for Phase 2 it is 4 spaces and for Phase 3 the net gain of on-street spaces is 3, for a total net gain of 10 spaces. Phase 2 is also providing 4 parking spaces on-site that can be accessed from the alley.

Payment of parking in-lieu fees: The project needs the approval of a Parking Variance pursuant to Section 9.35.110(a)(4) of the Zoning Ordinance to pay in-lieu fees for 27 spaces. The following two findings are required to be made to grant this request.

- (a) The variance will be an incentive to, and a benefit for, the nonresidential development.
- (b) The variance will facilitate access to the nonresidential development by patrons of public transit facilities, particularly guideway facilities.

The allowance for payment of fees is an incentive for the proposed mixed use project and is in keeping with the recent Parking Study for the Town Center Plan which promotes management of available spaces, rather than building and maintaining parking spaces for each project independent of other commercial uses in the area. Additionally, Lantern District/Town Center is not connected to any guideway facilities and access to public transit and guideway facilities is not associated with the provision of on-site parking spaces or payment of in-lieu fees.

It should also be noted that using the more restrictive standard of 1 stall per 250

square feet of commercial use, results in requiring 22 additional commercial parking spaces (as opposed to using the standard of 1 stall per 300 square feet of commercial use).

In keeping with the recommendations of the Parking Study prepared by Nelson Nygaard Consulting Associates, the project is conditioned to allow the retail/guest spaces to be combined with general public parking. No signs will be allowed which will prohibit patrons and visitors to other establishments in the Lantern District/ Town Center from using the project's retail/guest parking spaces. Certain recommendations of the Parking Study are detailed below as the report serves as the basis for recommendations related to approval of shared and in-lieu parking.

Dana Point Lantern District Parking Study:

The City retained the firm of Nelson Nygaard Consulting Associates to prepare the Parking Management Plan for Town Center. The City initiated this effort to address parking related concerns and regulations as it relates to the vision of a lively and walkable mixed-use district with a critical mass and mix of shops, offices, and housing. The DPTCP didn't provide specific parking standards for Town Center but numerous policies relative to parking were included, such as:

- provide opportunities for shared parking facilities in Town Center, such as through the establishment of an off-street parking district,
- develop land use and parking regulations to assure that adequate and reasonable standards are provided
- develop a parking concept that emphasizes shared parking facilities
- create a parking development and management program which assesses parking demand and requirements
- create an in-lieu parking program.

The draft Parking Plan which was presented to the Planning Commission and City Council on January 28, 2014, identified that the Town Center area currently contains 2,931 public and private parking spaces in various on- and off-street facilities. Overall, 20% of the supply is located on-street (569 spaces), and 80% is located in numerous off-street lots (2,335 spaces). Incorporating a 10% desired vacancy rate to ensure ease of finding parking, the effective parking supply is 2,638 spaces. The parking surveys found that at the peak hour, only 1,637 spaces were occupied in Town Center, leaving 1,001 spaces unused. In other words, at the busiest hour on the busiest day, 1,000 parking spaces were vacant and not utilized.

A follow-up analysis was conducted by Nelson Nygaard to look at the current parking supply and the future development potential of the Town Center area, attached as Supporting Document 5, and summarized as follows:

The future TC build out scenario, as stipulated in the TC Mitigated Negative Declaration, is for an additional 237 residential units, 81,224 square feet of office space

and 192,165 square feet of retail/restaurant uses; for a total of 273,389 square feet of non-residential development. Assuming a parking demand rate of two spaces per 1,000 square feet of non-residential development (a rate which is typical for successful mixed-use town centers where parking is managed as a "park once" district) the analysis was conducted to calculate a high end and a low end development potential for the area. The report concluded that if about half of the current parking surplus was available to support the future non-residential development, it could support 250,225 square feet of total non-residential development, resulting in a demand for additional 46 parking spaces to absorb all projected non-residential development in the TC area.

Access: The DPTCP contains specific access standards such as lots with alley access shall take access to driveways from alleys and corner lots without any alley access are permitted to take access from side streets.

Proposed Project: Phase 1 takes access for subterranean parking from Amber Lantern as it does not have an alley and the parking garages for Phases 2 and 3 are accessed from the alley.

Retail and residential loading and deliveries for commercial spaces will be staged on Amber Lantern for Phase 1 and from the alley for Phases 2 and 3. A condition is proposed in the attached resolution that limits the delivery times for the commercial uses between the hours of 7 a.m. and 8 p.m.

Architecture: The project design continues to be a mix of contemporary and traditional California style architecture. The applicant has enhanced the design by providing trellises to grow vines along the interior walls of the project and adding wall art. The applicant would have to submit details of the proposed wall art to the City at a later date for review and approval. The proposed courtyard open spaces will be enhanced with paving, landscaping, art, water features and public seating. Other enhancements include all four elevations with articulations by adding a variety of stone and brick veneers, roof edges and cornices, wall landscaping, awnings, shutters and pot shelves.

The pedestrian level windows will be painted aluminum storefronts with clear glazing and the dwelling units will have dual glazed vinyl windows.

Residential Units on Street level: The DPTCP stipulates that residential units shall not be allowed at the street level.

The project has no residential units that are located at the street level. There are six units in Phase 3 and one unit in Phase 2 that are live-work units with the residential portion of the units above the ground floor.

Requested Discretionary Permits: As stated previously, the project is requesting approval of the following discretionary permits detailed below:

COASTAL DEVELOPMENT PERMIT:

The subject site is located within the boundaries of the Coastal Overlay District and is subject to the requirements of Chapters 9.27 (Coastal Overlay District) and 9.69 (Coastal Development Permits) of the Zoning Code. Generally, these chapters address issues related to environmental sensitivity, effects on any marine resources, grading and alterations to natural landforms, public access and views, visitor-serving facilities and compatibility with the surrounding area. Applications for Coastal Development Permits are reviewed with the same attention to design as Site Development Permits and discussion of the design of the structure and related zoning code requirements is included in this report.

PARKING VARIANCE:

To provide for the required number of spaces, the applicant is also requesting approval of a Parking Variance pursuant to Section 9.35.110(a)(4) of the Zoning Ordinance which states that "A Variance shall be required for any modification to the number of parking stalls. Per Government Code Section 65906.5, Variances for reduced parking may be granted in order that some or all parking spaces be located off-site, or that in-lieu fees or facilities be provided."

The requested Parking Variance/payment of in-lieu fees is for 27 spaces. Staff's support for this Variance is based on a recent Parking Study conducted for the Lantern District/Town Center area by the City's Consultant, Nelson Nygaard Consulting and on recent policy directive from the City Council for collection of such fees.

It should be noted that unlike Variances to deviate from other development standards, approval of a "Parking Variance" only requires the following two findings be made, as recently stipulated in City Council's Resolution Number 14-02-18-04, attached as Supporting Document 6 and Government Code Section 65906.5:

- (c) The variance will be an incentive to, and a benefit for, the nonresidential development.
- (d) The variance will facilitate access to the nonresidential development by patrons of public transit facilities, particularly guideway facilities.

Staff believes that these findings can be made for the proposed project. The allowance for payment of fees is an incentive for the proposed mixed use project and is in keeping with the recent Parking Study for the Town Center Plan which promotes management of available spaces, rather than building and maintaining parking spaces for each project independent of other commercial uses in the area. Additionally, Lantern District/Town Center is not connected to any guideway facilities and access to public transit and guideway facilities is not associated with the provision of on-site parking spaces or payment of in-lieu fees.

In keeping with the Parking Study, the project is conditioned to allow the retail/guest spaces to be combined with general public parking. No signs will be allowed which will prohibit patrons and visitors to other establishments in the Lantern District/ Town Center from using the project's retail/guest parking spaces.

The Town Center Plan states "Accessible and convenient public parking is essential to the health and vitality of the Town Center. Current zoning requirements for the provision of parking on individual parcels have contributed greatly to the fragmented pattern of activities and to the lack of pedestrian activity...."

Staff anticipates that the collected in-lieu fees will be used to begin the effort to lease currently underutilized, exclusive private parking spaces from other property owners in the Lantern District/Town Center and convert those spaces to public parking - thus increasing the pool of available public parking spaces in the Lantern District/Town Center. The funds collected for in-lieu spaces will assist in making more than 27 spaces available for general use, which is more in keeping with the Town Center Plan's vision rather than restricting their use to the site's users only.

SITE DEVELOPMENT PERMIT/CONDITIONAL USE PERMIT:

A discretionary Site Development Permit (SDP) is required for the proposed project pursuant to the DPTCP. The DPTCP also stipulates that projects that have encroachments beyond the maximum height limit shall be reviewed as part of the Site Development and Conditional Use Permit process. The following two findings are additional findings that are required to be made for CUP for the allowance of roof decks:

1. The approval will not result in an undue impact on the quiet use, enjoyment or privacy of surrounding properties.
2. The approval will not result in undue adverse impacts on ocean views from surrounding properties.

The proposed project is requesting approval of a CUP for all the three phases of the project to allow roof decks. Along with the roof decks, SDP approval is required for elevators that extend above the 42" height allowance that provide access only to the upper floors (68 inch vs 42 inches above the roof).

It should be noted that the project's mechanical screens/parapets do not exceed the allowed height of 42 inches above the roof and are varied in height to create the effect of various buildings as seen from the street.

Staff is supportive of the requested CUP as the roof decks are considered to be an important amenity for the project's residents and provide required common residential open space without resulting in any undue impacts to the surrounding properties. The roof decks will not have adverse privacy impacts on any neighboring properties as they are setback at least 5 feet from the edge of the building and all the surrounding properties are developed with commercial or mixed-use structures. There are no ocean

view impacts as evidenced by the view simulations that were completed as part of the approval of the Town Center Plan which considered heights at 40 feet, 50 feet and 60 feet and identified that there were no view impacts.

Conditions of approval are added in the resolution to restrict the use of roof decks for residents of the project and to obtain a Special Event Permit from the City, if any event is planned that can generate excessive noise or light. The height of landscaping is also restricted to 42".

VARIANCE:

A variance is a zoning exception that a city may grant to a project that otherwise would not be allowed under the applicable zoning ordinance. Variances sanction deviations from regulations pertaining to physical standards such as lot sizes, floor area ratios, height limitations and other such requirements. The requirements for variances for the subject site are governed by the City's Zoning Ordinance - Chapter 9.67 which states that a Variance request can only be granted if the following findings can be made:

- (1) That the strict or literal interpretation and enforcement of the specified regulation(s) would result in practical difficulty or unnecessary physical hardships inconsistent with the objectives of this Chapter; and
- (2) That there are exceptional or extraordinary circumstances or conditions applicable to the subject property or to the intended use of the property which do not apply generally to other properties in the same zoning district; and
- (3) That the strict or literal interpretation and enforcement of the specified regulation(s) would deprive the applicant of privileges enjoyed by the owners of other properties in the same zoning district with similar constraints; and
- (4) That the granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the same zoning district with similar constraints; and
- (5) That the Variance request is made on the basis of a hardship condition and not as a matter of convenience; and
- (6) That the granting of the Variance will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity;
- (7) That the Variance approval places suitable conditions on the property to protect surrounding properties and does not permit uses which are not otherwise allowed in the zone;
- (8) That granting of the Variance would not result in adverse impacts, either individually or cumulatively, to coastal access, public recreation opportunities, or coastal resources, and the development would be consistent with the policies of the Local Coastal Program certified land use plan.

The original application reviewed by the Planning Commission included a variance for Phase II of the project to exceed the 40 foot height limit. Since that time, the project has been redesigned to comply with the 40 foot height restriction. The remaining

Variance for the project height is to allow four story structures instead of the Town Center Plan's limit of three stories. Detailed analysis related to number of stories is contained earlier in this staff report.

As the three project sites extend from PCH to Del Prado in the north south direction and from Amber/Violet Lantern to the interior side yards in east- west direction, the topographic variation on the sites allows for four story structures while still maintaining 40 foot height envelope. The project is only three stories high as viewed from PCH and Del Prado and the fourth story is only visually apparent on side streets, alleys, and the site's interior side elevations. Staff believes that granting of Variance for the number of stories, while maintaining the height limit, will have no impact on any other properties and at the same time result in a critical mass needed to realize a vibrant Lantern District/Town Center.

TENTATIVE TRACT MAP:

The proposed tentative tract map is to allow the owner to sell the dwelling units as condominiums. As with all tract maps proposing condominiums, the owner/developer submits a condominium plan and documents establishing a homeowner's association when submitting the tract map for review by the City prior to final tract map recordation. The condominium plan and the documents (referred to as Covenants, Conditions & Restrictions - CC&R's), define the airspace controlled within the walls of the residential and/or commercial spaces, and outline responsibility for the common areas of the development. Conditions of approval have been included requiring review of the condominium plan and CC&R's to ensure that the responsibilities for common areas are clearly defined and that parking areas dedicated to the commercial and residential uses is always available to the corresponding uses associated with a particular parking area.

Section 7.05.060 of the Dana Point Subdivision Code establishes findings required to approve a subdivision. These findings relate to consistency with the General Plan and Zoning Code, adequacy of the site to accommodate the development and density, potential environmental impacts, and that there are adequate utilities and improvements proposed to serve the subdivision. Overall, the tentative tract map meets the submittal requirements for such type of maps, and of the City's Subdivision Ordinance and is consistent with the TCMU General Plan and Zoning designation for the property. The site is suitable for the proposed type and density of development, and Staff believes the required findings for the approval of the TTM can be made.

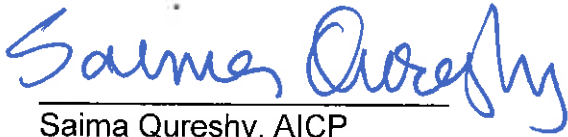
CORRESPONDENCE:

To date, staff has received one comment letter which is attached to this report.

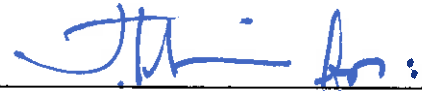
CONCLUSION:

Due to the public discourse that has resulted in many beneficial design changes, and based on the above analysis, as well as the project's consistency with the intent of the Dana Point Town Center Plan and the City's Zoning and Subdivision Ordinances, Staff determines that required findings supporting the project can be made. Accordingly, Staff recommends that the Planning Commission adopt the attached Draft Resolution

approving Tentative Tract Map TTM 17751, Coastal Development Permit CDP14-0008, Site Development Permit SDP14-0006, Conditional Use Permit CUP14-0005 and Variance V14-0004.



Saima Qureshy, AICP
Senior Planner



Ursula Luna-Reynosa
Director of Community Development

ATTACHMENTS:

Action Documents

1. Draft Planning Commission Resolution No. 14-09-22-XX

Supporting Documents

2. Vicinity Map
3. Project Plans
4. Visual Sims prepared for the MND for TC Plan adoption
5. Future Development Absorption Potential of the Existing Parking Supply Memo
6. Resolution No. 14-02-18-04
7. Correspondence received

RESOLUTION NO. 14-10-06-xx

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING 1) TENTATIVE TRACT MAP TTM 17751, 2) COASTAL DEVELOPMENT PERMIT CDP14-0008, 3) SITE DEVELOPMENT PERMIT SDP14-0006, 4) CONDITIONAL USE PERMIT CUP14-0005, AND 5) VARIANCE V14-0004 AT 34135 PCH, 24471 DEL PRADO, 34129 PCH (PHASE 1); 34137 PCH, 24501 DEL PRADO (PHASE 2); and 34155 PCH, 24591 DEL PRADO (PHASE 3) IN THE CITY'S TOWN CENTER PLAN AREA.

Applicant: Majestic Housing and Development LLC/ Peggy Tabbas

The Planning Commission for the City of Dana Point does hereby resolve as follows:

WHEREAS, the applicant filed a verified application for a 1) tentative tract map to allow the sale of residential units individually, 2) Coastal Development Permit to allow the demolition of current structures on subject properties and construction of a new three phased mixed use project featuring 32,500 square feet of retail space on the ground floors and 109 residential condominiums on three levels above, with two levels of subterranean parking, 3) Site Development Permit to allow the projection of elevator towers above forty feet in height 4) Conditional Use Permit to allow roof decks for all the three phases of the project, to allow guard rails for the roof deck to extend above the height limit and a shared parking arrangement between retail and residential guest spaces and 5) a Variance to allow four story structures for all the three phases and 6) a Parking Variance to pay in-lieu fees for 27 parking spaces for the properties located in Town Center Mixed Use District at Phase 1: 34135 PCH (APN 682-232-06), 24471 Del Prado (APN 682-232-07), 34129 PCH (APN 682-232-11); Phase 2: 34137 PCH (APN 682-321-01), 24501 Del Prado (682-321-14); Phase 3: 34155 PCH (APN 682-321-07), 24591 Del Prado (APN 682-321-08); and

WHEREAS, said verified application constitutes a request as provided by Title 9 of the Dana Point Municipal Code; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the project is Categorically Exempt per Section 15332 (Class 32 – In-fill Development Projects) and;

WHEREAS, the Planning Commission did, on the 14th of July, 11th of August, 8th of September, 22nd of September, and 6th of October 2014, hold a duly noticed public hearing as prescribed by law to consider said request; and

WHEREAS, at said public hearings, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, said Commission considered all factors relating to Tentative Tract Map TTM 17751, Coastal Development Permit CDP14-0008, Site Development Permit SDP14-0006, Conditional Use Permit CUP14-0005 and Variance V14-0004.

ATTACHMENT #1

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the City of Dana Point as follows;

- A) The above recitations are true and correct.

Findings:

- B) Based on the evidence presented at the public hearing, the Planning Commission adopts the following findings and approves Tentative Tract Map TTM 17751, subject to conditions
- 1) That the proposed map is consistent with the City's General Plan in that it satisfies the intent of the Goal of the Land Use section of the Dana Point Town Center Plan (DPTCP) to achieve development in the Town Center that enhances the area as a primary business district in the City by implementing Policies 1.1 through 1.5 through inclusion of a project that provides a mixture of uses that establish Town Center as major center of social and economic activity in the community, while generating positive pedestrian activity through the mixture of retail businesses and restaurants at the street level.
 - 2) That the design and improvement of the proposed subdivision is consistent with the City's General Plan in that the proposed tentative tract map establishes a project promoting pedestrian activity at the street through the design of the structures and proposed uses, and by providing vehicular access off of Amber Lantern for Phase 1 and the alley for Phases 2 and 3 away from the PCH and Del Prado frontages consistent with Goals and Policies of the Land Use, Urban Design/ Streetscape and Circulation sections of the DPTCP.
 - 3) That the site is physically suitable for the proposed type of development in that the project sites are of a reasonable shape, size, and topography to accommodate the proposed mixed-use project and parking facilities consistent with the requirements of the DPTCP.
 - 4) That the requirements of the California Environmental Quality Act have been satisfied in that the project is Categorically Exempt pursuant to Section 15332 of the California Code of Regulations (Class 32 – In-Fill Development Projects). CEQA

guidelines - Section 15332 "In-fill Development Projects" provides that projects that are in-fill development projects on lots that are 5 acres or less, are surrounded by urban uses, and do not have significant effects relating to Land Uses, Biological Resources, Traffic, Noise, Air Quality or Water Quality and can be adequately served by all required utilities and public resources are Categorically Exempt from the provisions of CEQA. The proposed project meets the necessary conditions to qualify for this exemption.

The project does not result in any impacts related to land use in that the project does not: a) Divide an established community, b) conflict with any applicable land use plan, policy or regulation adopted for the purpose of avoiding or mitigating an environmental effect and c) conflict with any applicable habitat conservation plan or natural community conservation plan. There will be no impacts to Biological Resources as all the subject sites are currently improved with various structures. A preliminary Water Quality Management Plan has been prepared for the project. Compliance with the pWQMP will ensure there are no impacts to water quality. The proposed new uses will be required to comply with the City's Noise Ordinance therefore the project will not result in any significant or potentially significant Noise impacts.

The traffic study, prepared for the adoption of the Mitigated Negative Declaration (MND) for the adoption of Town Center Plan and the Environmental Impact Report (EIR) adopted for the Streetscape Improvements Project for TC anticipated a build out scenario of 237 residential units, 81,224 square feet of office space and 192,165 square feet of retail/restaurant uses. The two documents concluded no traffic related impacts will occur for the above stated build out scenario with the incorporation of the mitigation measures that have already been implemented. Since the proposed project is below the build-out threshold, the project also will have no significant impacts related to traffic. The project itself does not directly cause air quality impacts other than air quality impacts associated with vehicle emissions related to traffic and any construction related impacts. The project is conditioned to comply with the Air Quality related mitigation measures as stipulated in the MND adopted for the TC.

- 5) That the site is physically suitable for the proposed density of development **in that the proposed project is designed within the appropriate residential unit mix and maximum floor area ratio identified in DPTCP.**
- 6) That the design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantial and avoidable injury to fish, wildlife or their habitat **in that the subject site is located in an area which is completely built-out and is of urban environment, that contains very little vegetation or water sources that could be considered to support fish or wildlife habitat.**
- 7) That the design of the subdivision and the proposed improvements are not likely to cause serious public health problems **in that the proposed subdivision is primarily for condominium purposes to allow individual sale of the dwelling units, and to confer the owner the right to develop the property to the applicable regulations in existence at the time of approval and does not include the construction of any roads or creation of separate building lots, with no change in the existing lot boundaries.**
- 8) That the design of the subdivision and the proposed improvements will not conflict with easements of record or established by court judgment or acquired by the public at large for access through or use of property within the proposed subdivision; or, if such easements exist, that alternate easements for access or for use will be provided and these will be substantially equivalent to ones previously acquired by the public **in that no easements of record exist or have been established by court judgment or acquired by the public at large for access through or use of property within the proposed subdivision. Furthermore the project will enter into an encroachment agreement with the City for the condominiums above and parking below the alley. The public alley will remain open for vehicular access.**
- 9) That the design and improvement of the proposed subdivision are suitable for the uses proposed and the subdivision can be developed in compliance with the applicable zoning regulations **in that the subdivision and associated mixed-use project has been designed in conformance with the DPTCP, which**

contains the zoning regulations for the proposed project and the design of the proposed structures associated with the subdivision is suitable for the proposed uses (mixed-use – commercial/residential) which are desired uses within the DPTCP boundaries.

- 10) That the subdivision is not located in a fee area, or if located in a fee area, the subdivider has met the requirements or payment of the applicable fees or the subdivision would not allow development of a project which would contribute to the need for the facility for which a fee is required **in that all applicable fees will be collected prior to issuance of permits and/or certificates of occupancy.**
 - 11) That the subdivision is located in an area which has access to adequate utilities and public services to support the development proposed within the subdivision or that the subdivision includes the provisions and improvements necessary to ensure availability of such utilities and services **in that the project will acquire will serve letters from the sewer, water, and power (electricity) utility providers, and the project has been reviewed and given conditional approval from the Orange County Fire Authority.**
- C) Based on the evidence presented at the public hearing, the Planning Commission adopts the following findings and approves a Coastal Development Permit CDP14-0008, subject to conditions:
- 1) That the proposed development is in conformity with the certified Local Coastal Program as defined in Chapter 9.75 of this Zoning Code. (Coastal Act/30333, 30604(b); 14 California Code of Regulations/13096) **in that, the proposed project is designed in conformance with the DPTCP, which is the Local Coastal Program for the site, by creating structures and uses consistent with Policy 2.4: "Encourage pedestrian-oriented building frontages with shops opening to the public sidewalk, and encourage a maximum amount of retail uses on the first floor." of the Urban Design/Streetscape Section of the DPTCP and designing parking areas consistent with Policy 3.6: "Where alley access is available, locate parking areas in the rear of the property." of the Circulation Section of the DPTCP, as well as the Policies of the Land Use Section of the DPTCP identified above in Section B (1).**

- 2) That the proposed development is not located between the nearest public roadway and the sea or shoreline of any body of water, and **is therefore not subject to conformity with the public access and public recreation policies of Chapter Three of the Coastal Act.**
- 3) That the proposed development conforms with Public Resources Code Section 21000 (the California Environmental Quality Act) **in that, the project is Categorically Exempt per Section 15332 of the California Code of Regulations (Class 32 – In-Fill Development Projects) and as stated in Section B(4) above.**
- 4) That the proposed development will be sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreation areas, and will provide adequate buffer areas to protect such resources **in that the project sites neither contain nor are located adjacent to any parks and recreation areas containing environmentally sensitive habitats and therefore no buffer area is required.**
- 5) That the proposed development will minimize the alterations of natural landforms and will not result in undue risks from geologic and erosional forces and/or flood and fire hazards **in that, the site is located in a fully urbanized area surrounded by similar development and the project has been preliminarily reviewed from a geologic standpoint and is conditioned to require a design level geotechnical report prior to issuance of requisite grading permits, and site is not located in a special flood hazard area and would not be subject to erosional forces from flooding. The project has been reviewed and conditionally approved by the Orange County Fire Authority thereby reducing risks from fire hazards.**
- 6) That the proposed development will be visually compatible with the character of surrounding areas, and, where feasible, will restore and enhance visual quality in visually degraded areas **in that, the proposed development will improve currently underutilized lots in keeping with the vision of the Town Center Plan with a mixed-use (commercial/ residential) project meeting the current development and design standards contained in the DPTCP.**
- 7) That the proposed development will conform with the General

Plan, Zoning Code, applicable Specific Plan, Local Coastal Program, or other applicable adopted plans and programs **in that, the subject project has been reviewed by the Planning and Building/Safety Division staffs, and the Public Works/Engineering Department, and conforms with the applicable requirements of the DPTCP, which serves as General Plan, Zoning Code, and Local Coastal Program for the subject site.**

D) Based on the evidence presented at the public hearing, the Planning Commission adopts the following findings and approves Site Development Permit SDP14-0006, subject to conditions:

- 1) That the site design is in compliance with the development standards of the Dana Point Zoning Code **in that the site development permit request is for elevator towers that do not provide access to roof decks but are required to comply with the ADA requirements to extend above the height limit as required by the DPTCP. This request is justified in that the elevators are a requirement of ADA and building code and manufacturer's specifications result in the necessity of extending above the height limit.**
- 2) That the site is suitable for the proposed use and development **in that the proposed encroachments into the height limit are a function of the type of structure and mixed-use development contemplated by the DPTCP, when including retail, subterranean parking garages, and elevator access to the upper floors.**
- 3) That the project is in compliance with all elements of the General Plan and all applicable provisions of the Urban Design Guidelines **in that the proposed encroachments above the height limit are only those necessary to meet the ADA and building code requirements.**
- 4) That the site and structural design is appropriate for the site and function of the proposed use, without requiring a particular style or type of architecture, **in that the proposed height encroachment is an ADA requirement and although not dependent on a particular style of architecture, incorporate the same finish material and color of the proposed building.**

E) Based on the evidence presented at the public hearing, the Planning

Commission adopts the following findings and approves Conditional Use Permit CUP14-0005 to allow roof decks and a shared parking program, subject to conditions:

- (1) That the proposed conditional use is consistent with the General Plan, **in that the conditional use permit request is to allow roof decks and guardrails for the roof decks to extend for a maximum of 42 inches above the height limit. The roof decks provide common open space for future residents of the project without impacting any surrounding properties in compliance with the DPTCP. The guardrails are 42 inches high and are five feet away from the face of the buildings where they exceed maximum building height. The CUP request is also to allow shared parking arrangement between residential guest and retail spaces. The city's parking consultant conducted a shared parking analysis for this request with a focus on the retail component's weekday and weekend hourly parking demand and the resident guest hourly parking demand for a weekday and weekend. The analysis concludes that adequate parking spaces for each phase for resident's guest and retail users can be provided.**
- (2) That the nature, condition, and development of adjacent uses, buildings, and structures have been considered, and the proposed conditional use will not adversely affect or be materially detrimental to the adjacent uses, buildings, or structures **in that the DPTCP allows roof decks since all the surrounding properties are developed with commercial or mixed use projects and there are no adverse impacts associated with roof decks or 42 inches high guard rails. View simulations that were completed as part of the approval of the Town Center Plan considered heights at 40 feet, 50 feet and 60 feet and identified that there were no significant view impacts. Additionally for the allowance of shared parking between retail and guest spaces the shared parking analysis concludes that adequate parking spaces for each phase for resident's guest and retail users can be provided.**
- (3) That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping, and other land use development features prescribed in this Code and required by the Commission or Council in order to integrate the use with existing and planned uses in the vicinity **in that the DPTCP allows roof decks in the**

inner portion of the Town Center couplet and 42 inches high guard rails. The roof decks do not impact yards, walls, fences, parking and loading facilities, landscaping and other development features. Additionally for the allowance of shared parking between retail and guest spaces the shared parking analysis concludes that adequate parking spaces for each phase for resident's guest and retail users can be provided.

- (4) The conditional approval will not result in an undue impact on the quiet use, enjoyment or privacy of surrounding properties in that all the surrounding properties are developed with commercial or mixed-use projects and are zoned for mixed-use projects in the future. Roof decks will not have any adverse impacts on the surrounding properties in that they are five feet away from the edge of the buildings and when the guard rail height exceed the maximum allowable height limit pursuant to the DPTCP standards.
 - (5) The approval will not result in undue adverse impacts on ocean views from surrounding properties in that the roof decks and guardrails are only 42 inches higher than the allowed height limit of 40 feet therefore it is anticipated that ocean views will not be impacted from surrounding properties as evidenced by the view simulations that were completed as part of the approval of the Town Center Plan which considered heights at 40 feet, 50 feet and 60 feet and identified that there were no significant public view impacts.
- F) Based on the evidence presented at the public hearing, the Planning Commission adopts the following findings and approves Variance V14-0004 to allow for four story structures when Town Center Plan allows three stories, subject to conditions:
- (1) That the strict or literal interpretation and enforcement of the specified regulation(s) would result in practical difficulty or unnecessary physical hardships inconsistent with the objectives of this Chapter in that the three project sites extend from PCH to Del Prado in the north/south direction and from Amber/Violet Lantern to the interior side yards in east west direction and the topographic variations allow for four story structures while still maintaining 40 foot height envelope at specific locations within each building's envelope. The

project will remain a three story structure as viewed from PCH and Del Prado and fourth story will be only visually apparent on Lantern Streets elevation and the site's interior side elevations. The Variance for four stories, while maintaining the height limit will have no impacts on any other properties and is in keeping with the objectives of the Town Center Plan which envisions a critical mass to realize a vibrant Town Center.

The Town Center Plan's environmental analysis also indicates that building heights at 35-feet and 40-feet are representative of a three-story building, with 50-feet representing a four-story building. Application of a 50-foot requirement to a 40-foot building results in an additional unnecessary physical hardship. At 40 feet, the project is 10 feet below the traditional height of a four-story building.

- (2) That there are exceptional or extraordinary circumstances or conditions applicable to the subject property or to the intended use of the property which do not apply generally to other properties in the same zoning district in that the site contains proposed lots that extend from PCH to Del Prado in the north/south direction resulting in structures which will be the entire length of Amber and Violet Lantern Streets, with parts of Phases 2 and 3 built above the alley. This unique assemblage of parcels and site depth and area may currently be found in only one other property within the DPTCP. Furthermore, as stated above, the development maintains a 40-foot height envelope and, based on the site, the project will remain a three story structure as viewed from PCH and Del Prado.
- (3) That the strict or literal interpretation and enforcement of the specified regulation(s) would deprive the applicant of privileges enjoyed by the owners of other properties in the same zoning district with similar constraints in that the allowance for four stories would still meet the height limit of 40 feet as stated in the DPTCP, and is consistent with the measurements of a three-story building, as stated in the DPTCP's environmental analysis. Additionally, the Variance for number of stories will have no negative impacts on surrounding properties, which are developed with commercial or mixed-use projects and are zoned for mixed-use projects in the future, and the DPTCP's environmental analysis concluded that a height

limit of 40 feet would not have significant view impacts. The project sites are unique in nature since the three project sites are assemblage of seven lots, which extend from PCH to Del Prado, resulting in structures which will be the entire length of Amber and Violet Lantern Streets, with parts of Phases 2 and 3 built above the alley.

- (4) That the granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the same zoning district with similar constraints in that the project sites are unique in nature due to their large size which is a result of assembling seven lots into three project sites extending from PCH to Del Prado, resulting in structures which will be the entire length of the sloping Amber and Violet Lantern Streets, with parts of Phases 2 and 3 built above an alley, as discussed further above. Additionally, the development maintains a 40 foot height envelope, the project will remain a three story structure as viewed from PCH and Del Prado, and the DPTCP environmental analysis states that a 40-foot high building is consistent with the height of a three-story building. Because the 40-foot high requirement can still be met, the variance will not constitute a special privilege inconsistent with other properties.
- (5) That the Variance request is made on the basis of a hardship condition and not as a matter of convenience in that the project sites are unique in nature due to their large size which is a result of assembling seven lots into three project sites extending from PCH to Del Prado, resulting in structures which will be the entire length of Amber and Violet Lantern Streets, with parts of Phases 2 and 3 built above an alley. The granting of a Variance to allow four story structures for all the three phases is due to hardship of designing the project which will extend the entire length of the street block while still meeting all the development standards of DPTCP.
- (6) That the granting of the Variance will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity in that the allowance for four stories would still meet the height limit of 40 feet as stated in the DPTCP.

Additionally, it is anticipated that ocean views will not be

impacted from surrounding properties, or property located up Golden Lantern, Valencia and Blue Lantern, as evidenced by the view simulations that were completed as part of the DPTCP's approval which considered heights at 40 feet and identified that there were no public view impacts. The DPTCP's environmental analysis also indicated that heights at 35-feet and 40-feet represent a three-story building and the project is maintaining a 40-foot high envelope which is consistent with the surrounding area.

- (7) That the Variance approval places suitable conditions on the property to protect surrounding properties and does not permit uses which are not otherwise allowed in the zone in that the project is for mixed use residential/ commercial project which is an allowed use in Town Center. Additionally, the surrounding properties are developed with commercial or mixed-use projects and are zoned for mixed-use projects in the future.
 - (8) That granting of the Variance would not result in adverse impacts, either individually or cumulatively, to coastal access, public recreation opportunities, or coastal resources, and the development would be consistent with the policies of the Local Coastal Program certified land use plan in that all ground floor uses fronting streets are commercial in nature and there will be no impacts to coastal access, public recreation opportunities or coastal resources since the project site is located mid-block in Town Center and does not have opportunities for coastal access. The approval of a Variance for four story structures that complies with the height limit is consistent with the policies of the Local Coastal Program.
- G) Based on the evidence presented at the public hearing, the Planning Commission adopts the following findings and approves Parking Variance V14-0004 to the payment of parking in-lieu fees, subject to conditions:
- (1) The variance will be an incentive to, and a benefit for, the nonresidential development in that this finding is for allowance of payment of in-lieu parking fees for 27 parking spaces. The allowance for payment of fees is an incentive for the proposed mixed use project and is in keeping with the recent Parking Study for the Town Center Plan which promotes

management of available spaces, rather than building and maintaining parking spaces for each project independent of other commercial uses in the area.

- (2) The variance will facilitate access to the nonresidential development by patrons of public transit facilities, particularly guideway facilities **in that the Town Center area is not connected to any guideway facilities and access to public transit and guideway facilities is not associated with the provision of on-site parking spaces or payment of in-lieu fees.**

Conditions:

A. General:

1. Approval of this application is to allow the approval of a 1) tentative tract map to allow the sale of residential units individually, 2) Coastal Development Permit to allow demolition of current structures on subject properties and construction of a new three phased mixed use project featuring 32,500 square feet of retail space on the ground floors and 109 residential condominiums on three levels above, with two levels of subterranean parking, 3) Site Development Permit to allow the elevator towers that do not provide access to roof decks to extend above the height limit 3) Conditional Use Permit to allow roof decks for all the three phases of the project, to allow guard rails for the roof deck to extend above the height limit and to allow shared parking arrangement between retail and residential guest spaces and 4) Variance to allow four story structures for all the three phases, and Parking Variance to pay in-lieu fees for 27 parking spaces for the properties located in Town Center Mixed Use District at Phase 1: 34135 PCH (APN 682-232-06), 24471 Del Prado (APN 682-232-07), 34129 PCH (APN 682-232-11); Phase 2: 34137 PCH (APN 682-321-01), 24501 Del Prado (682-321-14); Phase 3: 34155 PCH (APN 682-321-07), 24591 Del Prado (APN 682-321-08). Subsequent submittals for this project shall be in substantial compliance with the plans presented to the Planning Commission, and in compliance with the applicable provisions of the Dana Point General Plan, the Local Coastal Program, the Dana Point Zoning Code, and the Dana Point Town Center Plan.
2. This discretionary permit(s) will become void two (2) years following the effective date of the approval if the privileges authorized are not implemented or utilized or, if construction work is involved and such work

is not commenced with such two (2) year time period or; the Director of Community Development or the Planning Commission, as applicable, grants an extension of time. Such time extensions shall be requested in writing by the applicant or authorized agent prior to the expiration of the initial two-year approval period, or any subsequently approved time extensions and in accordance with the appropriate sections of the Dana Point Zoning and Subdivision Ordinances.

3. The application is approved for the location and design of the uses, structures, features, and materials, shown on the approved plans. Any relocation, alteration, or addition to any use, structure, feature, or material, not specifically approved by this application, will nullify this approving action. If any changes are proposed regarding the location or alteration to the appearance or use of any structure, an amendment to this permit shall be submitted for approval by the Director of Community Development. If the Director of Community Development determines that the proposed change complies with the provisions and the spirit and intent of this approval action, and that the action would have been the same for the amendment as for the approved plans, the Director may approve the amendment without requiring a new public hearing.
4. Failure to abide by and faithfully comply with any and all conditions attached to the granting of this permit shall constitute grounds for revocation of said permit.
5. The applicant or any successor-in-interest shall defend, indemnify, and hold harmless the City of Dana Point ("CITY"), its agents, officers, or employees from any claim, action, or proceeding against the CITY, its agents, officers, or employees to attack, set aside, void, or annul an approval or any other action of the CITY, its advisory agencies, appeal boards, or legislative body concerning the project. Applicant's duty to defend, indemnify, and hold harmless the City shall include paying the CITY's attorney's fees, costs and expenses incurred concerning the claim, action, or proceeding.

The applicant or any successor-in-interest shall further protect, defend, indemnify and hold harmless the City, its officers, employees, and agents from any and all claims, actions, or proceedings against the City, its officers, employees, or agents arising out of or resulting from the negligence of the applicant or the applicant's agents, employees, or contractors. Applicant's duty to defend, indemnify, and hold harmless the City shall include paying the CITY's attorney's fees, costs and expenses incurred concerning the claim, action, or proceeding.

The applicant shall also reimburse the City for City Attorney fees and costs associated with the review of the proposed project and any other related documentation.

6. The applicant and applicant's successors in interest shall be fully responsible for knowing and complying with all conditions of approval, including making known the conditions to City staff for future governmental permits or actions on the project site.
7. The applicant and applicant's successors in interest shall be responsible for payment of all applicable fees along with reimbursement for all City expense in ensuring compliance with these conditions.
8. The project shall comply with applicable Air Quality related mitigation measures as enumerated in the MND adopted for the TC Plan and as re-stated here:
 - The project shall comply with SCAQMD Rule 402, which prohibits the discharge from a facility of air pollutants that cause injury, detriment, nuisance, or annoyance to the public or that damage business or property.
 - During clearing, grading, earth-moving, or excavation operations, excessive fugitive dust emissions shall be controlled by regular watering or other dust-preventive measures using the following procedures, as specified in the SCAQMD Rule 403:
 - On-site vehicle speed shall be limited to 15 miles per hour.
 - All material excavated or graded shall be sufficiently watered to prevent excessive amounts of dust. Watering shall occur at least twice daily with complete coverage, preferably in the late morning and after work is done for the day.
 - Streets adjacent to the project reach shall be swept as needed to remove silt that may have accumulated from construction activities so as to prevent excessive amounts of dust.
 - All material transported on-site or off-site shall be either sufficiently watered or securely covered to prevent release of excessive amounts of dust.
 - The area disturbed by clearing, grading, earth-moving, or excavation operations shall be minimized so as to prevent excessive amounts of dust.

- All clearing, grading, earth moving, or excavation activities shall cease during periods of winds so as to prevent excessive amounts of dust as set forth below:
 - Rough grading (mass grading) – when winds are greater than 25 miles per hour averaged over one hour; and
 - Precise grading – when winds are greater than 35 miles per hour averaged over one hour.
- These control techniques shall be indicated in project grading plans. Compliance with the measure shall be subject to periodic site inspections by the City.
- Visible dust beyond the property line emanating from the project shall be prevented to the maximum extent feasible.
- Ozone precursor emissions from construction equipment vehicles shall be controlled by maintaining equipment engines in good condition and proper tune per manufacturer's specifications, to the satisfaction of the City Engineer. Compliance with this measure shall be subject to periodic inspections of construction equipment vehicles by the City.
- The project shall comply with SCAQMD Rule 1113, which limits the VOC content of architectural coatings used in the SCAB or allows the averaging of such coatings, as specified, so actual emissions do not exceed the allowable emissions if all the averaged coatings comply with the specified limits.
- All vehicles shall be prohibited from engine idling in excess of ten minutes, both on-site and off-site.
- All trucks that are to haul excavated or graded material on-site shall comply with State Vehicle Code Section 23114, with special attention to sections 23114(b)(F), (e)(2) and (e)(4) as amended, regarding the prevention of such material spilling onto public streets and roads.
- Developers shall comply with SCAQMD Rule 1403, *Asbestos Emissions From Demolition/Renovation Activities*, which specifies work practice requirements to limit asbestos emissions from building demolition and renovation activities, including the removal and associated disturbance of asbestos-containing materials (ACM). The requirements for demolition and renovation activities include asbestos surveying, notification, ACM removal procedures and time schedules, ACM handling and clean-up procedures, and storage, disposal, and landfiling requirements for asbestos-containing waste materials (ACWM). All operators are required

to use appropriate warning labels, signs, and markings.

9. Deliveries to the commercial uses shall only occur between the hours of 7 a.m. to 8 p.m.
10. The applicant shall process a Sign Program permit in accordance with the provisions of the Dana Point Zoning Code. Any sign program proposed for the site shall provide adequate signage to direct residents, guests and business patrons to the on-site parking facilities including signage directing bicyclists to the required on-site bicycle stalls, in addition to identifying the development name and/or individual businesses on the site, and shall be consistent with the provisions of the Dana Point Town Center. Other than those spaces designated for residential uses, the signs shall not restrict the on-site parking spaces for project's patrons only and shall have signage identifying "Public Parking" which could be used by any Town Center visitors. The Sign program shall be approved and directional signage related to the on-site parking facilities shall be installed prior to issuance any Certificate of Use and Occupancy for the site.
11. The use of roof decks is limited to general use by the project's residents. Any Special Events that could generate excessive light or noise shall obtain Special Event Permit from the City.
12. An Exterior Lighting Plan for the proposed project shall be submitted to the Director of Community Development for review and approval. The lighting plan shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The Lighting Plan shall include a photometric study that demonstrates that all exterior lighting has been designed and located so that all direct rays are confined to the property. All lighting shall be designed to accommodate the possibility of any required adjustments to the lighting to mitigate unforeseen impacts to properties and public rights-of-ways surrounding the subject property. The lights for roof decks shall have only minimal accent lighting and should be included in the photometric Plan.
13. An encroachment permit from the Community Development and Public Works & Engineering Departments shall be required for any proposed use of public property for private development activities. Any approved private improvements within the public right-of-way shall require a Removal and Maintenance Agreement.
14. The construction site shall be posted with signage indicating that construction shall not commence before 7 a.m. and must cease by 8

p.m., Monday through Saturday, and no construction activity is permitted on Sundays or Federal holidays.

15. The hours of operation of construction equipment that produces significant noise or levels noticeably above general construction noise shall be limited to occur between 8:00 a.m. and 5:00 p.m., Monday through Friday, and between the hours of 9:00 a.m. and 4:00 p.m., on Saturday. No work is allowed on Sundays or City holidays.
16. The applicant, property owner or successor in interest shall prepare a Waste Management Plan to the City's C&D official per the Dana Point Municipal Code. A deposit will be required upon approval of the Waste Management Plan to ensure compliance.
17. The Waste Management Plan shall indicate the estimated quantities of material to be recycled and the locations where the material is to be taken for recycling. Said plan shall be reviewed and approved by the City's C&D Compliance Official prior to issuance of any permits.
18. All construction contractors shall comply with applicable SCAQMD regulations. To ensure that the project is in full compliance and that there are no nuisance impacts off-site, the contractor shall implement all of the following:
 - Moisten soil not more than 15 minutes prior to moving it.
 - Apply dust suppressants or vegetation sufficient to maintain a stabilized surface within five days of completing grading.
 - Water exposed surfaces at least twice a day under calm conditions and as often as needed on windy days or during very dry weather in order to maintain a surface crust and prevent the release of visible emissions from the construction site.
 - Provide for street sweeping, as needed, on adjacent roadways to remove dirt dropped by construction vehicles or mud which would otherwise be carried off by trucks departing project sites.
 - All trucks hauling dirt, sand, soil, or other loose materials shall be covered or should maintain at least two feet of freeboard (i.e., minimum vertical distance between the top of the load and the top of the trailer) in accordance with the requirements of CVC Section 23114.
19. The applicant shall be responsible for coordination with SDG&E, AT&T California, SCWD, Southern California Gas Company, and Cox Communication Services for the provision of all utility services.

20. An encroachment permit shall be obtained prior to any work within the public right-of-way. All proposed improvements within a City of Dana Point street or alley right-of-way require an encroachment permit, and shall be constructed per City Engineer approved street improvement plans and require a Removal and Maintenance Agreement. Building materials, unlicensed vehicles, construction equipment, portable toilets, and related items shall not be placed in the public right-of-way.
21. Approved parking structure plans shall clearly assign parking stalls in the residential parking areas of the structure to specific dwelling units. Those parking stalls for the residential guest and commercial uses on the site shall also be identified specifically on the parking structure plans and shall be identified to state that they will be open public parking and not restricted to the project's customers only. The residential parking restrictions and the assignment and identification of the commercial parking stalls associated with the commercial uses on the site shall be included as part of any CC&R's prepared for any Owners' Association(s) formed as part of the recordation of the final tract map. Said parking structure plans and any CC&R's prepared for the development shall also identify and provide at all times bicycles stalls as stipulated on project plans.
22. The applicant shall provide loading zones which are sufficient is size to accommodate loading and delivery vehicles, for all the three phases, to the satisfaction of the City Engineer.
23. All elevator shafts are subject to final approval by the Community Development Director. The size and height of the elevator shafts is limited to maximum height dictated by specifications of the equipment and as required by the Uniform Building Code. In no case can the height of said equipment be more than on the project plans as approved by the Planning Commission.
24. Any and all decorative features such as heaters, potted plants, and other landscaping, and hardscaping proposed at the roof decks are limited to 42 inches above the 40 foot height limit as shown on the project plans. The applicant and its successors in interest are responsible to trim and maintain all landscaping to meet the height limit.
25. The applicant shall record a deed restriction to allow the open space courtyards be open to the general public in perpetuity.

26. Prior to the issuance of any permits, the applicant shall obtain approval of a construction staging plan by the Directors of Public Works and Community Development.
27. Prior to the issuance of any permits a California licensed surveyor shall stake the boundary, in a manner clearly visible to construction personnel.
28. The applicant shall be responsible for coordination with SDG&E, AT&T California, SCWD, Southern California Gas Company, and Cox Communication Services for the provision of all utility services.
29. The proposed underground vaults shall be approved by the governing utility and OCFA. Should the underground vaults not be permitted, an alternative on-site private property location shall be provided. Underground vaults will not be allowed in the public sidewalk.
30. All utilities shown to be relocated or required to be relocated per the development shall be relocated underground. All proposed utilities within the project shall be installed underground.
31. All public right-of-way improvements require advanced approval by the City Engineer. All proposed improvements within the City of Dana Point streets right-of-way and alley right-of-way require an approved encroachment permit, prior to commencement of work. All improvements within the public right-of-way shall be constructed per the Lantern District Public Works Construction Details, City Standards, the City Standard Encroachment Permit Conditions, and as indicated by the City Engineer.
32. A Site Development Permit, Conditional Use Permit, Coastal Development Permit, and Encroachment Permit may be required for any proposed use of public property for private development activities.
33. The applicant and development shall enter into an agreement with the City's franchise holder to ensure that trash collection services shall include moving of all trash containers and/or bins to the truck and return of containers and/or bins to the inside of the designated trash areas. At no time shall containers and/or bins be stored on sidewalk. All collection activities shall be done at a time approved by the applicant and the City of Dana Point.

34. All transformer pads shall be located outside of the building, on private property, and screened from the public right-of-way. The proposed transformer locations for Phase 1 and Phase 3 on Del Prado shall be moved to Amber & Violet Lantern Streets respectively and be adequately screened per the Director of Public Works, unless otherwise approved to remain in a screened location on Del Prado. Should adequate clearance and screening not be provided, additional architectural plan changes will be required.
35. The Amber Lantern loading/move-in zone shall be revised to remove one diagonal parking spot and reduce the sidewalk width to allow a 40 foot loading zone with the possibility that, if necessary, it can extend into the southernmost remaining diagonal spot.
36. All fire service structures and utility meters with public right-of-way exposure shall be screened with landscaping to the satisfaction of the Director of Public Works.
37. The Architectural and Grading Plans submitted for permit issuance shall show all signal interconnect on all drawings so the scope of any relocation of the interconnect infrastructure can be assessed. Currently, those facilities are not shown on the base.
38. The applicant shall address the relocation of existing SDG&E street lights and conduits on PCH. This relocation may include additional coordination with SDG&E on obtaining any utility easement within the city's 10' public right-of-way easement.
39. The Architectural and Grading Plans submitted for permit issuance shall show all underground Cox Communications CATV conduit lines on Amber Lantern, Del Prado and alley (between Amber Lantern and Violet Lantern)
40. The applicant/developer is conditioned to provide the required 10ft setback on PCH and shall relocate/construct all public right-of-way improvements to the satisfaction of the Public Work Director, including but not limited to date palms, street lights, landscaping, historical concrete, etc.
41. The applicant shall exercise special care during the construction phase of this project to prevent any off-site siltation or dust. The applicant shall provide erosion control measures and temporary desiltation/detention basins as required, and use water or other measures to control dust. The applicant shall maintain the temporary basins and erosion control devices until the Director of

Public Works and/or City Engineer approves of the removal of said facilities. Failure to do so shall obligate the City to repair/replace as appropriate and charge the applicant.

42. A Water Quality Management Plan (WQMP) is required as a part of all phases of this project. Applicant shall meet all current NPDES Permit requirements.
43. All plans shall be in conformance with the Town Center Specific Plan, Town Center Standards and Construction Details, and in progress design documents for the PCH/Del Prado Streetscape Improvement Project. All needed design or construction adjustments shall be at the expense of the applicant.
44. The applicant shall submit a haul route plan and secure City Engineer approval and a separate Encroachment permit before any trucking commences on the Project. The City Engineer may restrict the number of daily trucks allowed to avoid traffic impacts. Further, the applicant shall only truck during weekday, non-peak hour traffic periods, excluding weekends and holidays.
45. Any damage to existing public or adjacent private property facilities shall be repaired or replaced to the satisfaction of the City Engineer, and per City Standards.
46. The public alley between Violet Lantern and Amber Lantern shall remain open at all times. In the event that Phases 2 and 3 are proposed concurrently, the construction will have to be phased accordingly to allow access, or an access alternative, to the existing properties.
47. In the event of construction ceasing for a period of longer than 3 months, additional landscaping and screening will be required of applicant and/or installed by the City of Dana Point at the owner's expense.
48. Temporary fencing with green/black screening shall be provided around work areas for each Phase, unless otherwise approved by the City Engineer.
49. The applicant shall obtain all applicable permits for the proposed improvements, including any that may be required from outside agencies.
50. Prior to the issuance of any permits or approvals, the applicant

shall obtain approval of the Fire Chief for all fire protection access roads to within 150 feet of all portions of the exterior of every structure on site. The plans shall demonstrate access to all rescue windows on the residential floor. The applicant may contact the OCFA at (714) 573-6100 or visit the OCFA website to obtain a copy of the "Guidelines for Emergency Access."

51. Separate review, approval, and permits are required for:
- Separate Structures
 - Retaining Walls
 - Fire Sprinklers
 - Site walls over 3'

B. Prior to approval of the Final Map for any phase or combination thereof the applicant shall meet the following conditions:

52. A Final Map shall be submitted for review and approval in accordance with requirements of the Public Works Department and Community Development Department. The Final Map must be in substantial compliance with Tentative Tract Map 17751, as determined by the Director of Community Development, the Director of Public Works, and the City Engineer. Said map shall be prepared as required by the City of Dana Point Subdivision Code.
53. All taxes and fees shall be paid to the County of Orange and the County Treasurer-Tax Collector's Certificate shall be signed.
54. All existing and proposed easements shall be shown and labeled on the Final Map clearly indicating the easement ownership, location, purpose and width. A copy of the recorded easements shall be included along with the plan submittal for review by the City Engineer. The Final Map shall also include a note to identify any easements proposed to be vacated with the Map.
55. All easements vacated, relocated, or released per separate instrument shall be noted on the map. The separate instrument or quit-claim documents from the governing utility shall be submitted.
56. Utility easements shall be provided to the specifications of the appropriate utility companies and subject to review and approval by the City Engineer.
57. The applicant shall dedicate a 10 foot public easement for drainage, improvements, pedestrian access, and utility purposes along Pacific Coast Highway frontage in accordance with the requirements of the

Dana Point Town Center Plan and City Engineer.

58. The applicant shall submit the Final Map to the County of Orange for review and approval. A copy of the approval shall be submitted to the Public Works Department.
59. The Final Map shall clearly state the subdivision is for condominium purposes.
60. The applicant shall enter into an encroachment agreement with the City of Dana Point for the condominium units above and parking below the public alley. The alley will remain public and will not be vacated as a part of the development. Lighting of the alley will be required.
61. The applicant shall enter into an encroachment agreement with the City of Dana Point for use of the public right-of-way for any retail or restaurant use.
62. Applicant shall provide to the City a copy of a current title report not less than six months old and any other survey documentation in relation to the subject subdivision.
63. Prior to the approval of the Final Map, the applicant shall submit a resolution to the existing deed restriction for the Phase 2 lots as noted on the Tentative Map dated October 29, 1979, recorded December 5, 1979.
64. Prior to the approval of the Final Map, the applicant shall submit an executed quitclaim deed for the Phase 2 lots as noted on the Tentative Tract Map in favor of Developer releasing and resolving the recorded Access Agreement, dated August 5, 2005, recorded 8/05/2005.
65. Prior to the approval of the Final Map, the applicant shall submit an agreement with the necessary consultant and/or agency to ensure resolution and mitigation of the existing vapor encroachment for Site A, which is part of the Phase 3 lots as noted on the Tentative Tract Map (former dry cleaners) during excavation.
66. The applicant shall submit a copy of the proposed CC&Rs and Articles of Incorporation of the Owners' Association for review and approval by the Directors of Public Works and Community Development, the City Engineer, and the City Attorney. The CC&Rs shall be recorded with the Final Map and shall include:

- a. A statement that prohibits amendment of the document without review and approval by the City Attorney, the Director of Public Works and Community Development, and the City Engineer at any time prior to or preceding recordation of the Final Parcel Map.
- b. A method to ensure resolution of any disputes regarding maintenance of any commonly held portions of the lot, any common walls, or disputes regarding the maintenance of the proposed duplex shall be included in CC&R's.
- c. Reflect common access easements, and maintenance responsibility of all recreation areas, common walls, access ways, parking areas, landscaping and grounds by the parties common to the CC&Rs.
- d. An acceptable means for maintaining the easements within the subdivision and to distribute the cost of such maintenance in an equitable manner among the owners of the units within the subdivision.
- e. Require a private drainage easement and maintenance agreement for all existing and proposed storm drain facilities and appurtenant structures. Said easement and agreements shall address existing drainage conditions and easement documents.
- f. Provisions which prohibit any obstructions within any fire protection access easement and shall also require approval of the Fire Chief for any modifications; such as speed bumps, control gates, or changes in parking plans within said easement.
- g. An acceptable means for the separation of ownership for the residential and commercial spaces.
- h. Clear delineation of the maintenance responsibility of all commercial tenants, commercial common walls, commercial access ways, commercial parking areas, landscaping and grounds by the parties' common to the CC&Rs and lease agreements.
- i. Clear assignment of maintenance responsibility of the Homeowners' Association for landscaping, irrigation and other improvements installed on City property for the benefit of the Project.
- j. The Approved Final Water Quality Management Plan. (WQMP), which will be recorded as part of the CC&R's.

- k. Implementation and maintenance of all structural and non-structural improvements and Best Management Practices (BMPs) indicated in the Final WQMP.
- 67. The applicant/owner shall submit a preliminary Condominium Map to the Public Works Department and Community Development Department for review and approval of the CC&Rs.
- 68. The applicant shall be responsible for the payment of any City fees for the Project including the review and approval of CC&Rs by the City Attorney for the condominiums.
- 69. The applicant shall submit evidence of the availability of an adequate water supply for fire protection for review and approval by the Fire Chief. A copy of the documentation shall be submitted to the Public Works and Engineering Department.
- 70. The applicant shall submit "will serve" letters from the applicable water and sewer districts.
- 71. The approved Fire Master Plan shall be submitted to the City of Dana Point Public Works Department.
- 72. Prior to the recordation of a Final Map, a note shall be placed on the map stating that all residential structures shall be protected by an approved automatic fire sprinkler system.
- 73. All monuments shall be set, or a security provided, to ensure all monuments will be set in accordance with the County of Orange and City of Dana Point standards.
- 74. Applicant shall enter into a Subdivision Improvement Agreement for the design, construction, and installation of the private and public improvements in accordance with plans and specifications, meeting the approval of the City Engineer. A security to guarantee the performance of work described in the Subdivision Improvement Agreement will be required, up to 100% of the value of the work shall be posted to the satisfaction of the City Engineer and the City Attorney.
- 75. The applicant shall pay park in-lieu fees in accordance with the provisions of Chapter 7.36 of the City's Subdivision Ordinance.

C. Prior to the issuance of a rough grading permit for any Phase (or combination thereof) the applicant shall meet the following

conditions:

76. The applicant shall identify 27 parking spaces in the Town Center area which are currently not public spaces but can be converted into public spaces with agreements with private property owners. The applicant shall facilitate such agreement with other willing private property owners to convert 27 private parking spaces into public spaces.
77. The applicant shall apply for a Rough Grading Permit. The application will include a rough grading plan, in compliance with City standards, for review and approval by the Director of Public Works and City Engineer. The applicant shall include all plans and documents in their submittal as required by the current Public Works Department's plan check policies. All grading work must be in compliance with the approved plan and completed to the satisfaction of the Director of Public Works and City Engineer, and conform to the in progress design documents for the PCH/Del Prado Streetscape Improvement Project.
78. A detailed design level geotechnical report shall be prepared, submitted and reviewed by the City Engineer.
79. The geotechnical report shall include additional subsurface exploration to enable geologic mapping in order to observe/measure the geologic strata that will be exposed by the excavations for the proposed subterranean parking levels for the structures, and substantiate the structural characterization of the bedrock underlying the site.
80. The geotechnical report shall include laboratory testing as necessary to substantiate the values used in the engineering analysis for surcharge pressures, based on the results of the additional geologic exploration/mapping and the ultimate lithology exposed.
81. The geotechnical report shall discuss the potential impact of the geologic structure on the proposed foundation/shoring/retaining system, and provide recommendations (geologic surcharge, etc.) to address geologic conditions as necessary.
82. Prior to a Rough Grading Permit for Phases 1 and 3, site specific infiltration rates shall be performed subsequent to the removal of the existing structures that occupy the areas of the proposed infiltration facility. The geotechnical professional shall perform the indicated infiltration testing for the proposed project when access to the

locations permit site specific testing and provide any additional recommendations.

83. The applicant shall apply for all separate Building Permits related to the excavation of the building footprint, particularly for construction of the parking structures and below grade facilities. The applicant shall include all plans and documents in their submittal as required by the current Building Department submittal policies as required. This would include all shoring required to accomplish the rough grading.
84. A separate surety to guarantee the completion of the project shoring and protection of neighboring property and neighboring improvements, up to 100% of the value of the work shall be posted to the satisfaction of the City Engineer and the City Attorney.
85. Surety to guarantee the completion of the project rough grading, including erosion control, up to 100% of the approved Engineer's cost estimate shall be posted to the satisfaction of the City Engineer and the City Attorney.
86. Grading permit, temporary and permanent shoring permits (as necessary), retaining wall permits, and any necessary Building permits for structural components of the rough grading shall be obtained concurrently.
87. Applicant shall maintain access for adjoining businesses via the alley at all times or an approved alternative, unless otherwise approved by the City Engineer.
88. Utility plan shall be prepared to outline maintaining existing utilities or to provide for relocation or temporary bypass, particularly in the alley between Violet Lantern and Amber Lantern. This shall address both dry and wet utilities.

D. Prior to issuance of a precise grading permit for any Phase or combination thereof, the applicant shall meet the following conditions:

89. The applicant shall apply for a Precise Grading Permit. The application will include a grading plan and soils report, in compliance with City standards, for review and approval by the Director of Public Works and City Engineer. The applicant shall include all plans and documents in their submittal as required by the current Public Works Department's plan check policies. All grading work must be in compliance with the approved plan and completed to the satisfaction of the Director of Public Works.

90. The applicant shall submit a final landscape and irrigation plan for review and approval by the Engineering Department. The landscape and irrigation plans shall include work in the public right of way adjacent to the Project.
91. The applicant shall prepare all needed reports and implement all required actions, for each phase, to meet current water quality regulations including, but not limited to, a Water Quality Management Plan, a Storm Water Pollution Prevention Program, and all other required reports/actions for NPDES Permit compliance.
92. The applicant shall apply for a Street Improvement Permit. The application will include street improvement plans and utility improvement plans, in compliance with City standards, for review and approval by the City Engineer. The applicant shall include all plans and documents in their submittal as required by the current Public Works Department's plan check policies. All improvements must be in compliance with the approved plan and completed to the satisfaction of the City Engineer and Director of Public Works. The street improvement plans submitted concurrently with the Precise Grading Plans shall show any street improvements on Violet Lantern, Amber Lantern, Pacific Coast Highway and the alley and include, but not be limited to, the following:
 - a. Roadway Frontage Improvements as shown on the Tentative Tract Map, Architectural Plans, and Landscape Plans for each phase; All improvements shall be completed at the completion of each Phase (or combination thereof) prior to Certificate of Occupancy.
 - b. Lighting, Traffic Signal Improvements and Signal Communication Equipment/Infrastructure – Address protecting all infrastructure in place or providing relocations where needed to support the work for all Phases.
 - c. Drainage Improvements, both on public and private property.
 - d. All planned improvements shall conform and integrate with the City's in progress design for the PCH/Del Prado Streetscape Improvement Project.
 - e. The street improvement plans shall detail the proposed improvements and adhere to City standards and City Standard Encroachment Permit Conditions.
 - f. Asphalt pavement and concrete improvements on Pacific Coast Highway, Del Prado, Amber Lantern and Violet Lantern shall be shown to be protected in place, unless otherwise approved by the City Engineer or shown to be reconstructed.

93. In anticipation of the completion of the City Lantern District Improvements, all streets may be under a moratorium per the Dana Point Municipal Code. All disturbance and trenching within a moratorium street will require approval from the City Engineer, and may result in additional paving and repairs per City standards. Boring may be required.
94. The applicant shall protect in place all newly paved street, street improvements, and associated improvements within the Lantern District. Any damage to existing public or adjacent private property facilities shall be repaired or replaced to the satisfaction of the City Engineer.
95. Applicant shall obtain written approval from property owners for any work proposed on adjoining properties.
96. The precise grading plan shall include a final utility plan as approved by South Coast Water District, San Diego Gas and Electric, and all other utilities identifying all improvements, including off-site improvements, required to provide adequate services to the proposed development, for each phase.
97. The final utility plan(s) shall include the final approved location of all meters, backflow prevention devices, vaults, and other associate equipment for all utilities and fire prevention, for all phases. All fire prevention equipment, utility meters, utility equipment, etc., servicing the development (each phase) shall be within the proposed development and not in the public right-of-way.
98. No direct connections to catch basins will be allowed in the final utility plan(s). All storm drainage shall be directed to an approved outlet or directly connect to the City storm drain system via a main line connection with junction structure.
99. Surety to guarantee the completion of the project precise grading, street improvements and drainage improvements, including erosion control, up to 100% of the approved Engineer's cost estimate shall be posted to the satisfaction of the City Engineer and the City Attorney.
100. The applicant shall submit a rough grade certification for review and approval by the City Engineer by separate submittal. The rough grade certification by the civil engineer (along with the City's standard Civil Engineer's Certification Form for Rough Grading)

shall approve the grading as being substantially completed in conformance with the approved grading plan.

101. A licensed land surveyor shall document all pad grades to the nearest 0.1-feet to the satisfaction of the City Engineer the Director of Community Development. The civil engineer and/or surveyor shall specifically certify that the elevation of the graded pad is in compliance with the vertical (grade) position approved for the project.
102. An as graded geotechnical report and certification shall be prepared by the project geotechnical consultant following grading of the subject site. The report should include the results of all field density testing, depth of reprocessing and recompaction, as well as a map depicting the limits of grading. Locations of all density testing, restricted use zones, settlement monuments, and geologic conditions exposed during grading. The report should include conclusions and recommendations regarding applicable setbacks, foundation recommendations, erosion control and any other relevant geotechnical aspects of the site. The report shall state that grading of the site, including associated appurtenances, as being completed in conformance with the recommendations of the preliminary geotechnical report.

E. Prior to Building Plan Check Submittal:

103. The cover sheet of the building construction documents shall contain the City's conditions of approval and it shall be attached to each set of plans submitted for City approval or shall be printed on the title sheet verbatim.
104. Building plan check submittal shall include 2 sets of the following construction documents:
 - Building Plans (3 sets)
 - Energy calculations
 - Acoustical Report (consistent with Preliminary Acoustical Study dated November 27, 2013)
 - Structural Calculations
 - Soils/geology report
 - Drainage Plan

All documents prepared by a professional shall be wet-stamped and signed.

105. Fire Department review is required. Submit three (3) separate sets of building plans directly to the Orange County Fire Authority for review and approval.
106. Building(s) shall comply with 2013 California Code of Regulations Parts 1-12 and any local amendments thereto. Building(s) shall comply with 2013 T-24 Energy Conservation Regulations.
107. Foundation system to provide for expansive soils and soils containing sulfates unless a soils report can justify otherwise. Use Type V cement, w.c. ratio of 0.45, F'c of 4,500 psi.
108. Minimum roofing classification of type "A" is required.
109. Building shall conform to State amendments for disabled accessibility, CBC Chapter 11A or B. Provide an Accessibility and Exit analysis for the building/development.
110. The applicant/owner shall enhance the retail frontage of the project to allow increased visual connection between retail spaces and the street. The Plans with revisions to the elevations shall be submitted for review and approval by the Director of Community Development.

F. Prior to issuance of a building permit for any Phase (or combination thereof) or release on certain related inspections, the applicant shall meet the following conditions:

111. The applicant shall obtain a Precise Grading Permit.
112. All approvals from outside departments and agencies are the responsibility of the applicant.
113. The applicant shall submit payment for any and all supplemental Development Impact Fees.
114. The applicant shall provide all required information and obtain necessary approvals to satisfy the requirements of 9.05.240 of the Dana Point Municipal Code regarding the "Art in Public Places" program.
115. Prior to the issuance of a building permit, the applicant shall submit evidence of the on-site fire hydrant system to the Fire Chief and indicate whether it is public or private. If the system is private, it shall be reviewed and approved by the Fire Chief prior to building permit issuance, and the applicant shall make provisions for the

repair and maintenance of the system in a manner meeting the approval of the Fire Chief. Please contact the OCFA at (714) 573-6100 or visit the OCFA website for a copy of the "Guidelines for Private Fire Hydrant &/or Sprinkler Underground Piping."

116. Prior to the issuance of any building permits, the applicant shall provide evidence of adequate fire flow. The "Orange County Fire Authority Water Availability for Fire Protection" form shall be signed by the applicable water district and submitted to the Fire Chief for approval. A copy of the documentation shall be submitted to the Public Works and Engineering Department.
117. Prior to the issuance of a building permit, the applicant shall submit plans for the required automatic fire sprinkler system in the structure to the Fire Chief for review and approval. Please contact the OCFA at (714) 573-6100 to request a copy of the "Orange County Fire Authority Notes for New NFPA 13 Commercial Sprinkler Systems."
118. Prior to the issuance of a building permit, plans for the fire alarm system shall be submitted to the Fire Chief for review and approval. Please contact the OCFA at (714) 573-6100 or visit the OCFA website to obtain a copy of the "Guideline for New and Existing Fire Alarm Systems."
119. Building address shall be located facing street fronting property. Addresses shall be 6" high with 1" stroke and of noncombustible, contrasting materials.
120. Prior to the issuance of the first building permit, a final noise study shall be submitted demonstrating that interior noise levels of the proposed project's residential units will not exceed 55 dBA during the day and 45 dBA CNEL from sundown to sunrise to the satisfaction of the Director of Community Development.
121. Prior to commencement of framing, the applicant shall submit a foundation certification, by survey that the proposed structure will be constructed in compliance with the dimensions shown on plans approved by the Planning Commission, including finish floor elevations and setbacks to property lines included as part of the approved project plans. The City's standard "Line & Grade Certification" form shall be prepared by a licensed civil engineer/surveyor and be delivered to the City of Dana Point Building and Planning Divisions for review and approval.

122. Prior to release of the roof sheathing inspection, the applicant shall certify by a survey or other appropriate method that the height of the structure and any encroachments above the height limit are in compliance with plans approved by the Planning Commission and the structure heights included as part of project plans. The City's standard "Height Certification" form shall be prepared by a licensed civil engineer/surveyor and be delivered to the City of Dana Point Building and Planning Divisions for review and approval before release of final roof sheathing is granted.
123. All plan check and building permit fees shall be paid to the City of Dana Point.
124. The applicant shall pay parking in-lieu fees in the amount of fifteen thousand (\$15,000) per parking space for 27 parking spaces.

G. Prior to the issuance of a certificate of use and occupancy or during operation of the project the applicant shall meet the following:

125. A Final Geotechnical Report shall be prepared by the project geotechnical consultant in accordance with the City of Dana Point Grading Manual.
126. A written certification per City standards and approval by the Geotechnical Engineer approving the precise grading as being substantially in conformance with the approved precise grading plan.
127. A written certification per City standards and approval by the Civil Engineer approving the precise grading as being substantially in conformance with the approved precise grading plan and which specifically approves construction of line and grade for all engineered drainage devices, utility work, retaining walls, and all other improvements.
128. All work in the right-of-way shall be completed in conformance with the Encroachment Permit, the Encroachment Permit Conditions, the Town Center Specific Plan, the Town Center Standards and Construction Details, and the in progress design documents for the PCH/Del Prado Streetscape Improvement Project to the satisfaction of the City Engineer.
129. An As-Built Grading Plan shall be prepared by the Civil Engineer of Record.
130. Any and all outstanding fees associated with any part of the entire project shall be paid.

131. The applicant/owner shall submit the Condominium Map to the Public Works Department and Community Development Department for review and approval prior to recordation.
132. The applicant shall submit, to the Public Works and Engineering Department, a copy of the recorded Final Map as approved by the City Council and recorded with the Office of the County Recorder.
133. The applicant shall obtain all utility agencies' final approval of the project improvement plans.
134. All works of improvements outlined in the Subdivision Improvement Agreement are completed and approved by the City of Dana Point.
135. A written certification per City standards and approval by the Civil Engineer approving any street improvements as being substantially in conformance with the approved street improvement plans including all improvements thereon.
136. The applicant shall complete all of the landscaping, irrigation and tree installation work per the approved Landscape Plans, including work on both public and private property.
137. The applicant shall provide a full WQMP which:
 - a. Demonstrate that all structural best management practices (BMPs) described in the Project WQMP have been constructed and installed in conformance with approved plans and specifications.
 - b. Demonstrate that applicant is prepared to implement all non-structural BMPs described in the Project WQMP.
 - c. Demonstrate that an adequate number of copies of the approved Project WQMP are available onsite.
 - d. Submit for review, and receive approval by the City for an Operations and Maintenance (O&M) Plan for all BMPs.
 - e. Certification from the project Civil Engineer or Landscape Architect of Record that all BMPs and WQMP elements have been constructed and installed as designed with the approved plans and WQMP.
138. All landscaping and irrigation shall be installed per the approved final landscape and irrigation plan. A State licensed landscape architect shall certify that all plant and irrigation materials have been installed in accordance with the specifications of the final plan and shall

submit said certification in writing to the Director of Community Development. The Community Development Department shall inspect the site to ensure that the landscaping has been installed in accordance with the approved plans.

139. Prior to the issuance of any certificate of occupancy, all fire hydrants shall have a blue reflective pavement marker indicating the hydrant location on the street as approved by the Fire Chief, and must be maintained in good condition by the property owner. Please contact the OCFA at (714) 573-6100 or visit the OCFA website for a copy of the "Guideline for Installation of Blue Dot Hydrant Markers."
140. Prior to the issuance of a certificate of occupancy, the required automatic fire sprinkler system shall be operational in a manner meeting the approval of the Fire Chief.
141. Prior to the issuance of a certificate of occupancy, the fire alarm system shall be operational prior to the issuance of a certificate of occupancy.
142. Prior to the issuance of certificates of use and occupancy, the applicant/owner shall install an on- or off-site public art component or contribute to the public art in-lieu fund, subject to the provisions of with Section 9.05.240 of the Dana Point Municipal Code.
143. Any ground mounted utility and mechanical equipment shall be screened and sound buffered to the satisfaction of the Director of Community Development and the Director of Public Works & Engineering.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Planning Commission of the City of Dana Point, California, held on this 6th day of October, 2014, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

April O'Connor, Vice Chairperson
Planning Commission

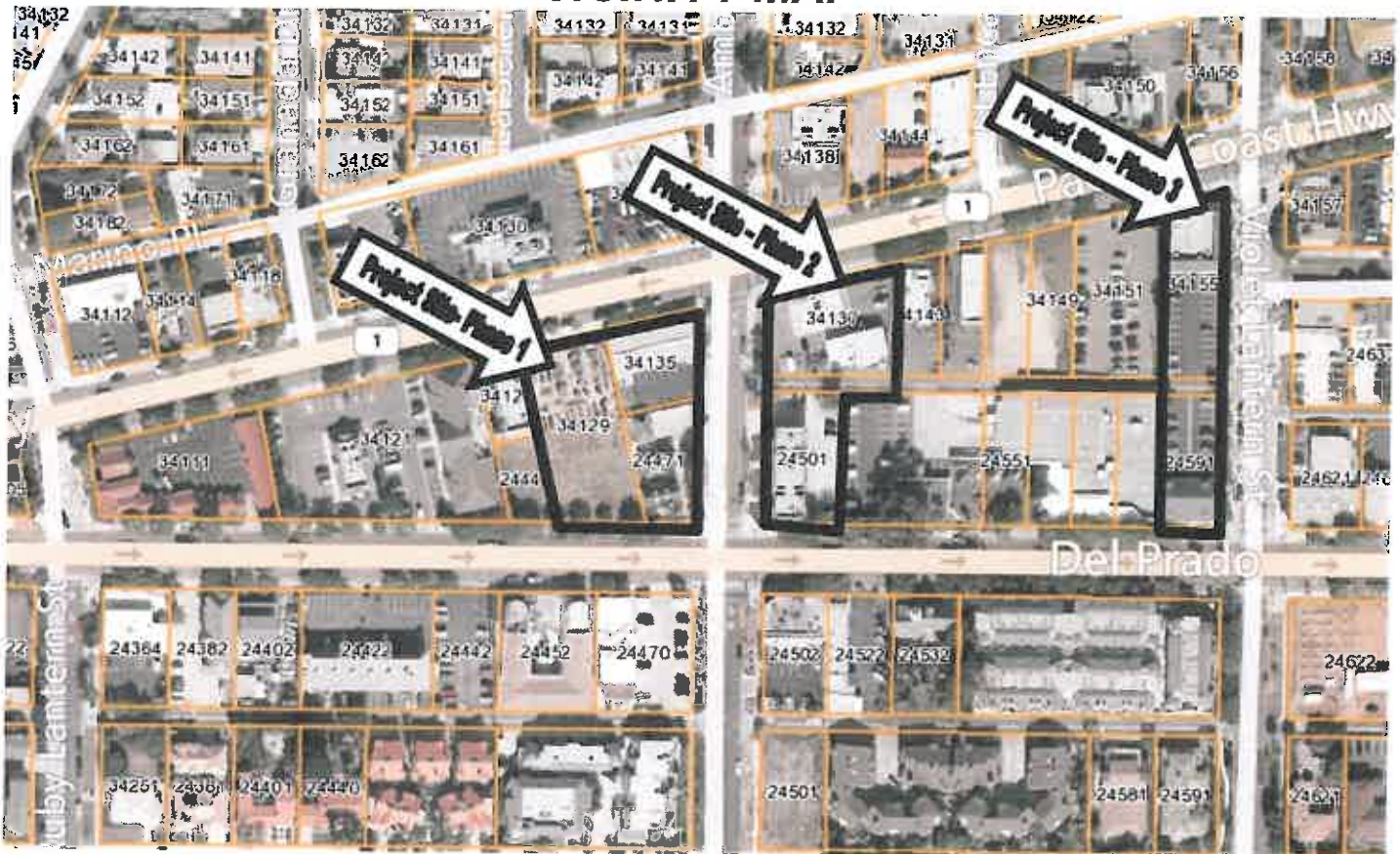
ATTEST:

Ursula Luna-Reynosa, Director
Community Development Department



City of Dana Point
Continued Public Hearing Notice for TTM 17751,
CDP14-0008, SDP14-0006, CUP14-0005, V14-0004
Community Development Department
33282 Golden Lantern
Dana Point, CA 92629-1805

VICINITY MAP



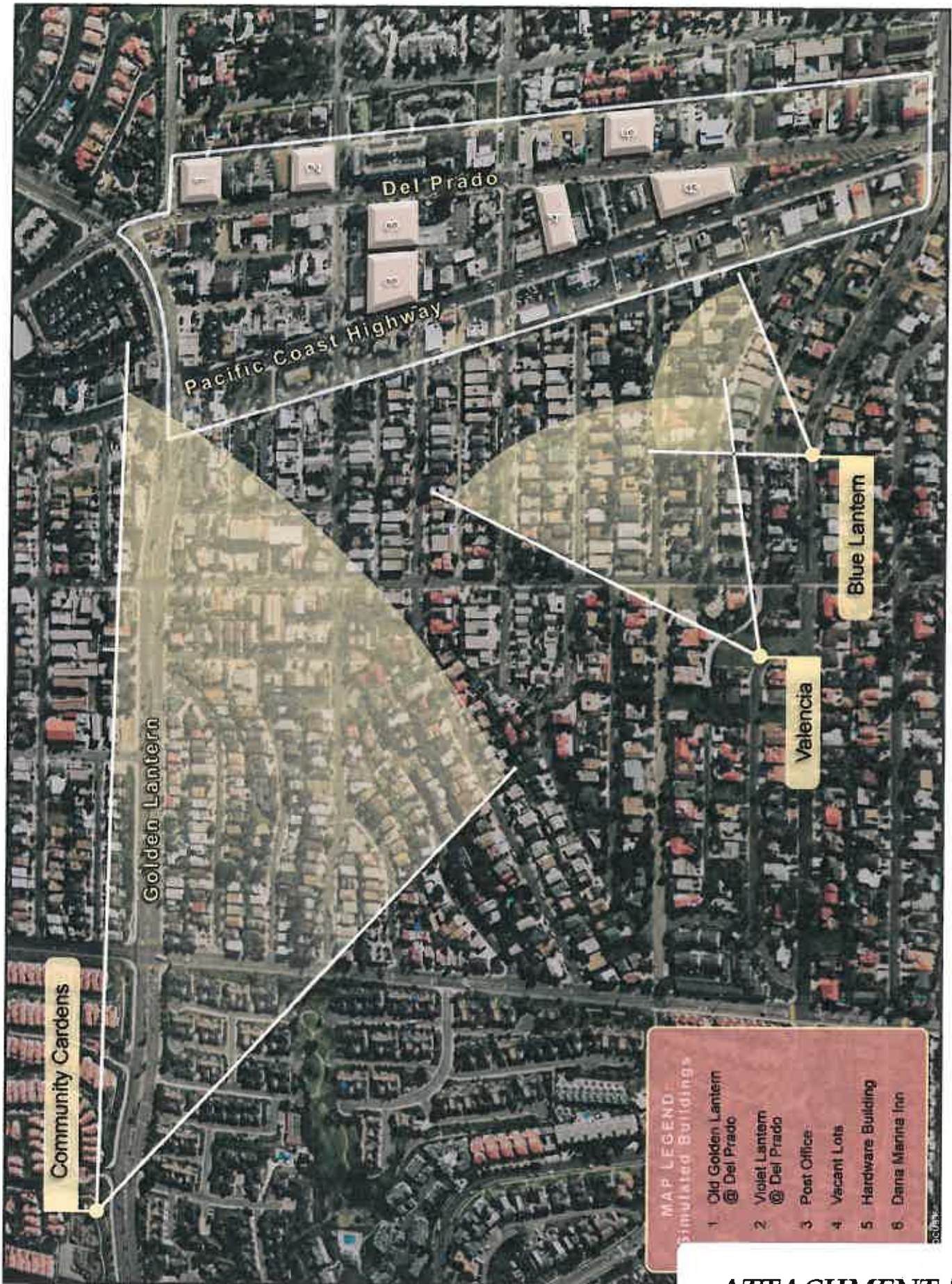
Project: Tentative Tract Map TTM 17751, Coastal Development Permit
CDP14-0008, Site Development Permit SDP14-0006, CUP14-0005, V14-0004

Applicant: Peggy Tabas/ Majestic Housing & Development LLC

Location: 34135 PCH, 24471 Del Prado, 34129 PCH (Phase 1); 34137 PCH,
24501 Del Prado (Phase 2); and 34155 PCH, 24591 Del Prado
(Phase 3)



ATTACHMENT #2



View Analysis Key Map

- MAP LEGEND:
Simulated Buildings
- 1 Old Golden Lantern @ Del Prado
 - 2 Violet Lantern @ Del Prado
 - 3 Post Office
 - 4 Vacant Lots
 - 5 Hardware Building
 - 6 Dana Marina Inn





View Analysis

Community Gardens @ 35 feet





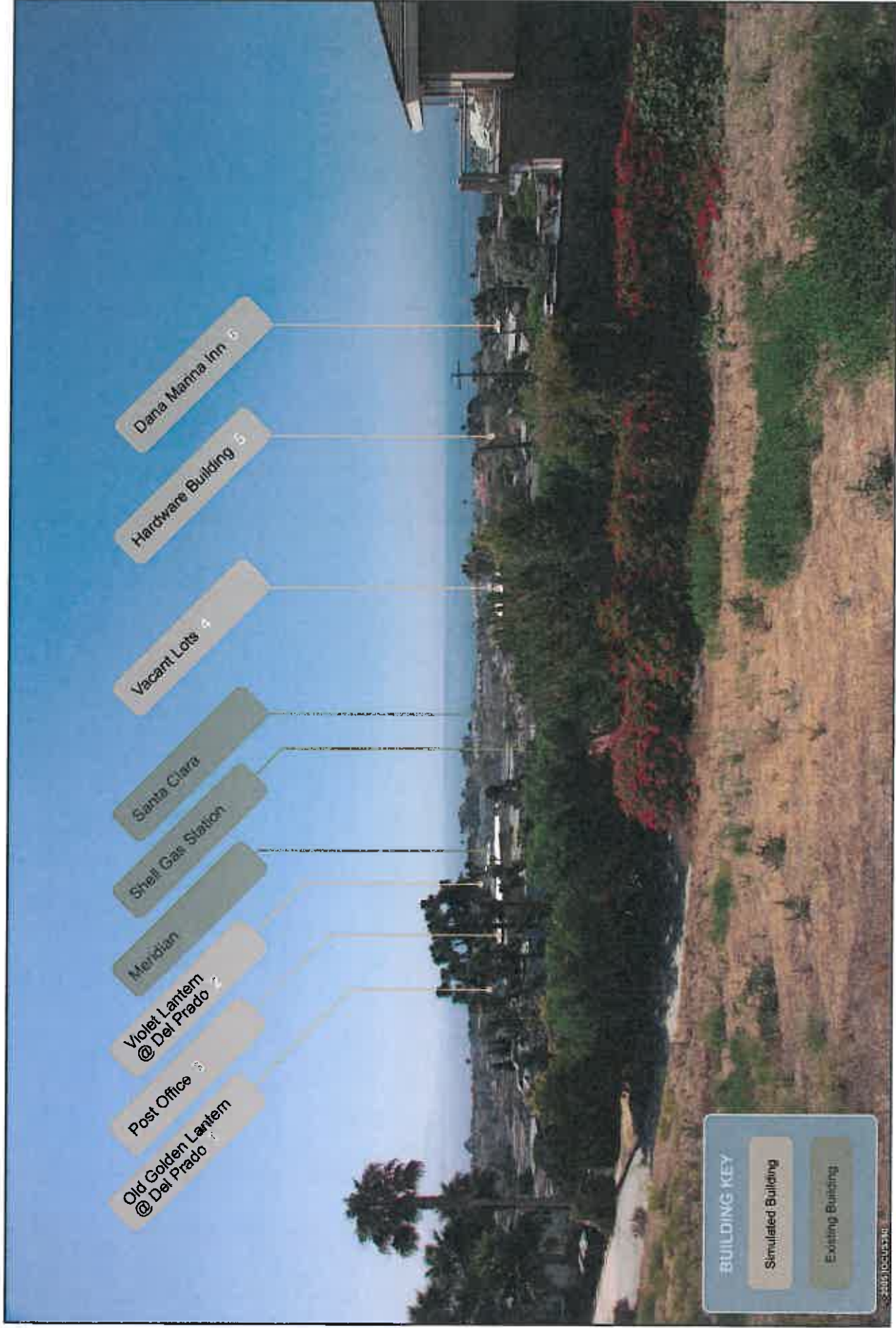
View Analysis Community Gardens @ 40 feet



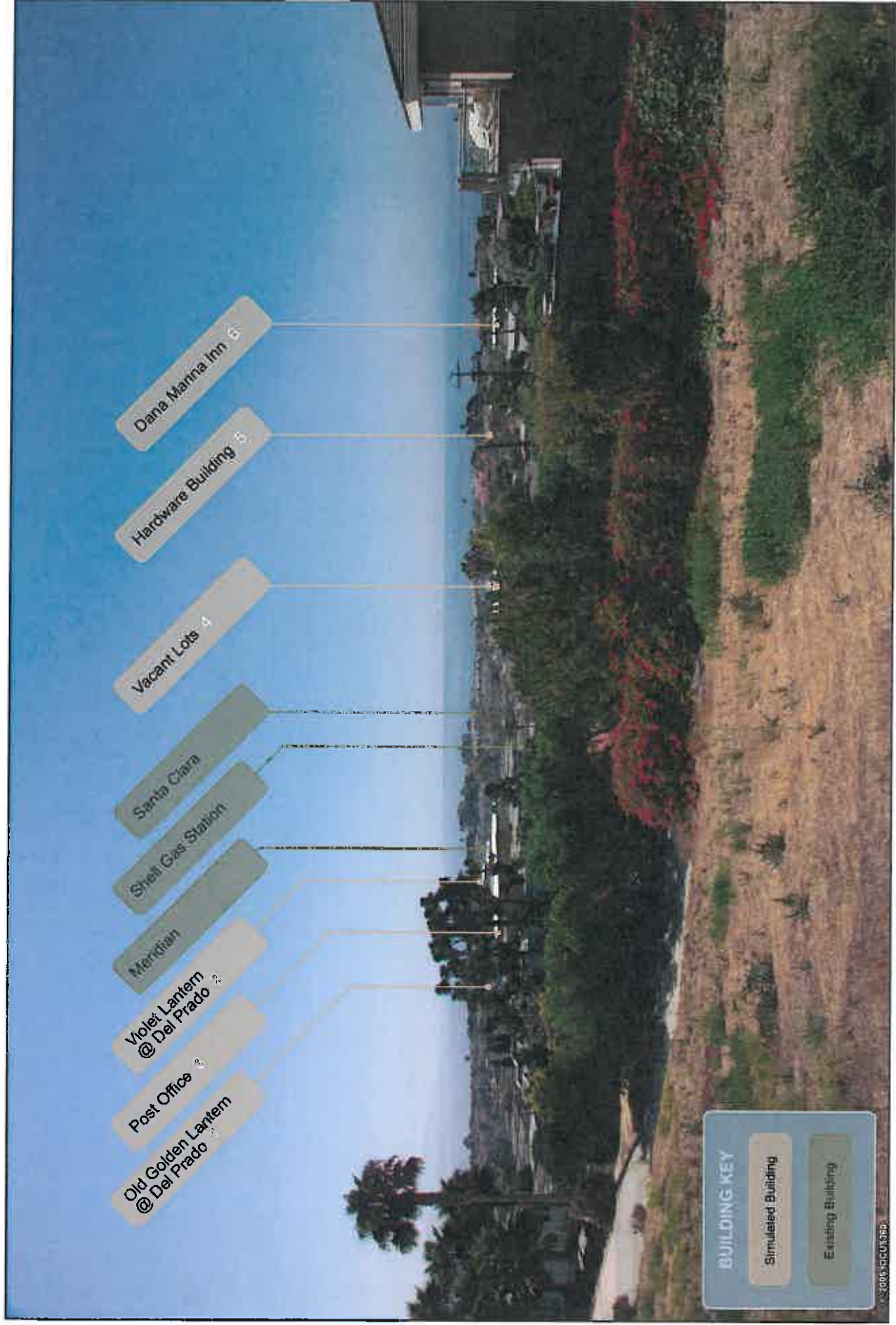
View Analysis Community Gardens @ 50 feet



View Analysis Community Gardens @ 60 feet



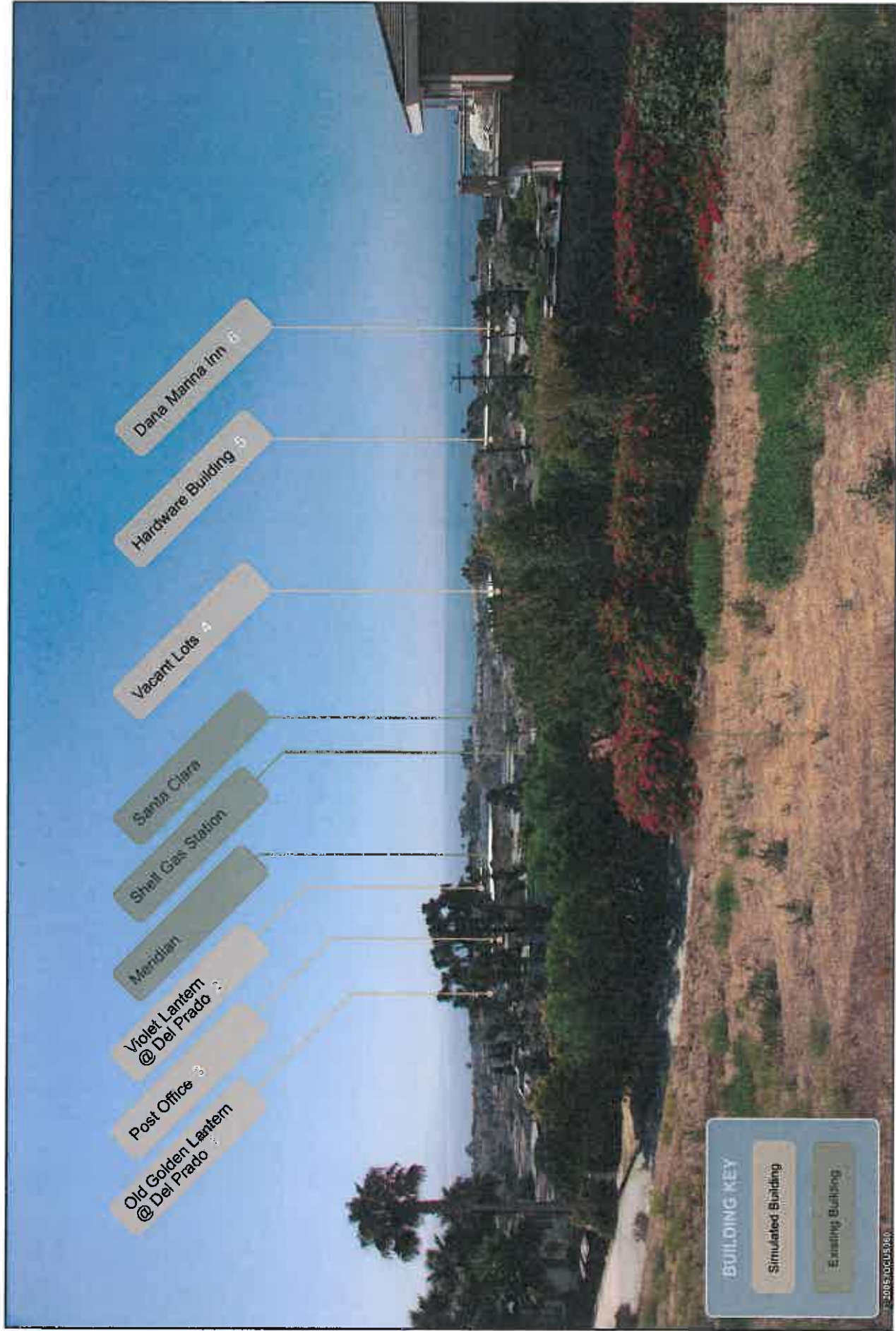
View Analysis Valencia @ 35 feet



View Analysis

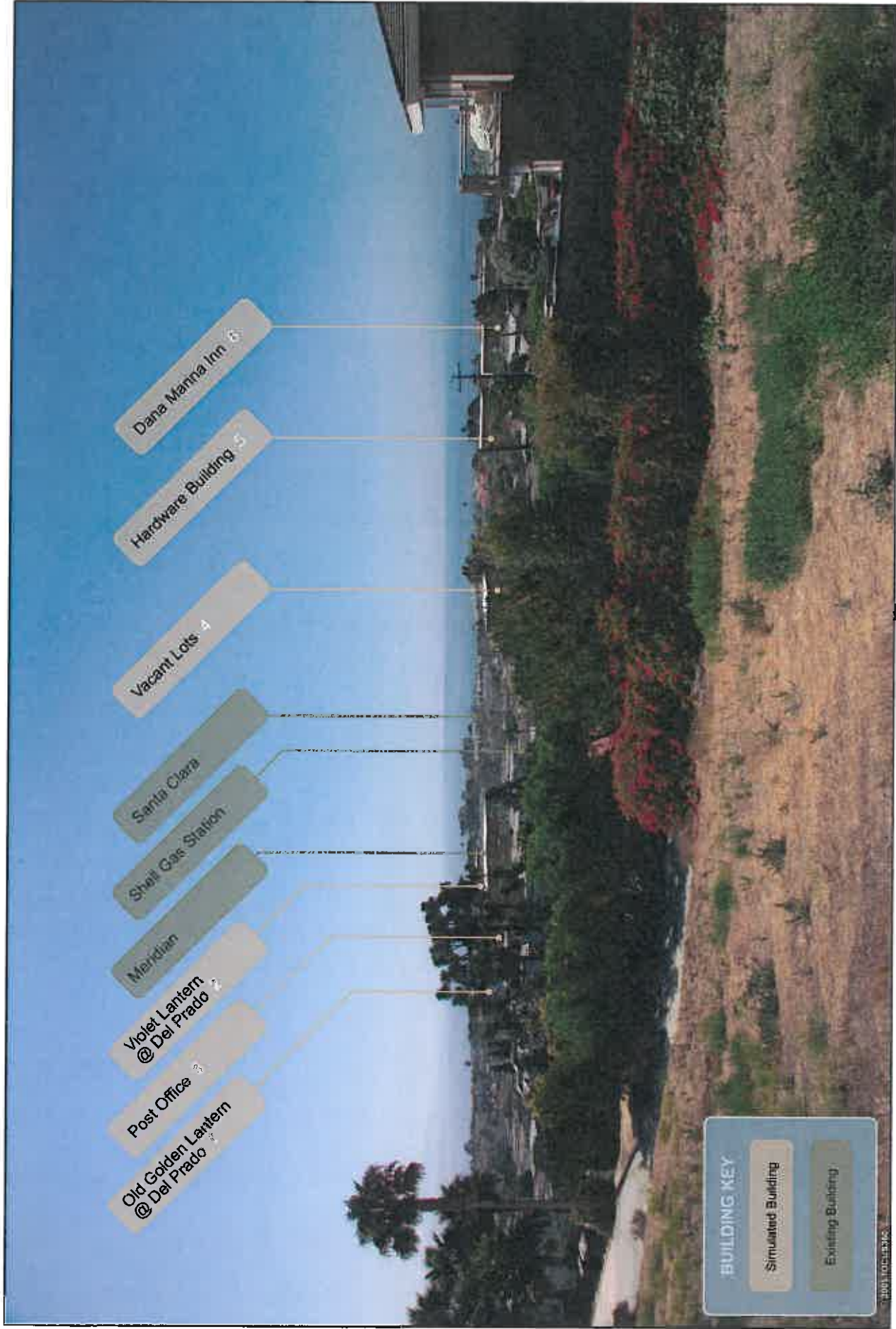
Valencia @ 40 feet





View Analysis

Valencia @ 50 feet



View Analysis Valencia @ 60 feet



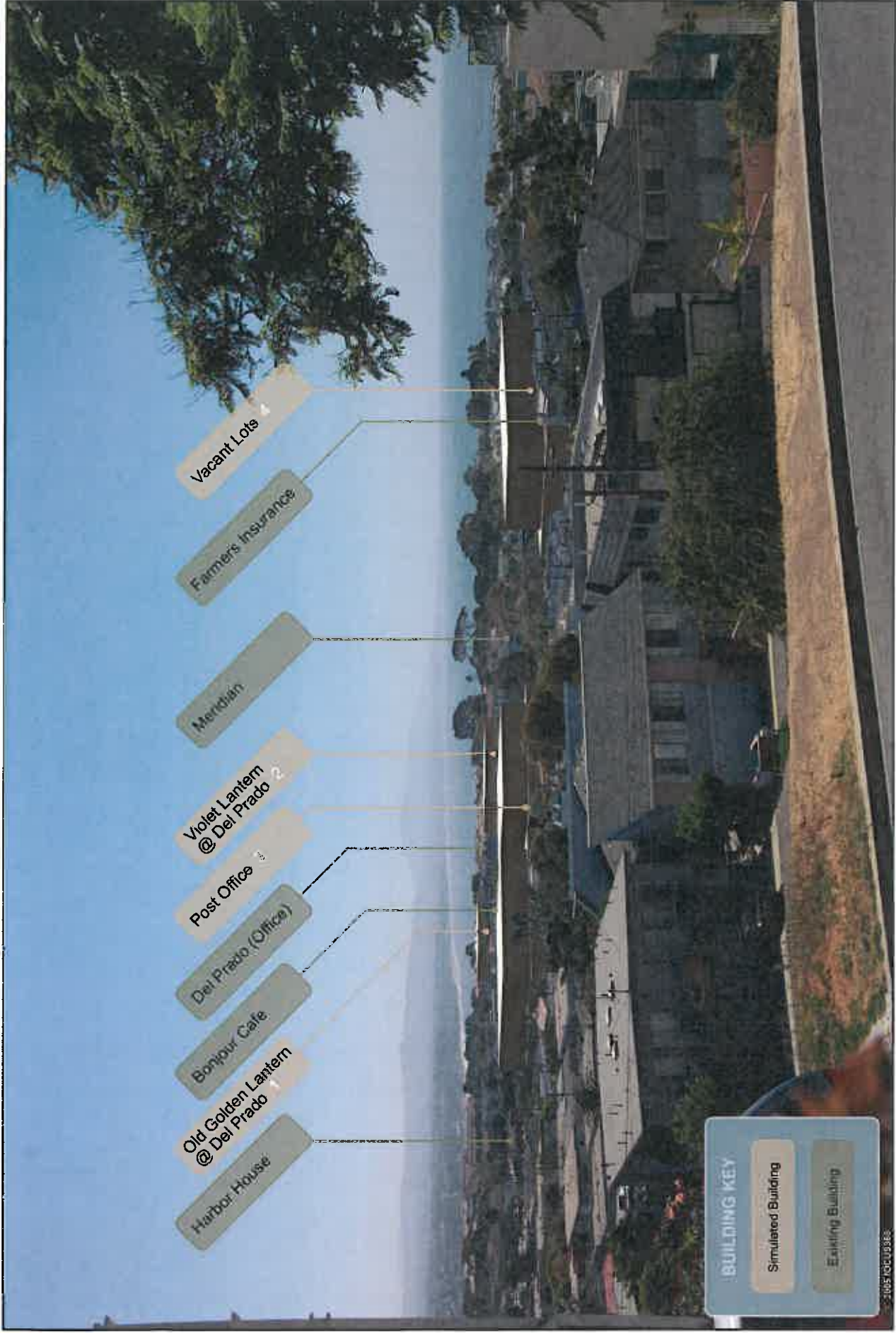
View Analysis Blue Lantern @ 35 feet



View Analysis Blue Lantern @ 40 feet

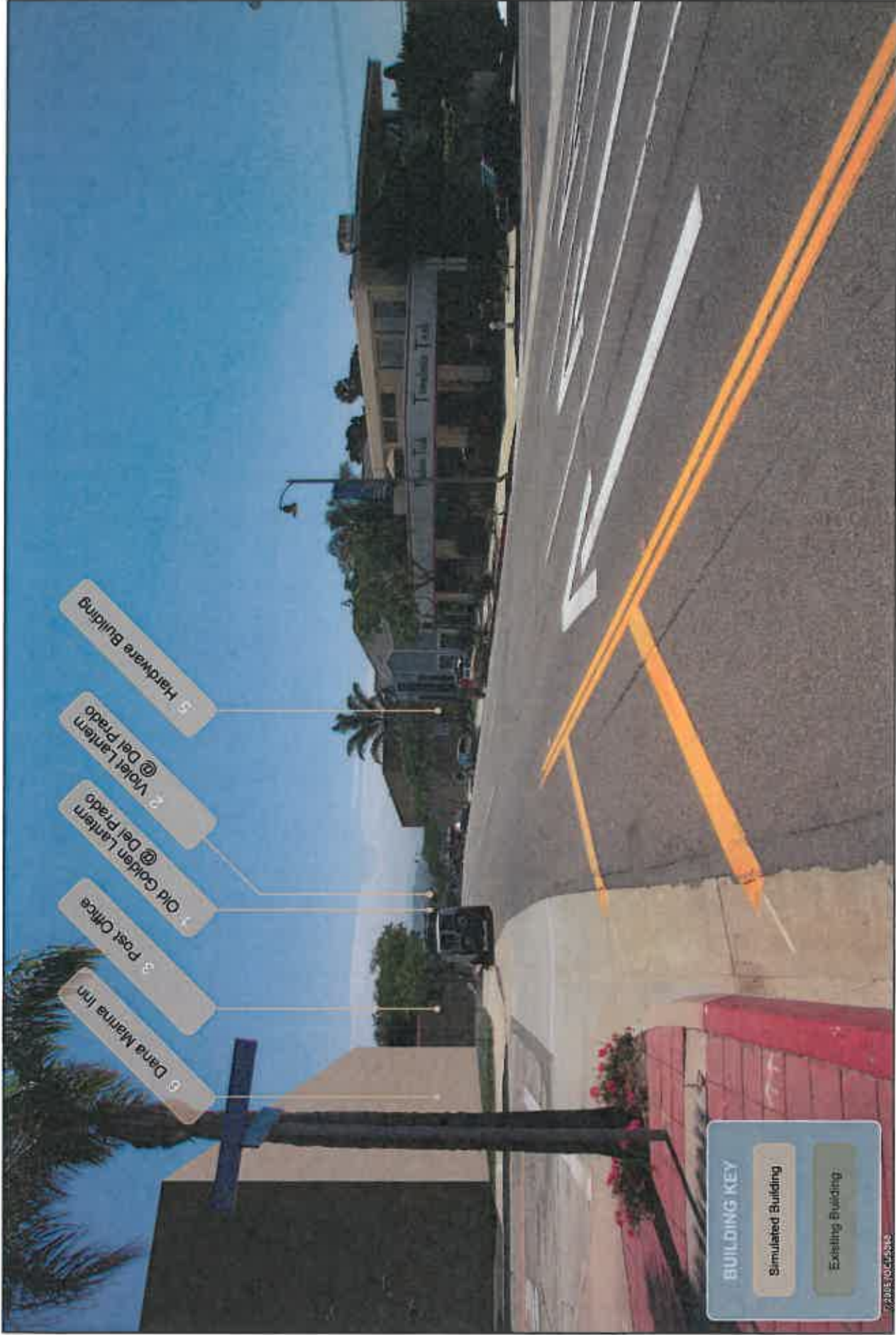


View Analysis Blue Lantern @ 50 feet

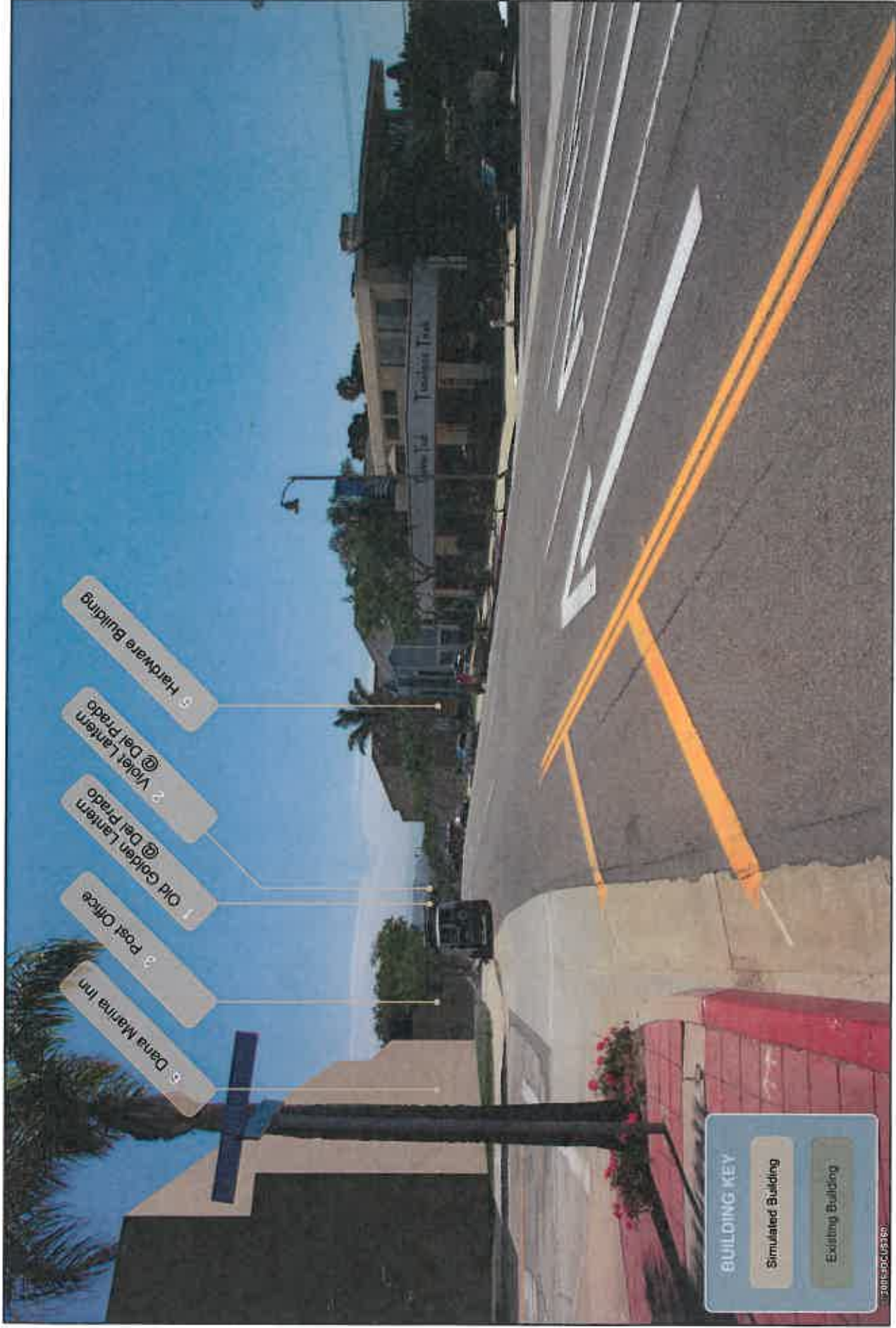


View Analysis Blue Lantern @ 60 feet

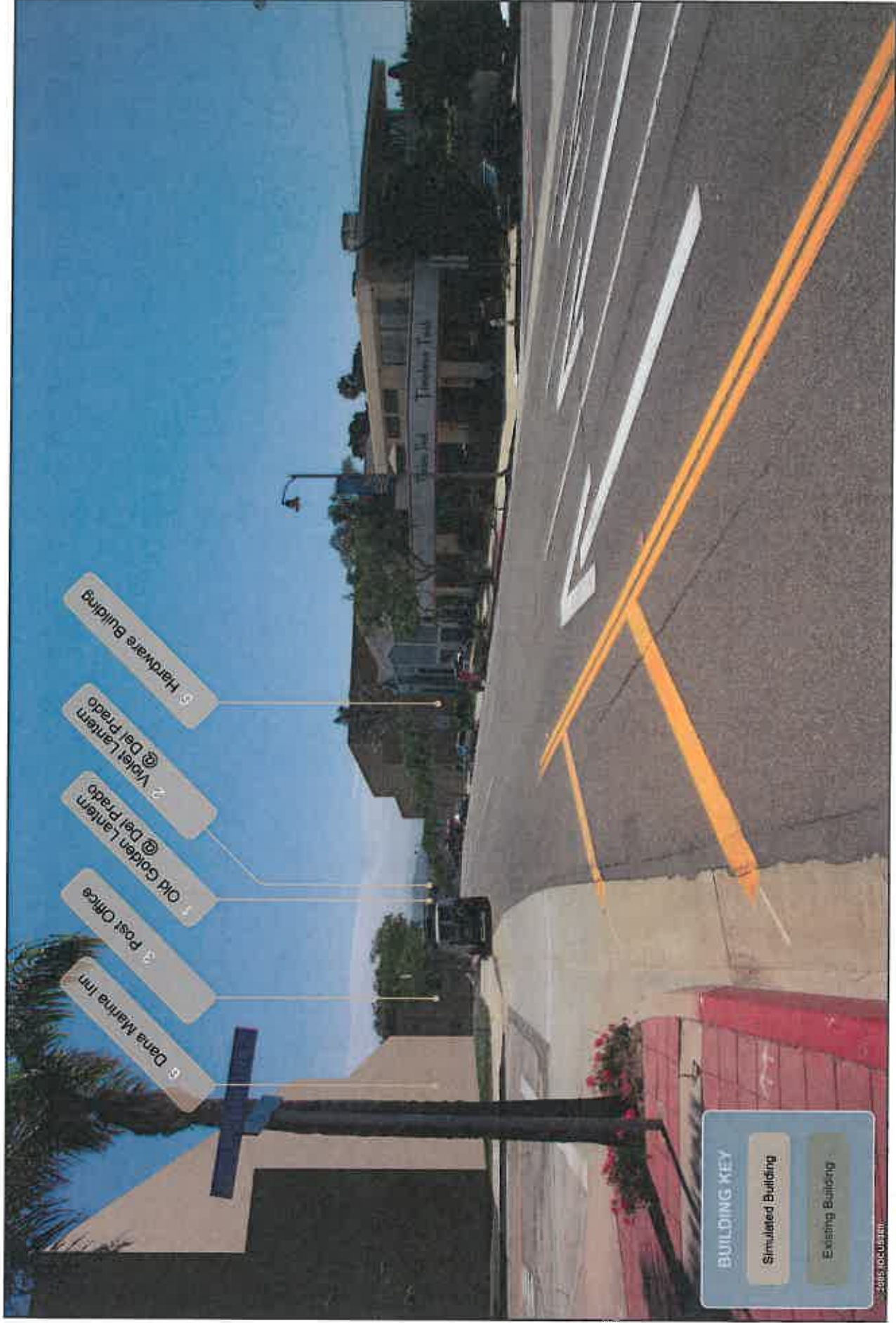




View Analysis Del Prado @ 35 feet

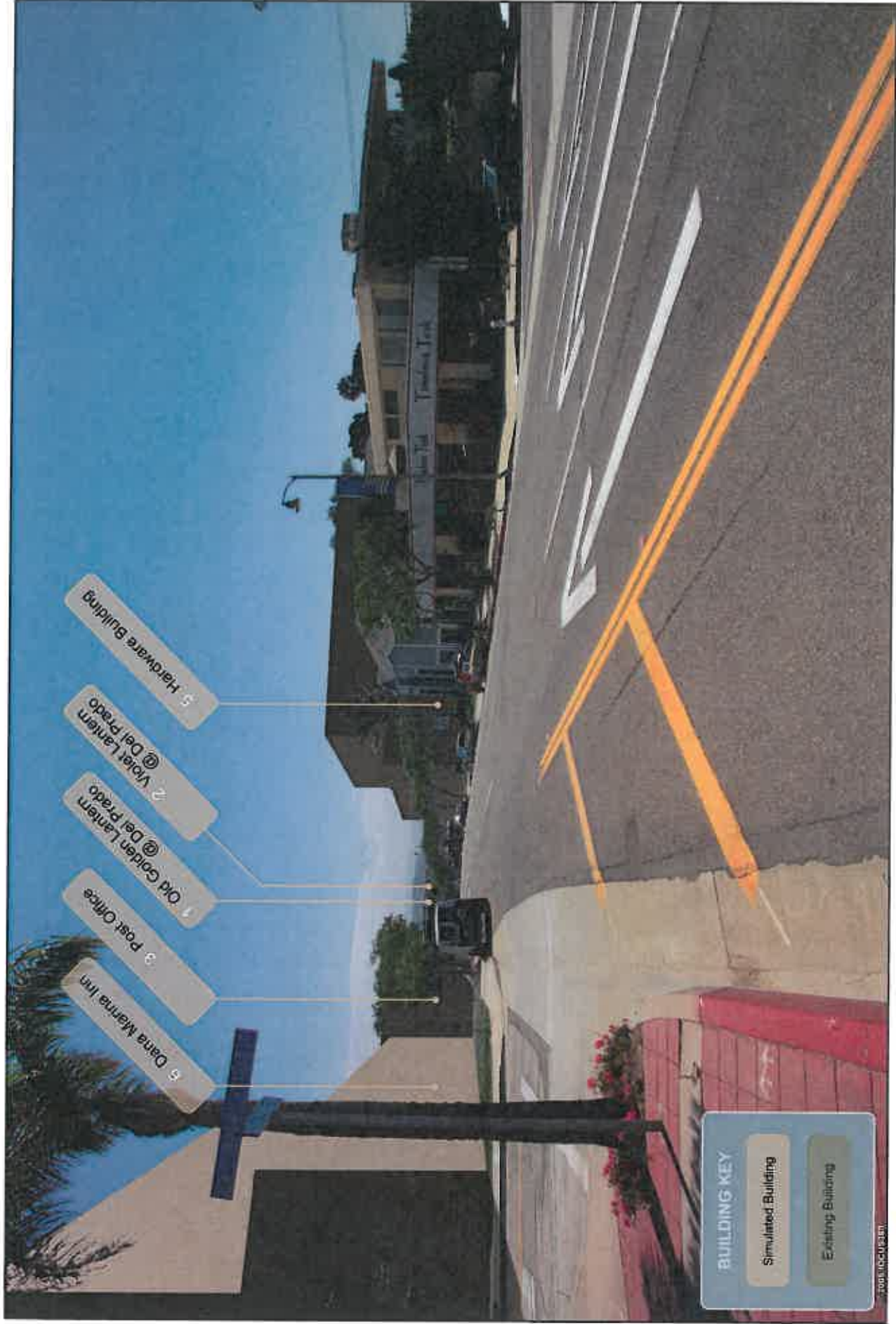


View Analysis Del Prado @ 40 feet



View Analysis Del Prado @ 50 feet





View Analysis Del Prado @ 60 feet





MEMORANDUM

To: Ms. Ursula Luna-Reynosa
Cc: Ms. Saima Qureshi
From: Patrick Siegman & Daniele Petrone
Date: February 24, 2014
Subject: Future Development Absorption Potential of the Existing Parking Supply in the Town Center Lantern District

Purpose of this Memo

This memorandum provides an estimate of the amount of additional development in the Town Center Lantern District that could be supported by making use of the District's existing parking surplus. It includes an overview of our methodology and the results of the analysis.

Methodology

The Initial Study/Mitigated Negative Declaration report prepared for the Dana Point Town Center Plan¹ projects the amount of additional development which could occur if the full amount of development allowed under the Town Center Plan's zoning regulations were to occur (i.e., if the plan were to be fully "built out"). Projected development includes retail, restaurant, office, and residential land uses. As shown in Figure 1, approximately 273,000 additional square feet of non-residential development is projected to occur within the plan area under full buildout of the plan.²

(In addition, residential uses are projected to increase by up to 237 units. For simplicity's sake, this analysis focuses on the amount of non-residential space that could be accommodated by the District's existing parking surplus.)

¹ City of Dana Point, *Dana Point Town Center Plan Initial Study/Mitigated Negative Declaration*, September 1, 2006.

² It should be noted that this additional development is slated to occur between 2005 and 2020. As very little new development has occurred in the Town Center Lantern District since 2005, for the purposes of this analysis, the 2014 baseline scenario is assumed to be the same as the 2005 baseline included in the Mitigated Negative Declaration.

Figure 1 Projected Additional Development in Town Center Lantern District (2020)

Land Use Type	Additional Square Feet by 2020
Office	81,224
Retail/Restaurant	192,165
Total Non-Residential	273,389

Source: Dana Point Town Center Planned Negative Declaration

Figure 2 presents the results of the analysis. Rows A through E provide an estimate of the existing excess parking supply in the Town Center Lantern District. As shown in rows A through E, 2,931 spaces exist in the plan area. Incorporating a 10% desired vacancy rate to ensure ease of finding parking, the effective parking supply of the district is 2,638 spaces. At the peak hour, only 1,637 spaces are occupied, leaving a surplus of 1,001 spaces in the Town Center Lantern District.

Rows F and G provide high- and low-end estimates of the amount of development which could be absorbed by this parking surplus. Assuming a parking demand rate of two parking spaces required per 1,000 square feet of non-residential development (a rate which is typical for successful mixed-use town centers where parking is managed as a “park once” district), this surplus could serve approximately 500,000 square feet of additional non-residential development. This estimate, shown in row F, assumes that 100% of the existing parking surplus could be used to support new development, and therefore provides a high-end estimate of the potential of the existing parking surplus. To provide a low-end estimate, an alternate calculation, shown in row G, assumes that just half of these surplus spaces will be available to support new development, and that therefore approximately 250,000 square feet of additional nonresidential development could be accommodated.

Figure 2 Existing Excess Parking Supply and Development Potential

		Amount (Spaces or s.f.)	Calculation
A	Total Existing Supply	2,931	
B	Desired Vacancy Rate	10%	
C	Effective Parking Supply	2,638	$A * (1 - B)$
D	Spaces occupied at Peak Hour	1,637	
E	Surplus Parking	1,001	$C - D$
F	High end estimate of non-res development potential	500,450	$E / 2 * 1000$
G	Low end estimate of non-res development potential	250,225	$(0.5 * E) / 2 * 1000$

Source: 2005 Town Center Parking Study, Nelson\Nygaard Consulting Associates

Results

Figure 3 summarizes the results of the analysis. According to our high-end estimate, current parking supplies could accommodate all non-residential development projected under full buildout of the Town Center Plan, with enough surplus parking left over (454 surplus spaces) to accommodate an additional 227,000 square feet of nonresidential development. Under a low-end estimate, an additional 46 spaces would need to be constructed to absorb all projected non-residential development.

Future Development Absorption Potential of Existing Parking Supply in the Lantern District
City of Dana Point

Figure 3 Results of Development Absorption Analysis

2020 Surplus/Needed Parking	Amount	Unit of Measure
High End Estimate		
Additional square footage which could be accommodated by the existing parking surplus (after all projected non-residential development is accommodated)	227,061	square feet
Parking Still Available	454	spaces
Low End Estimate		
Additional square footage which could be accommodated by the existing parking surplus (after all projected non-residential development is accommodated)	(23,164)	square feet
Additional Parking Needed	(46)	spaces

RESOLUTION NO. 14-02-18-04

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, PROVIDING DIRECTION REGARDING PARKING IN-LIEU FEE POLICY

The City Council for the City of Dana Point does hereby resolve as follows:

WHEREAS, the City of Dana Point (the "City") is in the process of initiating a Local Coastal Plan Amendment ("LCPA") for the Town Center Plan to create a mixed-use parking standard; and

WHEREAS, the LCPA will require approval by the California Coastal Commission ("CCC"); and

WHEREAS, Section 9.35.110 of the Dana Point Municipal Code ("DPMC") provides Alternatives to Parking and Loading Standards; and

WHEREAS, Section 9.35.110(a)(4) of the DPMC states "A Variance shall be required for any modification to the number of parking stalls. Per Government Code Section 65906.5, Variances for reduced parking may be granted in order that some or all parking spaces be located off-site, or that in-lieu fees or facilities be provided."; and

WHEREAS, Government Code Section 65906.5 states "Notwithstanding Section 65906, a variance may be granted from the parking requirements of a zoning ordinance in order that some or all of the required parking spaces be located offsite, including locations in other local jurisdictions, or that in-lieu fees or facilities be provided instead of the required parking spaces, if both the following conditions are met:

- (a) The variance will be an incentive to, and a benefit for, the nonresidential development.
- (b) The variance will facilitate access to the nonresidential development by patrons of public transit facilities, particularly guideway facilities."; and

WHEREAS, it is clear that the legislative intent of Government Code Section 65906.5 is to benefit commercial development and to allow for parking variances to be granted without requiring the findings required for other types of variances as set forth in Government Code Section 65906; and

WHEREAS, Sections 9.35.110(b)(3) and 9.35.060(c)(3) of the DPMC can be read so as to be in conflict with Section 9.35.110(a)(4) of the DPMC; and

WHEREAS, the City Council desires to clarify its policy related to, in particular, parking in-lieu fees is consistent with Government Code Section 35906.5.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Dana Point as follows:

- A) The above recitations are true and correct and incorporated herein.
- B) The City Council authorizes and directs the City Manager or his designee to negotiate parking in-lieu fees on a case-by-case basis as authorized by the Municipal Code.
- C) The City Council authorizes and directs that any parking in-lieu fee negotiated pursuant to the direction provided herein shall not exceed \$15,000 per parking space.
- D) The City Council having recognized the existence of an ambiguity in the Municipal Code confirms its concurrence with staff's interpretation that parking variances are to be granted pursuant to the provisions of Government Code Section 65906.5.
- E) The City Council hereby expresses and memorializes its desire the City Council will in the future review in-lieu fees paid as a result of the direction given herein, with the intent that should the City Council deem it appropriate, it will authorize the refund any parking in-lieu fees collected during the period of the approval of this resolution and the date that the CCC approves an LCPA, should the fees paid be deemed unfairly high based upon the provisions of any LCPA approved by the CCC.

PASSED, APPROVED, AND ADOPTED this 18th day of February, 2014.



LISA A. BARTLETT, MAYOR

ATTEST:



BOBBI A. OGAN, DEPUTY CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

I, Bobbi A. Ogan, Deputy City Clerk of the City of Dana Point, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 14-02-18-04 adopted by the City Council of the City of Dana Point, California, at a regular meeting thereof held on the 18th day of February, 2014, by the following vote:

AYES: Council Members Brough, Olvera, Schoeffel, Mayor Pro Tem
Weinberg, and Mayor Bartlett

NOES: None

ABSENT: None

Bobbi A. Ogan
BOBBI A. OGAN, DEPUTY CITY CLERK

PUBLIC NOTICE
CITY OF DANA POINT
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT a public hearing will be held by the Planning Commission of the City of Dana Point to consider the following:

Continued Public Hearing for Tentative Tract Map TTM 17751, Coastal Development Permit CDP14-0008, Site Development Permit SDP14-0006, Conditional Use Permit CUP14-0005 and Variance V14-0004 for the properties located at 34135 PCH, 24471 Del Prado, 34129 PCH (Phase 1); 34137 PCH, 24501 Del Prado (Phase 2); and 34155 PCH, 24591 Del Prado (Phase 3): This is for a Continued Public Hearing for a request to develop seven non-contiguous lots (Phases 1, 2 and 3) with a mixed use project featuring 30,100 square feet of ground floor retail spaces, 110 residential condominiums, and 297 two-level subterranean parking spaces.

The project is requesting approval of the following applications: 1) Tentative Tract Map to allow the sale of dwelling units as condominiums 2) Site Development Permit to allow for 11 tandem parking spaces for residences 3) Conditional Use Permit to allow roof decks for all the three phases of the project, to allow guard rails for the roof decks to extend above the height limit for a max of 42" and to allow shared parking arrangement between retail and residential guest spaces and 4) Variance to allow for four story structures for all the three phases. The Project is also requesting a Parking Variance to pay in-lieu fees for a total of 23 parking spaces.

Project Numbers: Tentative Tract Map TTM 17751, Coastal Development Permit CDP14-0008, Site Development Permit SDP14-0006, Conditional Use Permit CUP14-0005 and Variance V14-0004
Project Location: 34135 PCH, 24471 Del Prado, 34129 PCH (Phase 1); 34137 PCH, 24501 Del Prado (Phase 2); and 34155 PCH, 24591 Del Prado (Phase 3)
Applicant/Owner(s): Peggy Tabas/ Majestic Housing & Development LLC
Environmental: Pursuant to the California Environmental Quality Act (CEQA), the project is found to be Categorically Exempt per Section 15332 (Class 32 – In-fill Development Projects)
Hearing Date: September 22, 2014 (Continued from July 14, August 11 and September 8, 2014)
Hearing Time: 6:00 p.m. (or as soon thereafter as possible)
Hearing Location: 34052 Del Obispo, Dana Point, CA 92629 (Dana Point Community Center Gym)

All persons either favoring or opposing this proposal are invited to present their views on the above referenced project to the Commission at this hearing.

Note: This project may be appealed to the City Council. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Dana Point prior to the public hearing. For further information, please contact Saima Qureshy, Senior Planner (949-248-3568) at the City of Dana Point, Community Development Department, 33282 Golden Lantern, Suite 209, Dana Point, CA 92629.

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss AFFIDAVIT OF POSTING
CITY OF DANA POINT)

I, Ursula Luna-Reynosa, Director of the Community Development Department, certify that on September 12, 2014, I caused the above notice to be posted at the City Hall, the Dana Point Post Office, the Capistrano

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DU **ATTACHMENT #7**
be,

No I vote against this huge
mistaken project. THE VARIANCE
Ursula Luna-Reynosa, Director
Community Development Department

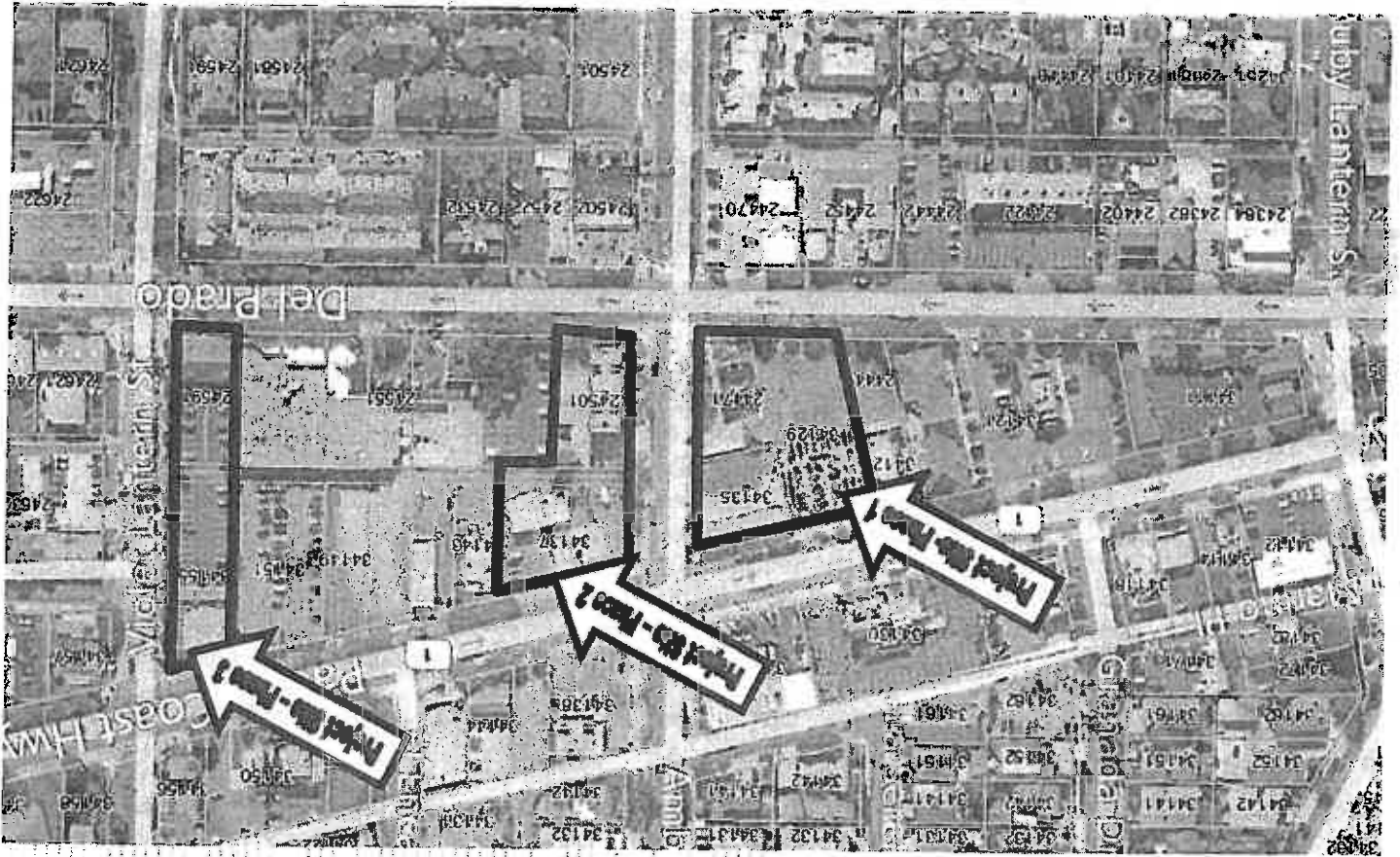
lots & old buildings are all superior to this mis-mash. Also who
Running the project on new streets & curbs & trees on PCH &
Del Prado. What a mess — let's stop now after wasting
over 20 million \$ — Obama could probably do a better



Project: Tentative Tract Map TTM 17751, Coastal Development Permit CDP14-0008, Site Development Permit SDP14-0006, CUP14-0005, V14-0004

Applicant: Peggy Tabas/Majestic Housing & Development LLC

Location: 34135 PCH, 24471 Del Prado, 34129 PCH (Phase 1); 34137 PCH, 24501 Del Prado (Phase 2); and 34155 PCH, 24591 Del Prado (Phase 3)



job. Also what does the city make for each lot

IMPORTANT PUBLIC HEARING NOTICE
This May Affect Your Property

*\$200,000 only
Income?*

Not taken on other!

City of Dana Point
Continued Public Hearing Notice for TTM 17751,
CDP14-0008, SDP14-0006, CUP14-0005, V14-0004
Community Development Department
33282 Golden Lantern
Dana Point, CA 92629-1805

