

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

ITEM #3

DATE: JUNE 8, 2015

TO: DANA POINT PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT DEPARTMENT
URSULA LUNA-REYNOSA, DIRECTOR
EVAN LANGAN, AICP, ASSOCIATE PLANNER

SUBJECT: APPEAL OF THE COMMUNITY DEVELOPMENT DIRECTOR'S DECISION TO APPROVE MINOR CONDITIONAL USE PERMIT CUP15-0006(M), ALLOWING THE ESTABLISHMENT OF A NEW ALCOHOLIC BEVERAGE OUTLET (NEW BUSINESS BEVERAGES & MORE, INC. - BEVMO!) WITHIN A NEW COMMERCIAL BUILDING APPROVED BY THE CITY BUT NOT YET CONSTRUCTED, ON LAND LOCATED WITHIN THE CITY'S TOWN CENTER AT 34215 PACIFIC COAST HIGHWAY

RECOMMENDATION: That the Planning Commission deny the appeal and uphold the Director's decision to approve Minor Conditional Use Permit CUP15-0006(M) by adopting the attached resolution.

APPELLANTS: Mi Lee and Yoon S. Lee (Party Time Liquor)

PROPERTY OWNER: Kelly Ware Trust

LOCATION: 34215 Pacific Coast Highway
Assessor Parcel Numbers (APNs): 682-301-15 and 682-301-16

NOTICE: Notice of the Public Hearing was mailed to property owners within a 300-foot radius on May 27, 2015, published within a newspaper of general circulation on May 28, 2015 and posted on May 29, 2015 at Dana Point City Hall, the Dana Point and Capistrano Beach Branch Post Offices, as well as the Dana Point Library.

ENVIRONMENTAL: Pursuant to the California Environmental Quality Act (CEQA), the project is found to be Categorical Exempt per Section 15332 (Class 32 – Infill Development Projects).

ISSUES:

- Project consistency with the standards and intent of the Dana Point General Plan, Zoning Code (DPZC) and Town Center Plan.
- Project satisfaction of all required findings for approval of a Conditional Use Permit (CUP) to allow establishment of an alcoholic beverage outlet.

BACKGROUND: In May of 2014, applications for Coastal Development Permit CDP14-0014, Site Development Permit SDP14-0017, Variance V14-0002 and Conditional Use Permit CUP14-0004(M) were submitted to allow development of a new, single-story, approximately 4,900 square foot commercial building on the site of a former boat storage facility. At the time of approval of CDP14-0014, SDP14-0017, and V14-0002, a tenant for the building had not been identified. All timelines to appeal those entitlements have expired. The application was reviewed and approved by the Planning Commission on December 8, 2014, and while building permits for the project have yet to be issued, the property owner has indicated that construction plans are forthcoming.

On April 8, 2015, Beverages and More, Inc. – BevMo! (the “Applicant”) submitted an application for a Conditional Use Permit, CUP15-0006(M). On May 4, 2015 the Director of Community Development (the “Director”) approved of CUP15-0006(M) allowing the establishment of a new “Alcoholic Beverage Outlet” within the previously approved building.

On May 19, 2015, an appeal of the Director’s approval of CUP15-0006(M) was filed by attorneys John S. Cha, Esq. and Brandon Mead, Esq. on behalf of Mi and Yoon S. Lee, operators of business “Party Time Liquor” (34210 Pacific Coast Highway). The appeal was filed within the requisite time period pursuant to Section 9.61.110(b) of the Dana Point Municipal Code and is attached as Supporting Document 2.

DISCUSSION: The subject property is located at the intersection of Pacific Coast Highway (to the north) and Del Prado (street) to the south and more broadly, within the City’s Town Center/Lantern District. Adopted zoning for the property is “Town Center Mixed Use” (TC-MU).

Pursuant to both the adopted Town Center Plan and Dana Point Zoning Code, establishment of an “alcoholic beverage outlet” shall require approval of a Conditional Use Permit (CUP). Project applicant Beverages and More, Inc. (BevMo!) proposes to sell and serve alcohol within a commercial building previously approved by the City but not yet constructed. The proposed use will occupy the whole of the structure, with alcohol sold for purchase for offsite consumption in addition to limited on-site tastings. Prior to issuance of a certificate of occupancy for the new business, evidence of approval and issuance of appropriate licensing from the Department of Alcoholic

Beverage Control (ABC) would be required.

APPEAL: The appellant alleges that allowing a new business to sell and serve alcohol in close proximity to their own business (Party Time Liquor) is inconsistent with the City of Dana Point General Plan and Municipal Code, that approval of Conditional Use Permit CUP15-0006(M) violates various provisions of the Municipal Code and that increasing the number of establishments that sell or serve alcohol is contrary to the overall planned development for Dana Point. A full listing of appellant statements (in *italics*) is transcribed below, with staff responses following.

Appellant Statement One:

Allowing a new establishment to sell and serve alcohol so close in proximity to Appellant's existing business is inconsistent with the City of Dana Point General Plan and the DPMC.

Staff Response: Alcoholic Beverage Outlets are conditionally permitted uses in the Town Center pursuant to the Town Center Plan (Appendix E of the Dana Point Zoning Code) which has been found to be consistent with the City's General Plan. Neither the Town Center Plan, the Dana Point Zoning Code nor the General Plan institute a limit to the number of alcoholic beverage outlets that may be established nor is a minimum distance between such businesses required. The subject use was reviewed against the standards and guidelines of the Town Center Plan and Dana Point Zoning Code by the Planning and Building/Safety Divisions, the Public Works/Engineering Department, City Code Enforcement as well as the Orange County Sheriff's Department (OCSA) and found to comply with all applicable standards.

Appellant Statement Two:

The (Director of Community Development) DCD's approval violates various provisions of the DPMC.

Staff Response: The Appellant doesn't cite which provisions of the Dana Point Municipal Code have been violated with the Director's approval of CUP15-0006(M). Alcoholic Beverage Outlets are conditionally permitted uses within the Town Center. Pursuant to the Special Use Standards section of the Dana Point Zoning Code (Section 9.07.040(b)(1)(c)), a Minor Conditional Use Permit shall be required prior to establishing an "Alcoholic Beverage Outlet" within 100 feet of a property zoned for residential purposes. Pursuant to Minor Conditional Use Permits section of the Dana Point Zoning Code (Section 9.65.040(c)), decisions on Minor Conditional Use Permit applications shall be made administratively by the Director of Community Development. The subject application has been reviewed by the City's Planning, Building/Safety and Code Enforcement Divisions, as well as the Orange County Sheriff's Department and found to comply with both the standards and intent of applicable development regulations.

Supportive findings for the project's required CUP can be made. The proposed use is consistent with the City's General Plan, Municipal Code and Town Center Plan.

Appellant Statement Three:

Allowing an "alcoholic beverage outlet" on Pacific Coast Highway will promote traffic congestion and negatively affect the overall atmosphere of the Dana Point attractions.

1. **Staff Response:** Pursuant to CEQA guidelines, all anticipated development within the Town Center was analyzed for potential environmental impacts via Mitigated Negative Declaration (MND) for the broader Town Center Plan, as well as by an Environmental Impact Report (EIR) for the related Streetscape Improvement Project. The documents anticipated and analyzed 237 additional residential units, 81,224 square feet of office space and 192,165 square feet of retail/restaurant uses within the Town Center Plan Area at time of ultimate build-out. The proposed use (retail sale of alcohol) and the building it would occupy are among the types of development that were anticipated in that maximum development scenario.
 - a. Traffic studies were prepared with the adoption of the aforementioned MND and EIR and concluded that no traffic related impacts will occur with the build-out of Town Center, provided mitigation measures were incorporated and implemented with construction. The EIR identified specific mitigation measures that are part of the Adopted Mitigation, Monitoring and Reporting Program. Certain mitigation measures have been implemented as part of the construction of the Phase I Town Center Streetscape Improvement Project. Additional mitigation measures will be implemented as part of the Phase II Town Center Streetscape Improvement Project which is currently under construction and scheduled to be completed in Fall of 2015, prior to the completion and occupancy of the building by the Applicant. As the size and scope of the project is well below the build-out threshold, the project will not result in significant impacts.
 - b. Finally, the appellant alleges that approval of a new alcoholic beverage outlet would "negatively affect the overall atmosphere of the Dana Point attractions." The proposed alcoholic beverage outlet would be housed and operate within a new building, reviewed and found to comply with both the design standards and intent of the Town Center Plan. The subject property is presently vacant, containing empty buildings in various states of disrepair. Redevelopment of the site with new and modern structures, additional landscaping and parking would constitute improvement of the site in accordance with the standards and intent of adopted regulations and would not result in adverse impacts to the built environment of Town Center or the broader community.

Appellant Statement Four:

Because the premises for which the CUP was approved is a "future building," the proposed site's suitability vis-à-vis yards, walls, fences, parking and loading facilities, landscaping and other land use development features cannot be adequately pre-analyzed and pre-determined.

Staff Response: The development to which the Appellant refers has already been reviewed, evaluated and approved by the Planning Commission via Coastal Development Permit CDP14-0014, SDP14-0017 and V14-0002 and is not within the scope of the current CUP request. Further, CDP14-0014, SDP14-0017 and V14-0002 were analyzed pursuant to all applicable codes and regulations, including but not limited to; setbacks, building height, parking and all other applicable development standards. The timeline to appeal these entitlements has expired.

Appellant Statement Five:

The proposed use is injurious to Appellant's business and its sustainability because of the "outlet" feature of BevMo!

Staff Response: Potential competition between two similar businesses or the potential economic impact of a new use upon an existing one, are not the purview of the Planning Division or the subject Conditional Use Permit. The Dana Point Municipal Code does not identify economic impacts as an impact nor are there any standards to measure economic impacts. The proposed alcoholic beverage outlet is a conditionally permitted use that has been found to comply with all standards of development as stipulated in the Town Center Plan and Dana Point Zoning Code.

Appellant Statement Six:

The appeals by citizens of Dana Point regarding the traffic, parking, vagrancy, and aesthetic effects were not properly analyzed pursuant to DPMC Section 9.07.040.

Staff Response: On finding the subject Conditional Use Permit application complete, the required hearing for the project was duly noticed to the public in accordance with Section 9.61.050 of the Dana Point Zoning Code. Correspondence received on or before the project's administrative hearing date of May 4, 2015 was considered by the Director of Community Development and included in the record prior to rendering a decision on the matter. Issues relative to traffic were addressed in response to Appellant Statement Three. Onsite parking in excess of what is required by the Dana Point Municipal Code was approved as part of the entitlements and will be constructed prior to occupancy of the building by the Applicant. An active use in a newly

constructed building will improve the aesthetics by providing an attractive building complementary to existing buildings in design and scale in the Town Center area.

Appellant Statement Seven:

The injurious nature of another “alcoholic beverage outlet” on surrounding businesses when there are already three in the vicinity was not properly taken into consideration.

Staff Response: As stated, potential competition between similar businesses or the potential economic impact of a new use upon those surrounding it, are not the purview of the Dana Point Zoning Code or by extension, the subject Conditional Use Permit. The proposed alcoholic beverage outlet is a conditionally permitted use that has been found to comply with all standards of development as stipulated in the Town Center Plan and Dana Point Zoning Code. In order to deny a conditionally allowed use, findings to support a denial are required to be made. In this case, the findings to justify a denial can't be made.

Appellant Statement Eight:

The eight findings required for approval of a variance pursuant to Section 9.67.050 were not met, thus expanding the traffic congestion.

Staff Response: No variances are requested with this application.

Appellant Statement Nine:

The requirement of Section 9.65.060 (a)(2) of the DPZC has not been satisfied; the nature, condition, and development of adjacent uses, buildings, and structures have not been adequately considered in that the proposed site is a “future building” and the elements needed to assess the impacts have not been revealed.

Staff Response: There is no Subsection “2” within umbrella Section 9.65.060 (a) of the Dana Point Zoning Code. However, if the Appellant intended to state “Section 9.65.060 (b)(2),” the nature, condition, and development of adjacent uses, buildings, and structures were considered in the course of project review and it is the determination of the Director of Community Development that the proposed conditional use (a new alcoholic beverage outlet) will not adversely affect or be materially detrimental to adjacent uses, buildings, or structures.

An alcoholic beverage outlet is a conditionally permitted use pursuant to the Town Center Plan. The proposed use would operate within a modern building designed in compliance with the Town Center Plan and Dana Point Zoning Code and be constructed to current Building Code standards. Conditions of approval listed in the approved permit will serve to ensure that physical development of the site and the

subsequent operation of the proposed use do not result in material detriment to surrounding persons or properties. Finally, as the subject property presently contains a vacant development in a state of increasing disrepair, the redevelopment of the property and subsequent operation of the proposed use would constitute fulfillment of the General Plan, Zoning Code and Town Center intent for the site and an overall improvement of the current condition.

Appellant Statement Ten:

Expanding establishments that sell and serve alcohol is contrary to the overall planned development for Dana Point.

Staff Response: Alcoholic beverage outlets are conditionally permitted uses in the Town Center. That document permits a diverse array of uses and development scales providing for the needs of a broad section of the community. The number of alcoholic beverage outlets that may be established is not limited in the Town Center Plan nor the Dana Point Zoning Code. The proposed use would operate within a modern building on an improved site and would further the vision of the Town Center Plan by providing expanded retail choices to both residents and visitors alike within attractive and pedestrian-scaled development.

Appellant Statement Eleven:

Appellants further contend that the Conditions of Approval are inadequate.

Staff Response: The Appellant has not stated which conditions of approval they feel are inadequate nor have additional conditions been proposed by the Appellant. Staff disagrees with this ambiguous statement as much thought and care went into crafting the Conditions of Approval to ensure all impacts are reasonably mitigated.

Appellant Statement Twelve:

Finally, Appellants contend that the categorical exemption from CEQA is improper in that approval of the project would result in significant effects related to traffic, noise, and air quality.

Staff Response:

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, are consistent with all applicable General Plan designations and policies and all Zoning designations and regulations, 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 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. Although the project did require a variance from certain standard zoning regulations, the project is consistent with all applicable zoning regulations because the grant of variances pursuant to state law and local code makes the standard zoning regulations inapplicable to the project. The proposed project meets the necessary conditions to qualify for this exemption.

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 and will likely improve 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 Town Center 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.

Even were this project not Categorically Exempt under Section 15332, a Mitigated Negative Declaration (MND) was prepared for the Town Center Plan, and the BevMo! is within the scope of that MND. There are no substantial changes in the project that was evaluated in the MND or in the circumstances under which the subject project would be undertaken that would require major revisions in the MND due to new significant impacts or an increase in the severity of previously identified impacts nor has any new information been presented that shows there would be new significant impacts, an increase in the severity of impacts identified that mitigation measures/alternatives previously found to be infeasible are now feasible, or that other mitigation measures/alternatives significantly different than those previously identified would

substantially reduce impacts. Consequently, the City cannot require additional CEQA review of this project under Public Resources Code Section 21166 and 14 Cal. Code of Regulations Section 15162.

CORRESPONDENCE: To date, staff has received twenty-two communications of correspondence concerning the subject request (Attachment 5 - Project Correspondence).

CONCLUSION: The Director of Community Development made the required findings (Supporting Document 2) in approving Minor Conditional Use Permit CUP15-0006(M) with the findings supported by evidence in the record. Other than conclusory allegations, the Appellant has not provided any substantial evidence to support the claim that approval of the CUP would result in adverse impacts to persons or property, or that the approval was granted in a manner inconsistent with standards of the Dana Point Zoning Code and Town Center Plan. Staff accordingly recommends that the Planning Commission deny the appeal and uphold the Director's approval of CUP15-0006(M), allowing the establishment of an alcoholic beverage outlet to both sell and serve alcohol at 34215 Pacific Coast Highway.



Evan Langan, AICP
Associate Planner



Ursula Luna-Reynosa, Director
Community Development Department

ATTACHMENTS:

Action Documents

1. Draft Planning Commission Resolution No. 15-06-08-xx

Supporting Documents

1. Director's approval of Minor Conditional Use Permit CUP15-0006(M)
2. Appeal Letter
3. Vicinity Map
4. Site Photos
5. Project Correspondence

RESOLUTION NO. 15-06-08-xx

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DANA POINT, CALIFORNIA, UPHOLDING THE COMMUNITY DEVELOPMENT DIRECTOR'S DECISION TO APPROVE MINOR CONDITIONAL USE PERMIT CUP15-0006(M), ALLOWING THE ESTABLISHMENT OF A NEW ALCOHOLIC BEVERAGE OUTLET (NEW BUSINESS BEVERAGES & MORE, INC. - BEVMO!) WITHIN A NEW COMMERCIAL BUILDING ON LAND LOCATED WITHIN THE CITY'S TOWN CENTER AT 34215 PACIFIC COAST HIGHWAY

Appellant: Mi Lee and Yoon S. Lee (Party Time Liquor)

Property Owner: Kelly Ware Trust

Project Location: 34215 Pacific Coast Highway

Assessor Parcel Numbers (APNs): 682-301-15 and 682-301-16

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

WHEREAS, Beverages and More, Inc. – BevMo! (the “Applicant”) filed a verified application for a Conditional Use Permit to allow the establishment of an alcoholic beverage outlet at 34215 Pacific Coast Highway (APNs 682-301-15 and 682-301-16); 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 - Infill Development Projects); and

WHEREAS, even if the project were not categorically exempt, there have been no substantial changes in the project or in project circumstances, and there has been no new information presented, that would require major revisions in the previous Mitigated Negative Declaration prepared for the Town Center Plan (Appendix E of the Dana Point Zoning Code), and thus no new environmental review can be required for this project under Public Resources Code Section 21166 and 14 Cal. Code of Regulations Section 15162; and

WHEREAS, the Community Development Director (the “Director”) did, on the 4th day of May, 2015, hold a duly noticed public hearing as prescribed by law to consider said request; and

WHEREAS, at said public hearing, upon hearing and considering all testimony, arguments and submitted correspondence, if any, of all persons desiring to be heard, the

Director approved the application after considering all factors relating to Minor Conditional Use Permit CUP15-0006(M); and

WHEREAS, an appeal was filed by Mi Lee and Yoon S. Lee (the "Appellant"), appealing the Director's decision to approve CUP15-0006(M) to the Planning Commission in accordance with DPMC Section 9.61.110; and

WHEREAS, on June 8, 2015, the Planning Commission conducted a duly noticed public hearing to consider the appeal.

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

- A) The above recitals are true and correct and incorporated herein by reference.
- B) After reviewing all documents and testimony, the Planning Commission determines that the decision of the Director is upheld, denies the appeal, and makes the following findings.

Findings

1. 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, are consistent with all applicable General Plan designations and policies and all Zoning designations and regulations, 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 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. Although the project would require variances from certain standard zoning regulations, the project is consistent with all applicable zoning regulations because the grant of variances pursuant to state law and local code makes the standard zoning regulations inapplicable to the project. The proposed project meets the necessary conditions to qualify for this exemption.

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.

Even were this project not Categorically Exempt under Section 15332, a Mitigated Negative Declaration (MND) was prepared for the Town Center Plan, and the BevMo! project is within the scope of that MND. There are no substantial changes in the project that was evaluated in the MND or in the circumstances under which the Majestic project would be undertaken that would require major revisions in the MND due to new significant impacts or an increase in the severity of previously identified impacts nor has any new information been presented that shows there would be new significant impacts, an increase in the severity of impacts identified that mitigation measures/alternatives previously found to be infeasible are now feasible, or that other mitigation measures/alternatives significantly different than those previously identified would substantially reduce impacts. Consequently, the City cannot require additional CEQA review of this project under Public Resources Code Section 21166 and 14 Cal. Code of Regulations Section 15162.

2. The proposed conditional use is consistent with the City of Dana Point General Plan and Municipal Code in that with approval of a Conditional Use Permit, Alcoholic Beverage Outlets are permitted uses within the Town Center pursuant to the Town Center Plan (Appendix E of the Dana Point Zoning Code) which has been found to be consistent with the City's General Plan

and is a certified Local Coastal Plan. The subject application has been reviewed by the City's Planning, Building/Safety and Code Enforcement Divisions as well as the Orange County Sheriff's Department and found to comply with both the standards and intent of the City's General Plan, Municipal Code and adopted Town Center Plan.

3. The nature, condition, and development of adjacent uses, buildings, and structures have been considered, and that the proposed, conditional use will not adversely affect or be materially detrimental to the adjacent uses, buildings, or structures **in that the conditions of approval included with CUP15-0006(M) ensure that all potentially adverse impacts to adjacent uses, buildings and structures related to the serving of alcohol are reasonably mitigated.**
4. 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 the Dana Point Municipal Code and required in order to integrate the use with existing and planned uses in the vicinity **in that the proposed alcoholic beverage outlet is a conditionally permitted use that will occupy the whole of a new commercial building already reviewed and approved by the City via Coastal Development Permit ("CDP") CDP14-0014, Site Development Permit ("SDP") SDP14-0017 and Variance ("V") V14-0002. CDP14-0014, SDP14-0017 and V14-0002 were found to conform to the design and development standards of the Dana Point Town Center Plan, Appendix E of the Dana Point Zoning Code. The site (and all related development proposed thereon) is adequate to accommodate and integrate the new use.**
5. The proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of Section 9.07.040 (Alcoholic Beverage Outlets), of the Dana Point Municipal Code will be observed **in that the request to sell and serve alcohol would occur within a district containing a variety of similar restaurant and retail outlets within close proximity. Any potential performance impacts related to the proposed use (i.e. hours of operation, noise, traffic resulting from typical activities onsite, etc.) are similar to those of surrounding commercial uses, wholly typical of a pedestrian-oriented downtown and would not result in adverse impacts to adjacent uses or properties. Further, conditions of approval have been included to ensure any adverse impacts are reasonably mitigated.**
6. The proposed use will not enlarge or encourage the development of a "skid row" area **in that the project site is located within an established, well maintained commercial area and the requested activity (sale and service of alcohol) is permitted per the Town Center Plan subject to approval of a CUP. The request has been reviewed by the Community Development Department staff as well as the Orange County Sheriff's Department and found to conform to**

all applicable standards of development. A condition of approval has been included herein that this entitlement is subject to review by the City should circumstances at the site or the nature of approved activities change and amendments to the permit be deemed necessary.

7. The establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any other city program **in that Alcoholic Beverage Outlets are conditionally permitted uses in the Town Center and both proposed future development of the property as well as the sale and service of alcohol that is specifically the subject of this CUP(M), have been found to comply with the standards and intent of the Town Center Plan, Appendix E of the Dana Point Zoning Code and accordingly would not be in conflict with any City neighborhood conservation or other program.**
8. All applicable regulations of the zoning district in which the use is permitted will be observed **in that the sale and service of alcoholic beverages is conditionally permitted within the Town Center and; conditions of approval will ensure that the use is established and operates in perpetuity in conformance with the regulations and policies of the Dana Point Town Center Plan, Appendix E of the Dana Point Zoning Code.**

Conditions:

A. General:

1. Approval of this application permits establishment of new business Beverages and More, Inc. (BevMo!) within a commercial building to be constructed at 34215 Pacific Coast Highway and for the sale and service of alcohol therein. Subsequent changes to the approved scope-of-work shall be in substantial compliance with plans and the written scope-of-work/business plan presented to the Planning Division and in compliance with applicable provisions of the City of Dana Point General Plan, Municipal Code and Town Center Plan.
2. Approval of this application shall be valid for a period of 24 months (two years) from the date of determination. If the scope-of-work approved by this action is not established, or a building permit for the project has not been issued within such period of time, the approval shall expire and shall thereafter be null and void.
3. This approval only authorizes the sale and service of alcohol and not authorization for any physical improvements or construction to occur at the property. A separate submittal to the Building/Safety Division

and subsequent approval of building permits shall be required prior to commencement of any physical improvement of the property.

4. A copy of this permit in its entirety shall be included with any and all submittals made to the City for plan-check.
5. 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.
6. 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 fees, costs and expenses incurred concerning the claim, action or proceeding.
7. 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 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 fees, costs and expenses incurred concerning the claim, action, or proceeding.
8. 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.
9. 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.
10. The City shall have the right to revisit and reconsider this Conditional Use Permit (and the conditions of approval contained herein) at any time should the Community Development Director find it necessary to reevaluate impacts of the use on the surrounding community.

11. The approved use shall at all times of operation, comply with the provisions of the City's Noise Ordinance (Section 11.10 of the Dana Point Municipal Code).
12. At no time shall the business be allowed to display or store wares or materials within the property's parking lot and; at no time shall the operation of the business impede or block public use of parking of facilities.
13. The applicant shall obtain from the City, a Certificate of Occupancy prior to beginning operation onsite.
14. The applicant shall obtain required licenses from the Alcoholic Beverage Control (ABC) for the sale and service of alcohol and shall furnish proof of that licensing to the City prior to issuance of a Certificate of Occupancy.
15. Consumption of alcohol within the subject property's parking lot shall be prohibited. Appropriate and conspicuous postings shall be placed on and within the building indicating that consumption of alcohol outside the building is prohibited by law, except as may be permitted in any designated outdoor eating or drinking area, such as an on-site patio. Notices shall be at least one and one-half (1.5) square feet in size.
16. The sale of hand-held, single-serve, 40 - 42 ounce cans or bottles of malt liquor shall be prohibited.
17. Deliveries to the property shall not occur any earlier than 6:00 AM and, where any delivery is to occur between 6:00 AM and 7:00 AM, trucks or other delivery vehicles shall enter and exit the property in a forward-facing direction.
18. The applicant shall obtain Health Department approval for the new business prior to the issuance of a Certificate of Occupancy.
19. Review and approval of the project by the Orange County Fire Authority (OCFA) shall be required. The applicant shall submit three separate sets of plans directly to the OCFA for review and approval.

The applicant shall submit plans to the Building/Safety Division and be approved for a Building Permit prior to any construction on the subject property.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Planning Commission of the City of Dana Point, California, held on the 8th day of June, 2015 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

April O'Connor, Chairperson
Dana Point Planning Commission

ATTEST:

Ursula Luna-Reynosa
Director of Community Development



May 4, 2015

Liz Zaninovich (BevMo!)
1401 Willow Pass Road, Suite No.900
Concord, CA 94520

MINOR CONDITIONAL USE PERMIT CUP15-0006(M)

APPLICANT: Liz Zaninovich (Beverages and More, Inc. - BevMo!)

OWNER: Kelly Ware Trust

LOCATION: 34215 Pacific Coast Highway
Assessor Parcel Numbers (APNs): 682-301-15 and 682-301-16

REQUEST: To allow the establishment of a new Alcoholic Beverage Outlet (new business Beverages & More, Inc. - BevMo!) within a future building (approved by the City but not yet constructed) on land located within the City's Town Center.

ENVIRONMENTAL: The project is Categorically Exempt from the provisions set forth in the California Environmental Quality Act (CEQA) per Section 15332 (Class 32 – Infill Development Projects).

DETERMINATION: The Community Development Director hereby
_____☒_____**APPROVES**
_____☐_____**DENIES**
the requested entitlements described herein subject to the attached findings and applicable conditions.

Ursula Luna-Reynosa, Director
Community Development Department

PC Supporting Document 1

Harboring the Good Life

FINDINGS:

A. The proposed conditional use is consistent with the City of Dana Point General Plan and Municipal Code.

The subject application proposes to allow new business Beverages and More, Inc. (BevMo!) to sell and serve alcohol within a future commercial building comprising 4,900 square feet and constructed on land located within the City's Town Center. The site presently contains several vacant buildings that formerly housed a boat storage business - development that would be removed and replaced with the aforementioned commercial structure. That new building was reviewed and approved by the City's Planning Commission in December 2014 via Coastal Development Permit CDP14-0014.

The proposed BevMo! use would occupy the whole of the new commercial building and would constitute the establishment of a new "alcoholic beverage outlet" per definition of the Town Center Plan. Alcohol would be sold for purchase and subsequent consumption offsite, as well as for the purpose of conducting educational tastings (limited consumption onsite only). Evidence of approval and issuance of appropriate licensing from the Department of Alcoholic Beverage Control (ABC) shall be required (and a condition to that effect is included herein) prior to City issuance of a Certificate of Occupancy for the new use.

Alcoholic Beverage Outlets are conditionally permitted uses within the Town Center. Pursuant to the Special Use Standards section of the Dana Point Zoning Code, a Minor Conditional Use Permit shall be required prior to establishing an "Alcoholic Beverage Outlet" within 100 feet of a property zoned for residential purposes. The subject application has been reviewed by the City's Planning, Building/Safety and Code Enforcement Divisions, as well as the Orange County Sheriff's Department and found to comply with both the standards and intent of applicable development regulations. Supportive findings for the project's required CUP can be made. The proposed use is consistent with the City's General Plan, Municipal Code and Town Center Plan.

B. The nature, condition, and development of adjacent uses, buildings, and structures have been considered, and that the proposed, conditional use will not adversely affect or be materially detrimental to the adjacent uses, buildings, or structures:

The proposed alcoholic beverage outlet is to be established within a future commercial building, approved by the City but not yet constructed. The subject site itself is adequate in size and shape to accommodate proposed development in conformance with the standards of the Town Center Plan and Dana Point Zoning Code - including provision for the use of a compliant amount of parking, landscaping and the like. Adjacent or vicinity development includes commercial, residential or mixed-use structures at varying densities - development that the

proposed Alcoholic Beverage Outlet will both serve and complement. Subject to approval of a CUP, Alcoholic Beverage Outlets are permitted within the Town Center. Supportive findings for the CUP can be made and are enumerated herein.

- C. 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 the Dana Point Municipal Code and required in order to integrate the use with existing and planned uses in the vicinity.**

The proposed alcoholic beverage outlet is a conditionally permitted use that will occupy the whole of a new commercial building reviewed and found to conform to the design and development standards of the Dana Point Town Center Plan and Zoning Code and accordingly, the site (and all development proposed thereon) is adequate to accommodate and integrate the new use.

- D. The proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of Section 9.07.040 (Alcoholic Beverage Outlets), of the Dana Point Municipal Code will be observed.**

The nature, condition and development of adjacent uses, buildings and structures have been considered and the requested conditional use will not adversely affect or be materially detrimental. The request to sell and serve alcohol within a new commercial building would occur within a district containing a variety of similar restaurant and retail outlets within close proximity to the subject property. The performance impacts related to the proposed use (i.e. hours of operation, noise, traffic resulting from typical activities onsite, etc.) are similar to those of surrounding commercial uses and would not result in adverse impacts to adjacent uses or properties.

- E. The proposed use will not enlarge or encourage the development of a "skid row" area.**

The project site is located within an established, well maintained commercial area and, the requested activity (sale and service of alcohol) is permitted per the Town Center Plan subject to approval of a CUP. The request has been reviewed and conceptually approved by (City) Community Development Department staff, as well as the Orange County Sheriff's Department. A condition of approval has been included herein that this entitlement is subject to review by the City should conditions at the site or the nature of approved activities change and amendments to the permit or its requirements are deemed necessary. The sale of alcoholic beverages as proposed within a new commercial building will accordingly not enlarge nor encourage "skid row" effects in the vicinity.

- F. The establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any other city program.**

Alcoholic Beverage Outlets are conditionally permitted uses within the City's Town Center and; both proposed physical development of the property as well as the sale and service of alcohol that are specifically the subject of this CUP(M), have been found to comply with the standards and intent of the Town Center Plan and Dana Point Zoning Code and so would not be in conflict with any City neighborhood conservation or other program.

- G. All applicable regulations of the zoning district in which the use is permitted will be observed.**

The sale and service of alcoholic beverages are conditionally permitted within the Town Center and; conditions of approval listed herein will ensure that the use is established and operates in perpetuity in conformance with the regulations and policies of the Dana Point Town Center Plan and Zoning Code.

CONDITIONS OF APPROVAL

The City of Dana Point hereby grants approval of Minor Conditional Use Permit CUP15-0006(M) for the referenced project. This permit is valid subject to the following conditions of approval:

A. General

1. Approval of this application permits establishment of new business Beverages and More, Inc. (BevMo!) within a commercial building to be constructed at 34215 Pacific Coast Highway and for the sale and service of alcohol therein. Subsequent changes to the approved scope-of-work shall be in substantial compliance with plans and the written scope-of-work/business plan presented to the Planning Division and in compliance with applicable provisions of the City of Dana Point General Plan, Municipal Code and Town Center Plan.
2. Approval of this application shall be valid for a period of 24 months (two years) from the date of determination. If the scope-of-work approved by this action is not established, or a building permit for the project has not been issued within such period of time, the approval shall expire and shall thereafter be null and void.

3. This approval only authorizes the sale and service of alcohol and not authorization for any physical improvements or construction to occur at the property. A separate submittal to the Building/Safety Division and subsequent approval of building permits shall be required prior to commencement of any physical improvement of the property.
4. A copy of this permit in its entirety shall be included with any and all submittals made to the City for plan-check.
5. 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.
6. 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 fees, costs and expenses incurred concerning the claim, action or proceeding.
7. 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 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 fees, costs and expenses incurred concerning the claim, action, or proceeding.
8. 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.
9. 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.
10. The City shall have the right to revisit and reconsider this Conditional Use Permit (and the conditions of approval contained herein) at any time should the Community Development Director find it necessary to reevaluate impacts of the use on the surrounding community.

11. The approved use shall at all times of operation, comply with the provisions of the City's Noise Ordinance (Section 11.10 of the Dana Point Municipal Code).
12. At no time shall the business be allowed to display or store wares or materials within the property's parking lot and; at no time shall the operation of the business impede or block public use of parking of facilities.
13. The applicant shall obtain from the City, a Certificate of Occupancy prior to beginning operation onsite.
14. The applicant shall obtain required licenses from the Alcoholic Beverage Control (ABC) for the sale and service of alcohol and shall furnish proof of that licensing to the City prior to issuance of a Certificate of Occupancy.
15. Consumption of alcohol within the subject property's parking lot shall be prohibited. Appropriate and conspicuous postings shall be placed on and within the building indicating that consumption of alcohol outside the building is prohibited by law, except as may be permitted in any designated outdoor eating or drinking area, such as an on-site patio. Notices shall be at least one and one-half (1.5) square feet in size.
16. The sale of hand-held, single-serve, 40 - 42 ounce cans or bottles of malt liquor shall be prohibited.
17. Deliveries to the property shall not occur any earlier than 6:00 AM and, where any delivery is to occur between 6:00 AM and 7:00 AM, trucks or other delivery vehicles shall enter and exit the property in a forward-facing direction.
18. The applicant shall obtain Health Department approval for the new business prior to the issuance of a Certificate of Occupancy.
19. Review and approval of the project by the Orange County Fire Authority (OCFA) shall be required. The applicant shall submit three separate sets of plans directly to the OCFA for review and approval.
20. The applicant shall submit plans to the Building/Safety Division and be approved for a Building Permit prior to any construction on the subject property.

RECEIVED

MAY 19 2015

 Raines Feldman LLP
CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT

Beverly Hills
9720 Wilshire Boulevard, 5th Floor
Beverly Hills, California 90212

Irvine
18401 Von Karman Avenue, Suite 270
Irvine, California 92612

Direct: 310.988.4298
Fax: 424.239.1613
www.raineslaw.com
jcha@raineslaw.com

May 19, 2015

Denise Jacobo
Administrative Secretary
City of Dana Point
33282 Golden Lantern
Dana Point, California 92629

Re: **Appeal to the Planning Commission from the Approval by the Director of
Community Development (DCD) of the City of Dana Point under Dana Point
Municipal Code (DPMC) Section 9.61.110**

Date of DCD Decision: May 4, 2015
Final Date to Appeal: May 19, 2015
Conditional Use Permit CUP15-0006(M) -- BevMo!
Project Address: 34215 Pacific Coast Highway

TYPE OF APPEAL: Appeal of DCD's Approval of Minor Conditional
Use Permit CUP15-0006(M) allowing the establishment of a new Alcoholic
Beverage Outlet for BevMo!

Appellants Information:

Mi Lee and Yoon S. Lee, dba Party Time Liquor
34210 Pacific Coast Highway, Dana Point
(949) 275-6623
milee914@gmail.com

Representative Information:

John S. Cha, Esq., and Brandon Mead, Esq.

Raines Feldman LLP

18401 Von Karman Avenue, Suite 270
Irvine, California 92612
(310) 440-4100
jcha@raineslaw.com
dmead@raineslaw.com

PC Supporting Document 2

Basis of the Appeal:

Mi Lee and her husband Yoon S. Lee (Appellants) are sole proprietors of Party Time Liquor, which they have been operating for over 25 years at the same site and which establishment is situated directly across Pacific Coast Highway from the approved location for BevMo!.

Appellants submit the following bases for this appeal:

1. Allowing a new establishment to sell and serve alcohol so close in proximity to Appellants' existing business is inconsistent with the City of Dana Point General Plan and the DPMC;
2. The DCD's approval violates various provisions of the DPMC;
3. Allowing an "alcoholic beverage outlet" on Pacific Coast Highway will promote traffic congestion and negatively affect the overall atmosphere of the Dana Point attractions;
4. Because the premises for which the CUP was approved is a "future building," the proposed site's suitability vis-à-vis yards, walls, fences, parking and loading facilities, landscaping, and other land use development features cannot be adequately pre-analyzed and pre-determined;
5. The proposed use is injurious to Appellants' business and its sustainability because of the "outlet" feature of BevMo!;
6. The appeals by citizens of Dana Point regarding the traffic, parking, vagrancy, and aesthetic effects were not properly analyzed pursuant to DPMC Section 9.07.040;
7. The injurious nature of another "alcoholic beverage outlet" on surrounding businesses when there are already three in the vicinity was not properly taken into consideration;
8. The eight findings required for approval of a variance pursuant to Section 9.67.050 were not met, thus expanding the traffic congestion;

Denise Jacobo
May 19, 2015
Page 3

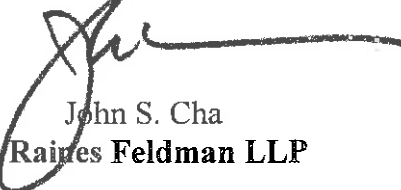
9720 Wilshire Boulevard, 5th Floor
Beverly Hills, California 90212
Direct: 310.988.4298
Fax: 424.239.1613
jcha@raineslaw.com
www.raineslaw.com

9. The requirement of Section 9.65.060(a)(2) of the DPZC has not been satisfied; the nature, condition, and development of adjacent uses, buildings, and structures have not been adequately considered in that the proposed site is a "future building" and the elements needed to assess the impacts have not been revealed; and
10. Expanding establishments that sell and serve alcohol is contrary to the overall planned development for Dana Point;
11. Appellants further contend that the Conditions of Approval are inadequate.

Finally, Appellants contend that the categorical exemption from CEQA is improper in that approval of the project would result in significant effects relating to traffic, noise, and air quality.

I certify that the statements set forth above in support of this appeal are true and correct.

Sincerely,

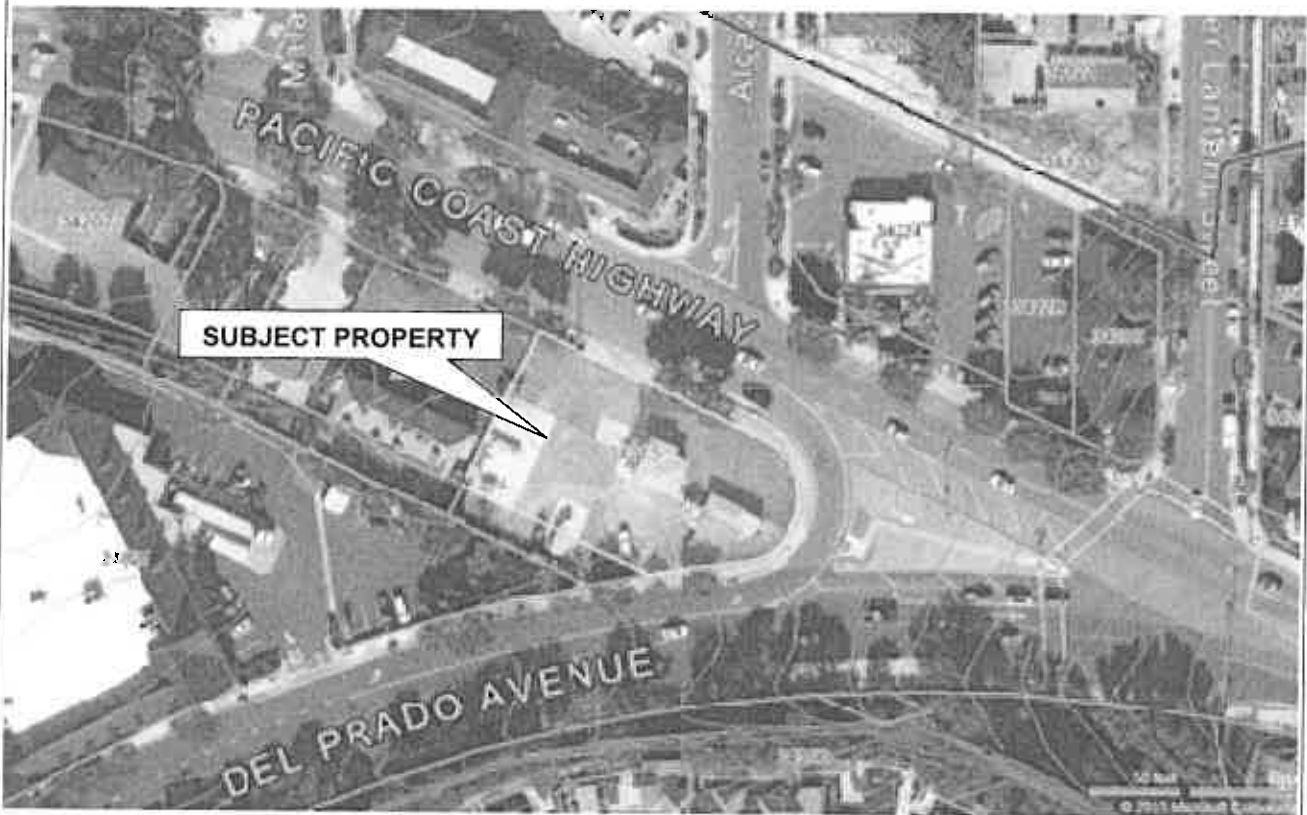


John S. Cha
Raines Feldman LLP



City of Dana Point
Appeal of CUP15-0006(M)
Community Development Department
33282 Golden Lantern (Evan Langan, AICP, Associate Planner)
Dana Point, CA 92629-1805

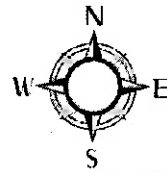
VICINITY MAP



Project : Appeal of CUP15-0006(M)

Appellants: Mi Lee and Yoon S. Lee

Location: 34215 Pacific Coast Highway



SITE PHOTOS



Property as viewed from Pacific Coast Highway



Property as viewed from Del Prado



Public Correspondence (BevMo!) - 5.docx.txt

From: Barbara Reiland <bereiland@aol.com>
Sent: Thursday, April 30, 2015 3:46 PM
To: EVAN LANGAN
Subject: Hearing Monday May 4, 2015

To All Whom it May Concern:

I received a notice from the City of Dana Point regarding a request to allow a Bev Mo in the area of Del Prado and Pacific Coast Highway. I am surprised that this is even being considered since the intention of the restructuring of the Lantern District was to enhance the appeal of the Town Center section of Dana Point. The proposed location is at the entrance to the Lantern District at the southern end, which would make it the first thing a visitor traveling north would see upon entering the area. Bev Mo is a discount liquor retailer, perhaps not the image the city is wishing to promote. They are not, to my knowledge, celebrated for architectural excellence but are rather a big box structure which might be suited to a location farther up PCH and not so singular.

Additionally, the area south of this is a haven for the homeless, alcohol is already a problem in this area, if one can judge by the weekly Sheriff's blotter. A liquor store in this section would likely become a magnet for an already troubled population.

A personal consideration is that the front of our unit faces this area with only a street in-between. We are reminded daily of the existing foot and automobile traffic which already exists. We would welcome an inviting shopping area that appeals to daytime visitors and hope that you can find a more suitable tenant for this property.

Sincerely,
Barbara Reiland
34300 Lantern Bay Dr. Unit94
Dana Point, Ca 92629
949 633-2336

PC Supporting Document 5

EVAN LANGAN

From: joseph waske <jwaske3@yahoo.com>
Sent: Monday, May 04, 2015 9:24 AM
To: EVAN LANGAN
Cc: Moinfar_md
Subject: Opposition to Project number CUP15-0006(M) (Bevmo at 34215 PCH)

Good morning,

Our medical office is located at 34213 PCH (next door to the proposed bevmo). We are asking that another alcoholic beverage business not be allowed to move into the site at 34215 PCH for the following reasons:

- This site is the first property for visitors to Dana Point city center. For those coming into the city center it is the first property seen and for those leaving it is one of the last. Other types of pedestrian friendly retail, dining or services should be encouraged to establish businesses here.
- Within a few hundred feet of this site are two other businesses that currently sell alcoholic products (Ralph's and Party Time). Another alcoholic beverage store is unnecessary and these businesses will likely be impacted financially.
- The city plan is trying to establish a walking business district and this type of business provides no additional pedestrian traffic. It promotes vehicular traffic.
- The area behind Ralph's attracts a large number of homeless for bottles and cans. This business would compound the issue and increase homeless

We want to see the city plan come to fruition, but for the reasons above we are asking that Bevmo not be established at this site. Thank you for allowing our input and please let us know if your office has further questions.

Sincerely,

Joe Waske
Advanced Dermatology
34213 PCH
Dana Point, CA 92629

Public Correspondence (BevMo!) - 3.docx.txt

From: Susan Hunn <hunnfamil@cox.net>
Sent: Monday, May 04, 2015 10:29 PM
To: URSULA LUNA-REYNOSA; EVAN LANGAN; CARLOS OLVERA
Cc: hunnfamil@cox.net; fjph@cox.net
Subject: CUP15-0006(M)

May 4, 2015

Attention: Ursula - Luna-Reynosa, City of Dana Point, Director Of Community
Development
Evan Langan, AICP, Associate Planner

Dear Ms. Luna-Reynosa and Mr. Langan

As long time residents of the City of Dana Point living on the boundary of the Lantern District, we were highly dismayed and concerned to learn the City is considering granting a Conditional Use Permit to BevMo at the intersection of Copper Lantern, Pacific Coast Highway, and Del Prado. The introduction of yet another high traffic volume business with only limited on-property parking within this key intersection presents the potential for further increased business related parking encroachment into the surrounding residential areas which consists of both single and multi-family dwelling units, and has already experienced parking issues.

We heard that the City previously denied building permits to a proposed bank and another business on the proposed BevMo site, which seems to indicate city staff is well aware of the existing residential parking issues in this specific area based on lessons learned after the opening of the Tavern on the Coast.

Currently, staff personnel from the Law Offices adjacent to Billy Blanks Ancient Art Studios continue park across Coast Highway in the immediate residential area, yet another example of parking overflow issues even today. While we appreciate the concept of the increasing financial benefits the city may realize through the continuing growth of businesses within our town, it is unreasonable to expect long term, and future residents to sacrifice parking in front of their own properties.

Lastly, the introduction of a new business (BevMo) which focuses primarily on the sale of alcohol, and alcohol related products when there are already at least 3 other similar existing businesses (Party Time, Ralphs, and Rite Aide) within immediate proximity to the proposed site appears to present the potential to eliminate the smaller of the businesses which have been "good corporate citizens" of Dana Point for many years. Please consider placing a more pedestrian friendly business on the property in question. Thank you for your consideration.

Fred and Susan Hunn
34092 Malaga Drive
Dana Point, CA 92629
hunnfamil@cox.net

949.493.0693

May 4, 2015

Ms. Ursula Luna-Reynosa
Director of Community Development
City of Dana Point

Re: 34215 Pacific Coast Highway
Dana Point, CA 92629

Dear Ms. Luna-Reynosa:

Let me start by apologizing for this quickly drafted letter. My name is John Quinn and I live in upstate New York. This afternoon I received a frantic phone call from my very upset 89 year mother-in-law, Dorothy L. Shank.

Dorothy has been a resident of Dana Point since 1962. Dorothy along with her late husband Frank purchased and have owned the property on 34210 Pacific Coast Highway for the past 50 years. They ran a business there, Party Time Liquor, until Frank passed away. In 1987 Dorothy sold the liquor business to Mye Hye Lee and her husband. Dorothy maintains a close working relationship with the Lee's as tenants and relies on the monthly rent as portion of her fixed income.

Today Dorothy and Mrs. Lee learned the Beverages and More (BEVMO), a large west coast chain was applying for a conditional use permit for the property across the street from Party Time at 34215 PCH.

It is not clear what has gone on relative to due diligence and public notice, but this long standing Dana Point is very concerned on the placement of a large competitor across the street. Last September there was a pipeline report which showed 34215 as pending approval for Paterson Development for a single story commercial development. BEVMO has been a total surprise.

Is there any process where approval of this CUP can be challenged?

I will cal you directly tomorrow morning. I can be reached at 585-943-2009.

Thank you!

Sincerely

John M. Quinn

From: Ballard, Nate [<mailto:nate.ballard@stores.ralphs.com>]
Sent: Monday, May 04, 2015 6:26 PM
To: URSULA LUNA-REYNOSA
Subject: Bev-Mo

Hi Ursula,

I have heard some rumors about the Bev-mo potentially coming to the lot behind my store and was hoping to interject some comments for your and the planning commission's consideration. As I'm sure you know, the city is really struggling with a huge homeless problem, many of which sleep on and around that lot and near the recycle center at night. Many also are regulars in my location causing problems with shoplifting, panhandling, and general vagrancy (urinating on my building, sleeping on the sidewalks on Del Prado, etc). As you also hopefully know, Dana Point deputy Anderson has a very active program attempting to curb many of the habitual drunkards and vagrants right in this exact vicinity as well.

Deputy Anderson has worked closely with ABC in attempting to mitigate habitual drunkards access to alcohol, and I fear another option for them to shoplift and beg being deposited right in the spot they tend to congregate most will likely increase the criminal behavior as well as the hassle of citizens who are already loudly complaining to me. If this rumor is true, I urge any further consideration of Bev-Mo to be immediately denied, as it puts our community at risk and further enhances a problem we can't yet get a hold on.

The Lantern Bay Villa Association immediately behind my store is already a very vocal opponent of the homeless lingering in the general area and can be counted upon to be a loud opposition to furthering the drinking and vagrancy problem we're trying to contain. I'd be happy to put you in contact with their association president should you desire further comment or clarity. Thank you for your consideration on this matter, please don't hesitate to contact me if I can be of assistance.

Thank you,

Nate Ballard

Store Manager

Ralphs #188

Dana Point, CA

May 5th, 2015

Dear Mrs. Luna-Reynosa

It has come to our attention that a Bevmo store will be soon opening across the street from our home 34081 Malaga Dr. We are writing this letter to you because we are against the opening of a Bevmo in our community.

Both myself and my husband have been residents of this community for over 20 years and we like to support our small local businesses. We both understand that the city of Dana Point has been going through some changes lately and these are to help the growth of local businesses, but how is opening a Bevmo going to help this small businesses grow? It will actually do the complete opposite, not to mention the traffic and possible accidents that this huge store will bring to a busy intersection.

We also want to mention that we never received any notice for a community hearing on this matter. Is this even legal?

We would like for our voices to be heard. We believe that another community hearing should be scheduled in advanced so that all neighbors would have the opportunity to attend and voice their opinions.

We appreciate your time to read this letter and we trust you will take action on this matter.

Sincerely,

Trevor and Veronica Traut
34081 Malaga Dr, Dana Point CA 92629

I believe that putting in a big business like BevMo would cause multiple problems. For one thing it takes away from the charm of Dana Point. The most out of place business in this strip of town is the Ralphs, however it has become our community store. Additionally there is the strip of fast food chains that the locals call "Fast Food Row", but to me it is symbolic as it is very separate from charming Dana Point, and appears as one is leaving Dana Point. The big charm and appeal that I and others find in Dana Point are the mom and pop stores, and local businesses. BevMo is like the Walmart of stores, and having an establishment like that would devalue our beautiful and unique town, making it just like any other town around. I feel that Dana Point, and Laguna Beach are similar in that way. They are uniquely beautiful. Could you imagine a BevMo in Laguna Beach? We are a beach town, and a big establishment like that would devalue our town, and tourism appeal.

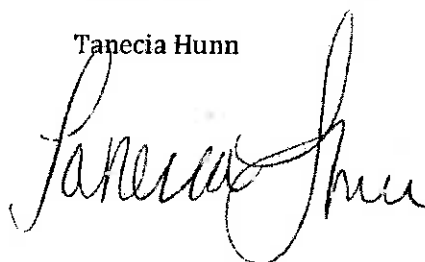
Another big issue that is of the utmost importance is parking. On Malaga drive we are already feeling the struggle with the Tavern, and Salon coming in. On top of that there is already an additional empty corner building in the town center to think about, when on weekends the lot is sometimes at maximum capacity already. The lawyers offices across the street have customers and employees parking on Malaga, and walking over as well. When taking that into account, I'm trying to understand how putting a big corporation such as BevMo could possibly improve this already very real struggle for our street, let alone the neighborhood. While parking is supposed to be included in the planning, for the building, just like every other business, employees will likely be instructed to park elsewhere to reserve spots for their paying customers, which means the employees will be parking on our street, neighboring streets or in other businesses parking lots.

I understand that a business will eventually go in that spot, and I do not have an objection to that, as it is inevitable. However the character of the city should definitely be considered when deciding upon a business to fill the lot, as well as the people who live there, and the business surrounding it. Mr. and Mrs. Lee have been a part of our neighborhood for countless years, and are an integral part of our community. Ask someone if they know where Malaga drive is and they will likely say no, but anytime ask someone if they know where Party Time Liquor is, the answer is always yes. While BevMo may claim that they have never put anyone out of business, consider the fact that all of these upgrades, remodels and new businesses coming in will likely cause an increase in rent for all surrounding businesses, while taking away their business at the same time. Here is an article about just that happening: <http://www.katu.com/news/local/Big-booze-store-moves-into-Vancouver-will-small-stores-dry-up-201728201.html>

Please consider that a decision like this will effect traffic, parking, businesses, water usage during our drought, the culture and character of our city, and the lives of many people in it.

Thank You,

Tanecia Hunn

 (949) 371-1861

Project #cup15-0006(m)

Brenda Fawcett

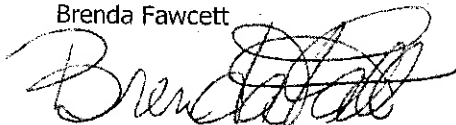
Sent: Tuesday, May 05, 2015 9:47 AM

To: uluna@danapoint.org

To whom it may concern,

I am the store manager at Rite Aid Dana Point. The impact of adding a large business to our already crowded plaza seems to be a impact to a already small parking lot to the existing businesses that already exist. We have already a very busy and crowded area where our customers can barely find a parking space. Please consider the implications of this discission.

Thank you for your time,
Brenda Fawcett

A handwritten signature in black ink, appearing to read "Brenda Fawcett", written over the printed name.

May 5, 2015

Ms. Ursula Luna-Reynosa
Director of Community Development
City of Dana Point
Dana Point, CA
Re: 34125 Pacific Coast Highway
Dana Point, CA

Dear Ms. Luna-Reynosa.

My name is Dorothy Shank and I own the property at 34210 Coast Highway across the street from the above referenced address.

I have strong reservations about the City of Dana Point granting a conditional use permit to Beverages and More (BEVMO) to open a retail store at 34125 PCH. My reservations center on opening another retail liquor store in close proximity to two restaurants and 3 other retail liquor stores (Party Time Liquor; Ralph's; and Rite Aid). This increase the concentration of quick turnaround traffic within small radius causing safety hazard. In addition there will be increased litter and the litter associated with this business.

Will there be any public notices and hearing to voice concerns. Please let me know.

Sincerely

Dorothy L. Shank

A handwritten signature in cursive script that reads "Dorothy L. Shank".

33152 Blue Fin Drive
Dana Point, CA

May 13, 2015

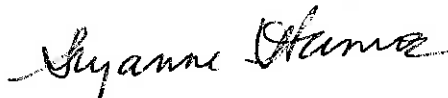
City of Dana Point
33282 Golden Lantern
Dana Point, CA. 92629

To Whom It May Concern:

I am a resident of Dana Point and would like to see BevMo in our town. I am a frequent customer and appreciate all of the wonderful products BevMo offers.

I have seen drawings of the proposed BevMo building and feel it would enhance this vacant property. I believe BevMo would benefit both the city and community of Dana Point.

Sincerely,

A handwritten signature in black ink, appearing to read "Suzanne Stamos". The signature is fluid and cursive, with the first name "Suzanne" and last name "Stamos" clearly distinguishable.

Suzanne Stamos

Public Correspondence (BevMo!) - 2.docx.txt
From: URSULA LUNA-REYNOSA
Sent: Tuesday, May 05, 2015 10:58 AM
To: EVAN LANGAN
Subject: FW: BevMo

From: Tannie Hunn [mailto:tanniehunn@yahoo.com]
Sent: Monday, May 04, 2015 9:14 PM
To: URSULA LUNA-REYNOSA
Subject: BevMo

I believe that putting in a big business like BevMo would cause multiple problems. For one thing it takes away from the charm of Dana Point. The most out of place business in this strip of town is the Ralphs, however it has become our community store. Additionally there is the strip of fast food chains that the locals call "Fast Food Row", but to me it is symbolic as it is very separate from charming Dana Point, and appears as one is leaving Dana Point. The big charm and appeal that I and others find in Dana Point are the mom and pop stores, and local businesses. BevMo is like the Walmart of stores, and having an establishment like that would devalue our beautiful and unique town, making it just like any other town around. I feel that Dana Point, and Laguna Beach are similar in that way. They are uniquely beautiful. Could you imagine a BevMo in Laguna Beach? We are a beach town, and a big establishment like that would devalue our town, and tourism appeal.

Another big issue that is of the utmost importance is parking. On Malaga drive we are already feeling the struggle with the Tavern, and Salon coming in. On top of that there is already an additional empty corner building in the town center to think about, when on weekends the lot is sometimes at maximum capacity already. The lawyers offices across the street have customers and employees parking on Malaga, and walking over as well. When taking that into account, I'm trying to understand how putting a big corporation such as BevMo could possibly improve this already very real struggle for our street, let alone the neighborhood. While parking is supposed to be included in the planning, for the building, just like every other business, employees will likely be instructed to park elsewhere to reserve spots for their paying customers, which means the employees will be parking on our street, neighboring streets or in other businesses parking lots.

I understand that a business will eventually go in that spot, and I do not have an objection to that, as it is inevitable. However the character of the city should definitely be considered when deciding upon a business to fill the lot, as well as the people who live there, and the business surrounding it. Mr. and Mrs. Lee have been a part of our neighborhood for countless years, and are an integral part of our community. Ask someone if they know where Malaga drive is and they will likely say no, but anytime ask someone if they know where Party Time Liquor is, the answer is always yes. While BevMo may claim that they have never put anyone out of business, consider the fact that all of these upgrades, remodels and new businesses coming in will likely cause

Public Correspondence (BevMo!) - 2.docx.txt

an
increase in rent for all surrounding businesses, while taking away their business at the same time. Here is an article about just that happening:
<http://www.katu.com/news/local/Big-booze-store-moves-into-Vancouver-will-small-stores-dry-up-201728201.html>

Please consider that a decision like this will effect traffic, parking, businesses, water usage during our drought, the culture and character of our city, and the lives of many people in it. I would have been at the meeting myself had it not been in the morning on a Monday while I was at work, with less than a weeks notice. Every voice deserves to be heard, and considered and more time and community involvement was definitely necessary in this decision. I am speaking for my community and and neighborhood, please consider this.
Thank You,
Tanecia Hunn

Craig Watkins

24961 Danafir
Dana Point, CA 92629

May 13, 2015

City of Dana Point
33282 Golden Lantern
Dana Point, CA. 92629

RE: Support for BevMo Application

To Whom It May Concern:

As both a resident and business owner of a Farmer's Insurance Agency on the corner of Pacific Coast Highway and Golden Lantern, I highly support the acquisition of a BevMo in the City of Dana Point. Currently, my wife and I travel to the City of Laguna Niguel to find the wide selections of items available at BevMo. We are always in favor of shopping locally in the City of Dana Point to support local business owners.

Over the years I have noticed that the property has been an unwelcome sight as tourists enter our beautiful city. I would support the visual enhancement to the City of Dana Point as well as the increased revenue from the business and the ability to endorse a local business which my wife and I currently frequent.

Thank you for your consideration.

Sincerely yours,



Craig Watkins

May 13, 2015

RECEIVED
CITY OF DANA POINT
COMMUNITY DEVELOPMENT DEPT

City of Dana Point
33282 Golden Lantern
Dana Point, CA. 92629

2015 MAY 19 A 10:48

To Whom It May Concern:

I have lived in Dana Point all my life and have seen many changes in Dana Point.
I appreciate the improvements taking place in Dana Point to date.

I would like to see a reputable business as BevMo on the property located at the south entrance of Dana Point. This property has been vacant for a few years and with BevMo in a new architectural building, approved by the City of Dana Point, will surely enhance our city.

Thank you.

Shannon Mariani
Shannon Mariani
Dana Point, CA

SHANNON MARIANI
#561 CORNIEHE
DANA POINT, CA.
92629

SANTA ANA CA 926

18 MAY 2015 PM 3 L

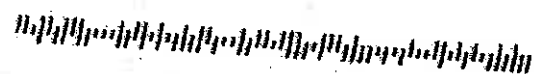
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CITY OF DANA POINT
COMMUNITY DEVELOPMENT DEPT

2015 MAY 19 A 10:48

City of Dana Point
33282 Golden Lantern
Dana Point, Ca. 92629

Attn: Ursula
Luna Rayner

92629184399



May 19, 2015

To Whom It May Concern:

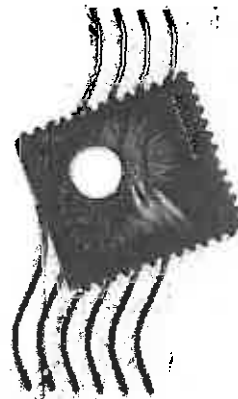
We have been customers of BevMo for many years and like all the products they have to offer.

JAMIE TENNINGS
Dana Point, CA

(949) 690-3705

Jolie Jennings
(562) 644-8808

Sheri - Anthony Kolysko
SAN Clemente, CA



JENNINGS, JANIE - JUL 16
33801 MALAGA
DUBLARFOND, CA 92629

RECEIVED
CITY OF DANA POINT
COMMUNITY DEVELOPMENT DEPT

2015 MAY 21 P. 1:43
City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629



Att: Ursula Luna-Reynosa

May 19, 2015

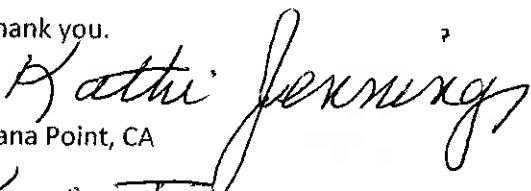
City of Dana Point
33282 Golden Lantern
Dana Point, CA. 92629

To Whom It May Concern:

I am writing to give my support for the new BevMo business in Dana Point.
I live close to this lot and pass it daily. This lot has been vacant for some time now and needs an attractive building since this lot is very visible.

I have been a customer of BevMo for years and shop there for many of their unique items they carry which are not available at other stores in Dana Point.

Thank you.


Dana Point, CA

KATHI JENNINGS
(949) 388-0012

City of Dana Point
33282 Golden Lantern
Dana Point, CA. 92629

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COMMUNITY DEVELOPMENT DEPT

2015 MAY 19 A 10:48

RE: Support for BevMo Application

To Whom It May Concern:

As a lifelong resident of Dana Point, I would welcome an established business, such as BevMo in our community. I currently have to go to neighboring towns of Laguna Niguel or Ladera to patronize this business. It offers beverages and gourmet food items not easily found at other stores in town – and at better prices.

I have been assured that the building proposed for BevMo will be tasteful and within the design concepts of the city. I'm told there will be ample parking, which has been approved by the City of Dana Point and that this building will enhance the City of Dana Point. This location is highly visible when entering Dana point.

It would be nice to see this property be developed and occupied by an established and reputable tenant. The homeless have been hanging around this property since it has been vacant and it has fallen into disrepair for years now. A nice new building with a thriving business will be an asset to the community and the City of Dana Point.

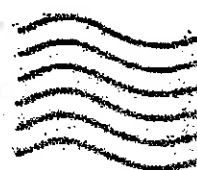
Thank you.

Vicki Sweet
34334 Calle Naranja
Capistrano Beach, CA 92624

Vicki Sweet
34334 Calle Naranja
Capistrano Beach, CA. 92624

SANTA ANA CA 926

18 MAY 2015 PM 11



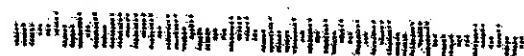
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CITY OF DANA POINT
COMMUNITY DEVELOPMENT DEPT

2015 MAY 19 A 10:43

City of Dana Point
33282 Golden Lantern
Dana Point, CA. 926

Attn: Ursula Luna/Reynosa

32629184399



EVAN LANGAN

From: Blake Davis <Blake.Davis@hudsonhousing.com>
Sent: Saturday, May 23, 2015 3:55 PM
To: EVAN LANGAN
Subject: FW: BevMo in DP

Sorry, typo when I first tried to send this.

From: Blake Davis
Sent: Saturday, May 23, 2015 3:53 PM
To: uluna@danapoint.org; elangan@danapoint.org
Subject: BevMo in DP

We just learned that BevMo may be moving into our neighborhood (we live on Malaga just two doors away from PCH). We oppose a BevMo store at PCH and Del Prado. There are already enough stores where alcohol can be purchased within a short walk in this neighborhood, namely Party Time, Ralphs, Rite Aid and Buena Vista market. And Dana Point overall has enough places that sell alcohol. Let's allow the existing merchants to stay in business and not allow another large, national corporate retailer to move in.

Please deny the BevMo at PCH and Del Prado.

Blake Davis
34082 Malaga Dr.
Dana Point, CA 92629
Cell 216-496-1106

EVAN LANGAN

From: Tyree Shaffer <tyreeshaffer@gmail.com>
Sent: Monday, May 25, 2015 6:19 PM
To: EVAN LANGAN
Cc: milee914@gmail.com
Subject: Pertinent to the future BevMo! establishment.

To Whom it May Concern,

I have become aware of a future plan to establish a BevMo! outlet in Dana Point, which I feel I must object to, but with reason. I am very fond of our city, Dana Point, which I have been a resident of for seven years now. Residing on Malaga, I often frequent our local liquor store, Party Time Liquor. I very much cherish the small town feel that Dana Point presents, similar to that of Laguna Beach, in that large corporations have a small foothold in the community. I understand that some businesses have been placed here out of necessity or have been grandfathered in, but to further allow such business to settle in our town would put a damper on life here as we desire preserved. There will always be reasons why to let large business in, but over time, I believe that these reasons may diminish and that regret will consume. As stated in the letter produced by Raines Feldman LLP, Ralph's, Rite Aid, and Party Time Liquor are all selling alcohol. These businesses are all within 1,000 feet of each other. To place another business which sells alcohol within these bounds is not only unreasonable, but questionable. What outlook will the residents have on our community? The city has already undertaken the decision to create two way roads, diminishing profits from some of the businesses on Del Prado. Why now the decision to bring in a corporate business centralized around the sale of alcohol? I see no merit. Please take into consideration my opinion and the less vocalized opinions of others in our treasured community.

Regards, Tyree Shaffer

City of Dana Point
33282 Golden Lantern
Dana Point, CA. 92629

RE: Support for BevMo Application

To Whom It May Concern:

As both a resident of Dana Point and a customer of BevMo I would welcome a new BevMo in our community. BevMo offers a large selection of not only beer, wine and spirits but also a range of accessories and gourmet food items that are not easily found elsewhere in Dana Point.

I have been told that this will be a very nice building with ample parking, which has been approved by the City of Dana Point and will enhance the City of Dana Point as this location is highly visible when entering Dana point.

It would be nice to see this currently vacant lot be developed and occupied by an established and reputable tenant and not another boat yard. The homeless have been hanging around this property since it has been vacant. This property has been an eye sore for several years now and with a nice new building along with an established business would be beneficial to the community and the City of Dana Point.

Thank you.



Dave Boehne
Co-Owner
Infinity Surfboards / 24382 Del Prado / Dana Point
Dana Point Resident Since 1985

URSULA LUNA-REYNOSA

To: URSULA LUNA-REYNOSA (ULuna@DanaPoint.org)
Subject: FW: Bev Mo

> On May 27, 2015, at 9:17 AM, Norman <ncheckor@sbcglobal.net> wrote:
>
> Mr CHOTKEVYS
> Let me take a moment to send my complements to you & Dana Point for enacting a new street scape for the primary purpose of boosting business in the new Town Center District.
> So why are you attempting to put a Ma & Pa liquor store out of
> Business by approving a big box competing Liquor store (Bev Mo) to build so very close,,,, to a not a chance to compete Liquor store.
> Thank you for your time. Is maybe another outlet center in DP's future?
> Norman Checkor
>
> Sent from my iPad

City of Dana Point
33282 Golden Lantern
Dana Point, Ca. 92629

Re: Support for BevMo Application

To Whom It May Concern:

As a resident of Dana Point for 28 years and having been apart of seeing the transformations of our city and harbor go through in all those years I would welcome the south entrance on PCH and Del Prado to be more appealing. After seeing the renderings of the proposed BevMo building I think that would make a dramatic positive improvement.

Also, as I frequently drive by those streets I would find the convenience of having that sort of store (spirits, gourmet food and gifts) available with ample parking, that location would make that nice and easy.

Again, the proposed design of the building would be a wonderful enhancement to our city and a nice change from being a boat yard and now an eyesore of an empty lot. I support this change to take place.

Thank you,
Judy Lonn
Dana Point resident

The City of Dana Point

33282 golden lantern

Dana point, CA 92629

RECEIVED

JUN - 1 2015

**CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT**

Support for Bev Mo.

Attn: Ursula Luna/Reynosa:

I am a long time resident of Dana Point and a customer of Bev Mo. I would enjoy having a Bev Mo in our community. They have a great selection and low prices. Bev Mo has wine tasting and knowledgeable staff that help me find the right wine and or snacks. They always have a wonderful variety and it's a great place to find a gift for a wine lover. You can't beat there prices as they always have specials. I presently have to drive quite a distance to get to the nearest bevmo.

I understand that it will be a good looking building with plenty of parking, so I think it will be a nice addition to the city of Dana Point.

I appreciate the development of vacant lots in Dana Point as this brings jobs and revenue to our community. Vacant lots only bring weeds, dirt and wasted space, the development would enhance our city and create jobs.

Thank You

