

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

DATE: MARCH 11, 2019

TO: DANA POINT PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT DEPARTMENT
MATT SCHNEIDER, DIRECTOR OF COMMUNITY DEVELOPMENT
SEAN NICHOLAS, SENIOR PLANNER

SUBJECT: COASTAL DEVELOPMENT PERMIT CDP18-0001/SITE DEVELOPMENT PERMIT SDP18-0001/CONDITIONAL USE PERMIT CUP18-0001/VESTING TENTATIVE PARCEL MAP TPM19-0001 FOR A NEW MIXED-USE DEVELOPMENT WITH 10,822 SQUARE FEET OF COMMERCIAL SPACE AND 68 RESIDENTIAL UNITS, INCLUDING 12 AGE RESTRICTED SENIOR CITIZEN HOUSING UNITS, WITH SUBTERRANEAN PARKING, THE GREER, LOCATED AT 24442, 24452, AND 24470 DEL PRADO AVENUE IN THE COASTAL OVERLAY DISTRICT

RECOMMENDATION: That the Planning Commission adopt the attached draft resolution approving Coastal Development Permit CDP18-0001/Site Development Permit SDP18-0001/Conditional Use Permit CUP18-0001/Vesting Tentative Parcel Map TPM19-0001 (Action Document 1).

OWNER/APPLICANT: American Commercial Equities II, LLC (Owner)/Karen Martin, Pacific Planning Group, Inc. (Applicant)

OWNER'S REPRESENTATIVE: Karen Martin, Pacific Planning Group, Inc

REQUEST: A request to demolish the existing structures, and develop a new mixed-use development with 10,822 square feet of commercial space and 68 residential units, including 12 age restricted Senior Citizen Housing units, and subterranean garage at 24442, 24452, and 24470 Del Prado Avenue in the Coastal Overlay District.

LOCATION: 24442, 24452, and 24470 Del Prado Avenue (APNs: 682-234-05, 682-234-06, and 682-234-07)

NOTICE:

Public Hearing notices were mailed to property owners within 500 feet, and to occupants within 100 feet of the site on March 1, 2019. The same notice was published in the Dana Point News on March 1, 2019, and notices were posted on March 1, 2019, at Dana Point City Hall, the Dana Point post office, the Capistrano Beach post office, and the Dana Point Library. A draft version of the staff report, resolution, plans, and story pole certification were posted on the City's website on February 25, 2019, 14 days prior to the public hearing.

ENVIRONMENTAL:

Pursuant to the California Environmental Quality Act (CEQA), this project is Categorically Exempt per Section 15332 (Class 32-In-Fill Development Projects) in that Class 32 exemptions provides for in-fill development projects on project sites that are five 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 a significant effects relating to Land Uses, Habitat, Traffic, Noise, Air Quality or Water Quality, can be adequately served by all required utilities and public resources, and there are no unusual circumstances associated with the project site, are Categorically Exempt from the provisions of CEQA.

ISSUES:

1. Is the proposal consistent with the City's adopted General Plan/Local Coastal Program/Town Center Plan (TCP)?
2. Is the proposal compatible with and an enhancement to the surrounding neighborhood and City?
3. Does the project satisfy all the findings required pursuant to the City's Zoning Code for approving a Coastal Development Permit/Site Development Permit/Conditional Use Permit/Vesting Tentative Parcel Map?

BACKGROUND: The proposed development is located in the Town Center Plan which allows for mixed-use developments. The applicant is requesting approval of a Site Development Permit, Conditional Use Permit, Coastal Development Permit, and Vesting Tentative Parcel Map in order to develop the proposed project. No Variances are being requested by the applicant, and all applicable noticing, including story poling, was completed as required. The project site consists of three parcels which are currently occupied with 30 residential units, 10 of which are on the ground floor adjacent to the alley, a two-story gym facility, Jack's restaurant, hair salon, and two street level parking lots. The project site is

surrounded by a commercial building to the north, multi-family residential to the west, the Rain Tree mixed-use development to the east, and the Schwack restaurant and other commercial uses to the south.

DISCUSSION: The applicant is requesting approval to develop a three-story, 80,324 square foot mixed-use development at the northwest corner of the intersection of Del Prado Avenue and Amber Lantern in the Town Center Plan. The project includes 12 market rate age restricted (55+) units on the ground floor adjacent to the alley, and 56 residential units located on the second and third floors. There are 43 one-bedroom units proposed, eleven (11) studio units (16% of total unit count) and 14 two-bedroom units (21% of total unit count) for a total of 68 residential units. The project's mix of studio, one- and two-bedroom units are consistent with the requirements of the Town Center Plan. Fronting Del Prado Avenue are seven commercial suites, totaling 10,822 square feet. The total commercial area includes the 840 square foot outdoor dining patio for the corner restaurant space at Del Prado Avenue and Amber Lantern. A second outdoor patio on the north end of the project (suite C1), has been conditioned to a limit of 16 seats based on the City's applicable parking requirements.

The architecture is described by the applicant as being California Warm Contemporary. The design is simplistic and incorporates wood and metal details with a smooth stucco finish. The buildings have been designed to provide clustering of common space internally for residential tenants, including both indoor and outdoor space. The applicant has designed the building so two-thirds of the development is one architectural pattern, and the most northern portion is oriented differently to break up the massing of the structure and differentiate the commercial spaces.

The project requires a Coastal Development Permit due to its location in the coastal overlay district, but is outside the appealable area of the Coastal Commission. The Conditional Use Permit is to allow Senior Citizen Housing. A Site Development Permit is required for: 1) new development over 2,000 square feet; 2) A subterranean parking garage with a three inch encroachment into the setbacks below street level; and 3) for review of the proposed roof mounted mechanical screening consistent with the 42 inch height limit of the Town Center Plan. Lastly, the applicant has included a Vesting Tentative Map to merge the lots, but are not subdividing the residential units as they are proposed to be rentals. Staff has reviewed the project and found the proposal meets all applicable development standards of the Town Center Plan, including but not limited to, heights, parking, setbacks, lot coverage, floor area, and no Variances are being requested.

Table 1 summarizes applicable development standards from both the Town Center Plan and Dana Point Zoning Ordinance and the project's conformance with those requirements:

Table 1: Compliance with Town Center Plan/Zoning Ordinance

Development Standards			
Development Standard	Requirement	Proposed	Compliant with Standard
Floor Area Ratio	2.5	2.02	Yes
Height	40 foot maximum	40 feet	Yes
	42 inches above height limit for mechanical screening	42 inches for mechanical screening	Yes
Parking Required	183 parking spaces	188 parking spaces	Yes
Floor-to-Floor Height of Ground Floor	18 feet minimum	18 feet	Yes
Ground Floor Commercial Space Depth	40 feet minimum	40 feet minimum	Yes
Del Prado Street Front Build-To-Line	Minimum 75% of frontage at or within 10 feet of PL	87%	Yes
Upper Floor Setbacks	At 30 feet, or above 2 nd floor: 10 feet	10 feet	Yes
	Adjacent to Alley/Residential District: 15 feet	15 feet	Yes
	Interior side yard setback above 20 feet: 5 feet	5 feet	Yes
Outdoor Dining Setback	From Del Prado Avenue Curb: 12 feet minimum	12 feet minimum	Yes
Residential Open Space	Private: 100 sf/du (6,800 sf)	7,249 sf	Yes
	Common: 100 sf/du (6,800 sf)	11,725 sf	Yes
	(13,600 sf minimum combined; 200 sf/unit)	(18,974 sf combined open space; 279 sf/unit)	Yes

CONDITIONAL USE PERMIT:

Pursuant to the Town Center Plan, a Conditional Use Permit is required for the development of Senior Citizen Housing. The applicant proposes twelve (12) Senior Citizen Housing units on the ground floor. The units consist of eleven one-bedroom units, and one studio unit. These units are located behind the commercial space fronting Del Prado Avenue, and are oriented towards the alley and the multi-family residential development located across the alley. Senior Citizen Housing of this nature is not known to create impacts to neighboring uses and the design and placement of the age restricted units is consistent with all applicable development standards.

Findings

Section 9.65.060 of the DPZC stipulates three (3) findings to approve a Conditional Use Permit, requiring that the project:

1. That the proposed conditional use is consistent with the General Plan.
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.
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.

The required findings are articulated in the attached draft Resolution identified as Action Document 1.

SITE DEVELOPMENT PERMIT:

In accordance with Section 9.71.020 of the Dana Point Zoning Code (DPZC), a Site Development Permit is required for all non-residential developments exceeding 2,000 gross square feet. The proposed project totals 80,324 square foot.

Pursuant to DPZC Section 9.35.120, a Site Development Permit is required to approve a subterranean parking structure. The proposed project includes a two level subterranean parking garage with 184 parking spaces. Overall, the project provides 188 parking spaces, five more than the required 183 parking spaces based on the types of residential units, guest parking, and commercial components.

Pursuant to DPZC Section 9.35.120(g), allows encroachment of subterranean parking structures into the setback with the approval of a Site Development Permit. The project site

has a geological condition requiring a geologic surcharge on the subterranean walls. As a result of this, the subterranean retaining walls for the underground parking structure are thicker than is typical for this type of development. The applicant is requesting a three (3) inch encroachment into the side yard setbacks below grade to accommodate the required structural engineering. The project complies with all required setbacks for the ground and upper levels. Engineering and Planning Staff have reviewed the request, and due to the geologic condition, and the minimal encroachment below grade, staff is supportive of the requested encroachment.

Lastly, pursuant to the Town Center Plan, roof mounted mechanical screens are required to be reviewed through the Site Development Permit process. The project includes roof screening up to 42 inches above the 40 foot maximum height limit, consistent with the limitations of the Town Center Plan, "Permitted Encroachments into Building Height Limit." All roof mechanical screens on the proposed project have a minimum 5 foot setback from the face of the 3rd floor, and the overall percentage of roof area screened is 4.6% (1,351 square feet would be permitted, and 1,266 square feet is proposed) which complies with all applicable development standards. A condition of approval has been incorporated requiring all roof mounted equipment to be at or below the height of the mechanical roof screening.

Art in Public Places

As a component of the project, the development is subject to the requirements of Dana Point Zoning Code (DPZC) Section 9.05.240, "Art in Public Places." The project will have a construction valuation greater than 1 million dollars, thus half of a percent (.05%) of the construction cost will have to be spent on art in public places. While no definitive features are designed at this time, there are various areas, design elements, and architectural details on the plans where art could be incorporated. Condition of approval 128 requires that the applicant go through the required process specified in DPZC Section 9.05.240 and install the required art, or pay the necessary in lieu fees prior to certificate of occupancy for the project.

Findings

Section 9.71.050 of the DPZC stipulates four (4) findings to approve a Site Development Permit:

1. *Compliance of the site design with development standards of this Code.*
2. *Suitability of the site for the proposed use and development.*
3. *Compliance with all elements of the General Plan and all applicable provisions of the Urban Design Guidelines.*

4. *Site and structural design which is appropriate for the site and function of the proposed use(s), without requiring a particular style or type of architecture.*

The required findings are articulated in the attached draft Resolution identified as Action Document 1.

COASTAL DEVELOPMENT PERMIT:

Pursuant to the certified Land Use Map, the proposed project is located in the City's Coastal Overlay District. Section 9.69.040 of the Dana Point Zoning Code states construction of a new mixed-use development on land located in the City's Coastal Overlay District requires approval of a Coastal Development Permit (CDP). The project site is not located within the Coastal Commission appeals jurisdiction. The project will not impact any public access and the project site has been previously developed thus no habitat exists on-site.

Findings

Section 9.69.070 of the DPZC stipulates a minimum of seven (7) findings to approve a Coastal Development Permit, requiring that the project:

1. *Be in conformity with the certified Local Coastal Program as defined in Chapter 9.75 of this Zoning Code. (Coastal Act/30333, 30604(b); 14 CA Code of Regulations/13096).*
2. *If located between the nearest public roadway and the sea or shoreline of any body of water, be in conformity with the public access and public recreation policies of Chapter Three of the Coastal Act. (Coastal Act/30333, 30604(c); 14 CA Code of Regulations/13096).*
3. *Conform with Public Resources Code Section 21000 and following, and there are no feasible mitigation measures or feasible alternatives available which would substantially lessen any significant adverse impact that the activity may have on the environment. (Coastal Act/30333; 14 CA Code of Regulations/13096).*
4. *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.*
5. *Minimize the alterations of natural landforms and not result in undue risks from geologic and erosional forces and/or flood and fire hazards.*

6. *Be visually compatible with the character of surrounding areas, and, where feasible, will restore and enhance visual quality in visually degraded areas.*
7. *Conform to the General Plan, Zoning Code, applicable Specific Plan, Local Coastal Program, or any other applicable adopted plans and programs.*

The required findings are articulated in the attached draft Resolution identified as Action Document 1.

VESTING TENTATIVE PARCEL MAP:

The applicant is proposing a Vesting Tentative Parcel Map to merge the three separate parcels that make up the project site. The property Owner, American Commercial Equities Two, LLC (ACE) will hold ownership of the various components of the project and would lease out the development. The applicant has indicated they may seek a condominium map in the future, but at this time they want to move forward with the project as one ownership.

Pursuant to Municipal Code Section 7.05.060 Tentative Parcel Map shall be approved or conditionally approved if the Subdivision Committee/Planning Commission makes the following findings:

1. That the proposed map is consistent with the City's General Plan;
2. That the design and improvement of the proposed subdivision is consistent with the City's General Plan;
3. That the site is physically suitable for the proposed type of development;
4. That the requirements of the California Environmental Quality Act have been satisfied;
5. That the site is physically suitable for the proposed density of development;
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 or wildlife or their habitat;
7. That the design of the subdivision and the proposed improvements are not likely to cause serious public health problems;
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;

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 pursuant to Section 7.05.055;
10. That the subdivision is not located in a fee area or, if located in a fee area, the subdivider has met the requirements for 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;
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.

The required findings are articulated in the attached draft Resolution identified as Action Document 1.

STORY POLES/PUBLIC OUTREACH/CORRESPONDENCE:

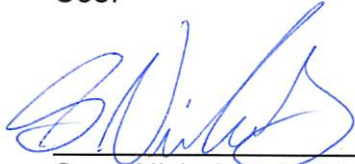
On February 15, 2019, story poles were erected on-site consistent with the story pole provisions of the Town Center Plan. On February 18, the story poles were certified to accurately reflect the heights of the proposed project. This occurred 20 days prior to the public hearing on March 11, 2019. On February 25, 2019, the draft staff report, resolution, plans, and story pole certification were posted on the City's website for public review 14 days prior to the public hearing as required by the Town Center Plan.

The applicant voluntarily conducted a public outreach meeting on February 9th, 2019 with the resident's on-site, residents within 500 feet of the project site, and tenants of the existing commercial businesses. At the meeting, the applicant presented the project and answered questions about the proposed design and layout.

CONCLUSION: Based on the above analysis, staff has determined that the proposed project meets the applicable development standards set forth in both the Town Center Plan and the Dana Point Zoning Code, and the required findings can be made. Staff recommends the Planning Commission adopt the draft resolution approving Coastal Development Permit CDP18-0001/Site Development Permit SDP18-0001/Conditional

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Use Permit CUP18-0001/Vesting Tentative Parcel Map TPM19-0001, The Greer Mixed-Use.



Sean Nicholas, AICP
Senior Planner



Matt Schneider
Director of Community Development

ACTION DOCUMENT:

1. Draft Planning Commission Resolution 19-03-11-XX

SUPPORTING DOCUMENTS:

2. Vicinity Map
3. CEQA Exemption form
4. Proposed plans

Action Document 1: Draft Planning Commission Resolution No. 19-03-11-XX

RESOLUTION NO. 19-03-11-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING COASTAL DEVELOPMENT PERMIT CDP18-0001/SITE DEVELOPMENT PERMIT SDP18-0001/CONDITIONAL USE PERMIT CUP18-0001/VESTING TENTATIVE PARCEL MAP TPM19-0001 FOR A NEW MIXED-USE DEVELOPMENT WITH 10,822 SQUARE FEET OF COMMERCIAL SPACE AND 68 RESIDENTIAL UNITS, INCLUDING TWELVE (12) AGE RESTRICTED SENIOR CITIZEN HOUSING UNITS, WITH SUBTERRANEAN PARKING LOCATED AT 24442, 24452, AND 24470 DEL PRADO AVENUE IN THE COASTAL OVERLAY DISTRICT

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

WHEREAS, American Commercial Equities II, LLC (the "Owner"), owns the real property commonly referred to as 24442, 24452, and 24470 Del Prado Avenue (APNs: 682-234-05, 682-234-06, and 682-234-07) (the "Property"); and

WHEREAS, the Owners caused to be filed a verified application for a Coastal Development Permit, Site Development Permit, Conditional Use Permit, and Vesting Tentative Parcel Map for a new mixed-use development with 10,822 square feet of commercial space, 68 residential units, including twelve (12) Senior Citizen Housing units, and subterranean parking structure; and

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

WHEREAS, the Planning Commission did, on the 11th day of March, 2019, hold a duly noticed public hearing as prescribed by law to consider said request; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the project is Categorically Exempt per Section 15332 (Class 32-In-fill Development Projects) in that projects on project sites that are five 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 a significant effects relating to Land Uses, Habitat, Traffic, Noise, Air Quality or Water Quality, can be adequately served by all required utilities and public resources, and there are no unusual circumstances associated with the project site, are Categorically Exempt from the provisions of CEQA.; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, said Commission considered all factors relating to Coastal Development Permit CDP18-0001/Site Development Permit SDP18-0001/Conditional Use Permit CUP18-0001/Vesting Tentative Parcel Map TPM19-0001.

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

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- A) That the above recitations are true and correct and incorporated herein by reference;

Findings:

- B) Based on the evidence presented at the public hearing, the Planning Commission adopts the following findings and approves Coastal Development Permit CDP18-0001, subject to conditions:
- 1) That the proposed project is in conformity with the certified Local Coastal Program as defined in Chapter 9.75 of this Zoning Code, **in that, the project is consistent with the applicable goals and policies as adopted by the California Coastal Commission associated with the LCP approval for the Town Center Plan and the Dana Point Zoning Code. In particular, Land Use Element Policy 5.5 states that the development should promote a development of a mixture of land uses that may include visitor-serving commercial. The proposed project will include five retail spaces and two restaurant spaces which will add to the overall visitor serving character of Town Center. The residential portion will provide Senior Citizen Housing options near the coast.**
 - 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 in conformity with the public access and public recreation policies of Chapter Three of the Coastal Act, **in that, the proposed development is not located between the nearest public roadway and the sea or shoreline of any body of water and does not impact any access or sensitive resources addressed in Chapter Three of the Coastal Act. The proposed project will add to the Visitor Serving atmosphere of Town Center by adding five new retail spaces and two new restaurant spaces.**
 - 3) That the proposed development conforms to Public Resources Code Section 21000 (the California Environmental Quality Act), **in 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 a 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. Applicable analysis and discussion is specified in the Notice of Exemption.

- 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 site has been developed, and no environmentally sensitive habitats or scenic resources exist onsite. There is also no designated sensitive areas within close proximity of the site that construction of the proposed project, or subsequent operation, would impact.**
- 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 subject site has already been developed, and no natural landforms will be impacted. As a component of the project, a geological and soil study was submitted and reviewed. As a result, the subterranean parking garage walls are thicker than normal to address a naturally occurring geological surcharge. The design has been reviewed by engineering and determined that with the proposed design there will be no potential impact to surrounding areas or geologic 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 project has been designed consistent with the requirements of the Town Center Plan, and steps with the sloping nature of Del Prado Avenue. The architectural design has modern lines, but contains materials and finishes (smooth stucco, metal railings, and wood details) common on Spanish Colonial Revival Design which is utilized throughout Town Center. While unique, the project will fit in with the eclectic mix of architectural**

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styles of Town Center and utilizes high quality materials throughout.

- 7) That the proposed development will conform with the General Plan, Zoning Code, Local Coastal Program, or other applicable adopted plans and programs, **in that, the proposed project is consistent with all the applicable General Plan and LCP policies associated with the development of the project site as listed under finding one above. The development is consistent with both the Town Center Plan and applicable Dana Point Zoning Code requirements and does not require a Variance to be developed.**
- C) Based on the evidence presented at the public hearing, the Planning Commission adopts the following findings and approves Site Development Permit SDP18-0001, subject to conditions:
 - 1) That the site design is in compliance with the development standards of the DPZC and Town Center Plan, **in that, the development of the project, including subterranean parking structure, three inch subterranean encroachment into the side yard setback, and conforming mechanical screening, is consistent with all of the development standards of both the Town Center Plan and DPZC. No Variances are required to develop the project as proposed. The encroachment of the parking structure is below grade, and is not visible in any way. The Development meets all other applicable development standards including height and parking.**
 - 2) That the site is suitable for the proposed use and development, **in that, the project is a mixed-use development located in the Town Center. The proposed uses are consistent with the existing mix of uses, and will allow for additional retail, residential, and restaurant spaces to be developed in the Town Center.**
 - 3) That the project is in compliance with all elements of the General Plan and all applicable provision of the Urban Design Guidelines, **in that, the applicant is proposing high quality materials including smooth white stucco, metal railings, and wood accent features, while utilizing more modern design lines and character.**
 - 4) That the site and structural design is appropriate for the site

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and function of the proposed use, without requiring a particular style or type of architecture, **in that, the proposed development has been designed to take advantage of the natural slope of the site to develop subterranean parking and step with the land to avoid massing impacts. High quality design is proposed that will compliment other projects and development within Town Center and surrounding areas.**

- D) Based on the evidence presented at the public hearing, the Planning Commission adopts the following findings and approves Conditional Use Permit CUP18-0001, subject to conditions:
- 1) That the proposed conditional use is consistent with the General Plan, **in that, the development is consistent with all applicable goals and policies that were adopted with the approval of the General Plan and Town Center. In particular, Land Use Element Policy 5.5 states that the development should promote a development of a mixture of land uses that may include visitor-serving commercial. The proposed project is a mixed-use development which will include 10,822 square feet of non-residential space, including two restaurant spaces, and the inclusion of age restricted, 55 and over, Senior Citizen Housing in Town Center.**
 - 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 proposed development is consistent with all applicable development requirements of the Town Center Plan and DPZC, and General Plan policies associated with the approval of the proposed project. The project is consistent with the vision as approved by the Town Center Plan providing for a varied mix of potential uses including retail, personal service, restaurant, and residential. The project is consistent with other development in the area, and the placement of the Senior Citizen Housing on the ground floor of the project, adjacent to the alley and multi-family residential located on the opposite side of the alley, provides a transitional buffer to reduce potential conflicts of the residential area and more commercial environment of Town Center.**

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- 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 proposed development is consistent with all applicable development requirements of the Town Center and DPZC. The development as designed does not require any Variances or exceptions to the code.**
- E) Based on the evidence presented at the public hearing, the Planning Commission adopts the following findings and approves Vesting Tentative Parcel Map TPM19-0001, subject to conditions:
- 1) That the proposed map is consistent with the City's General Plan **in that, the development is consistent with all applicable goals and policies that were adopted with the approval of the General Plan and Town Center. In particular, Land Use Element Policy 5.5 states that the development should promote a development of a mixture of land uses that may include visitor-serving commercial. The proposed map would merge the three lots together and be held under one ownership and is consistent with minimum lot sizes.**
 - 2) That the design and improvement of the proposed subdivision is consistent with the City's General Plan **in that, all applicable utilities exist on-site and are available to service the proposed development. The development is consistent with all applicable goals and policies that were adopted with the approval of the General Plan and Town Center. In particular, Land Use Element Policy 5.5 states that the development should promote a development of a mixture of land uses that may include visitor-serving commercial.**
 - 3) That the site is physically suitable for the proposed type of development **in that, the project is a mixed-use development located in the Town Center. The size, shape and frontage of the proposed lot is suitable for the proposed development and meets all applicable development standards.**

- 4) That the requirements of the California Environmental Quality Act have been satisfied **in 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 a 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. Applicable analysis and discussion is specified in the Notice of Exemption.**
- 5) That the site is physically suitable for the proposed density of development **in that, the project is a mixed-use development located in the Town Center. The mix of uses is consistent with the existing mix of uses, and will allow for additional retail, personal service, and restaurant spaces to be developed in the Town Center. The Town Center Plan does not have a maximum density, but all development standards including required public and private open space per unit, and off-street parking for residents and guests have been met.**
- 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 or wildlife or their habitat **in that, the site has been developed for decades, and there are no potential environmental impacts nor habitat located on the project site.**
- 7) That the design of the subdivision and the proposed improvements are not likely to cause serious public health problems **in that, the subject site has already been developed, and no natural landforms will be impacted. As a component of the project, a geological and soil study was submitted and reviewed. As a result, the subterranean parking garage walls are thicker than**

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normal to address a naturally occurring geological surcharge. The design has been reviewed by engineering and determined that with the proposed design there will be no potential impact to surrounding areas or geologic hazards. The development will also meet all required California Building Code and Fire Code requirements.

- 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, there are no easements on the site that would prevent or impact the merging of the three lots into one lot.**
- 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 pursuant to Section 7.05.055 **in that, the proposed development is consistent with all applicable development requirements of the Town Center and DPZC. The development as designed does not require any Variances or exceptions to the code. The project is consistent with the vision as approved by the Town Center Plan providing for a varied mix of potential uses including retail, personal service, restaurant, and residential. The project is consistent with other development in the area, and the placement of the Senior Citizen Housing on the ground floor of the project, adjacent to the alley and multi-family residential located on the opposite side of the alley, provides a transitional buffer to reduce potential conflicts of the residential area and more commercial environment of Town Center.**
- 10) That the subdivision is not located in a fee area or, if located in a fee area, the subdivider has met the requirements for 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, including the Town Center impact fee shall be paid prior to the issuance of any permits, including demolition.**

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- 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, all utilities exist and are adequate to provide service to the proposed development.**

A. General:

1. Approval of this application is to allow the development of a 80,324 square foot mixed-use development with 10,822 square feet of non-residential space, including two restaurants and outdoor dining. The project also includes 12 age restricted (55+) units on the ground floor, and 68 residential units overall. 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/Local Coastal Program, and the Dana Point Zoning Code.
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, 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.
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, they may approve the amendment without requiring a new public

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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 Owner 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. Owner'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.

The Owner 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 Owner or the Owner's agents, employees, or contractors. Owner'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. The Owner 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 Owner and Owner'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. This resolution shall be copied in its entirety, placed directly onto a separate plan sheet behind the cover sheet of any plans submitted to the City of Dana Point Building/Safety and Engineering Division for plan check for Building and Grading Permits.
8. The Owner and Owner'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.
9. The construction site shall be posted with signage indicating that construction shall not commence before 7:00 a.m. and must cease by 8:00 p.m., Monday through Saturday, and no construction activity is

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permitted on Sundays or Federal holidays.

10. All proposed finishes, including but not limited too: stucco, wood details, paint color, and railings shall be reviewed and approved in the field prior to installation to ensure consistency with the architectural design and detail approved by Planning Commission.
11. All exterior building lights shall be aesthetically consistent with the approved architecture and proportionally consistent with the area for which they are located. All exterior light sources shall have light cutoffs to avoid light trespass and offsite glare.
12. No signs are approved associated with this project. A separate Master Sign Program, including any way finding signage, needs to be developed and approved prior to certificate of occupancy. All signs, materials, and methods of illumination should be of high quality to match the architecture of the building.
13. All roof mounted equipment shall be at or below the roof mounted equipment screening.
14. The proposed uses shall comply with the provisions of the City's Noise Ordinance at all times.
15. The applicant shall ensure that no activities take place contrary to the public health, safety and welfare.
16. Deliveries and refuse collection shall be prohibited between the hours of 10:00 P.M. and 7:00 A.M. daily, unless otherwise approved by the Director of Community Development.
17. 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.
18. All proposed utilities within the project and on the adjacent public right-of-way shall be installed underground.
19. An encroachment permit shall be obtained prior to any work within the public right-of-way. All proposed improvements within the City of Dana Point streets and alley right-of-way require an encroachment permit. Any City-approved permanent right-of-way encroachments may require an easement, or other instrument to address said improvements in the right-of-way, including long term maintenance, approved by the City.

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20. All improvements within the public right-of-way shall be constructed per the Lantern District Public Works Construction Details and per Public Works Director/City Engineer.
21. Building materials, unlicensed vehicles, construction equipment, portable toilets, and construction-related items shall not be placed in the public right-of-way unless otherwise approved by the Public Works Director/City Engineer.
22. The applicant shall use all acceptable means and methods necessary to prevent dust and off-site siltation impacting the neighboring businesses and residents.
23. Any private improvements remaining within the public right-of-way shall require a Removal and Maintenance Agreement, an easement, or other similar instrument, as approved by the Public Works Director/City Engineer.
24. The applicant shall exercise special care during the construction phase of this project to prevent any off-site siltation. The applicant shall provide erosion control measures and temporary desiltation/detention basins as required. The applicant shall maintain the temporary basins and erosion control devices until the Director of Public Works approves of the removal of said facilities. Failure to do so may result in fines for illicit discharge and shall obligate the City to repair/replace as appropriate and charge the applicant.
25. All plans shall be in conformance with the Lantern District Plan, Lantern District/Town Center Standards and Construction Details, and the PCH/Del Prado Ultimate Plan per the Public Works Director/City Engineer. All needed design adjustments shall be at the expense of the applicant.
26. Any damage to existing public or adjacent private property facilities shall be repaired or replaced to the satisfaction of the Public Works Director/City Engineer, per the City's standard encroachment conditions and other applicable standards, within ten working days unless otherwise approved by the Public Works Director/City Engineer.
27. In the event of construction ceasing for a period of longer than one month, additional landscaping and screening may be required and/or installed at the owner's expense. Landscaping and screening requirements shall be established by the Community Development Director and Public Works Director/City Engineer.

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28. All above-grade utility enclosures, including power transformers, shall be located outside of the building, on private property, and screened from the public right-of-way. Should adequate clearance and screening not be provided, additional architectural plan changes may be required at the discretion of the Community Development Director and Public Works Director/City Engineer.
29. 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/City Engineer.
30. A separate agreement shall be required for any potential impacts to any adjacent property. The agreements (as needed) shall be submitted as a part of the permit application.
31. The project shall provide all necessary pedestrian protection along the project perimeter, including Del Prado and Amber Lantern for the duration of the project. The pedestrian protection shall be in compliance with the current Building Code requirements, as well as all applicable Traffic Safety guidelines, including, but not limited to, the Work Area Traffic Control Handout. All sidewalks shall remain open to the public unless otherwise approved by the Director of Public Works/City Engineer. If a sidewalk is allowed be closed, an alternative pedestrian path of travel meeting current traffic safety standards shall be provided to the satisfaction of the Director of Public Works/City Engineer.
32. Prior to any submittal to the City of Dana Point, an address assignment and address exhibit shall be submitted to the Public Works Department for review and approval.
33. Prior to any work or permit issuance, the applicant shall submit a Parking Management Plan that addresses construction worker parking, construction material deliveries, and mechanisms to avoid impacts to surrounding residential streets and neighborhoods. No construction parking is allowed on residential streets at any time, and the applicant shall take all necessary steps to prevent said parking. The parking management plan shall outline the parking needs for construction activities and limit the impact of construction employee parking and construction equipment parking on surrounding businesses and residents. The plan shall clearly state that no construction parking is allowed along Santa Clara Ave, Del Prado or surrounding residential streets.

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34. The Building Official shall consult the Director of Public Works/Public Works Director/City Engineer for any variation from the work hours as described in the noise ordinance of the Dana Point Municipal Code. Any requested exception to the work hours shall be made in writing and approved by the Director of Community Development and Director of Public Works /City Engineer in advance.
35. The applicant shall submit a haul route for review and approval. No hauling of equipment or materials shall be allowed without advanced written approval of the submitted haul route. The haul route shall be clear and ensure that no construction vehicles and equipment shall be allowed in the surrounding residential areas, including Santa Clara Avenue.
36. All loading spaces shall be reviewed and approved consistent with the requirements of the Dana Point Zoning Ordinance.
37. Final layout (i.e. parking stalls, striping, aisle widths, etc) shall be reviewed prior to issuance of building permits for the parking structure to ensure compliance with the Dana Point Zoning Ordinance.
38. All tree placements and hardscape shall be reviewed by the public works department to ensure that there is no impact to required sight distance.
39. The applicant shall post Del Prado maximum 4 hour parking during the construction day in all areas around the construction site. The purpose of the restrictions is to prevent construction worker parking, and shall be described in the approved Parking Management Plan.
40. No construction vehicles or employee parking shall be allowed on Santa Clara Avenue.
41. Building(s) shall comply with the 2016 editions of the Building Code with all local amendments.
42. Project "*Condition of Approval*" shall appear on the submitted drawings.
43. Building plan check submittal shall include the following construction documents:
 - Building Plans (4 sets)
 - Electrical/Plumbing/Mechanical plans by a Registered Design Professionals

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- Energy Calculations (2 sets)
- Structural Calculations (2 sets)
- Soils/Geology Report (3 sets)
- CAsp Report (incorporated into the plans)
- Fire/Life/Safety Code Analysis Report (exiting, occupancy separation, fire-rating, etc.).

All documents prepared by a registered-design-professional shall be wet-stamped & signed.

44. Fire Department review is required. Submit plans directly to the Orange County Fire Authority for their review and approval.
45. A proposed 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 Parcel Map as determined by the Director of Community Development and the Director of Public Works/City Engineer. Said map shall be prepared as required by the City of Dana Point Subdivision Code.
46. Any and all taxes and fees required to be paid to the County of Orange shall be paid to the County of Orange and the County Treasurer-Tax Collector's Certificate shall be signed.
47. 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 Public Works Director/City Engineer. The Final Map shall also include a note to identify any easements proposed to be vacated with the Map.
48. 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.
49. Utility easements shall be provided to the specifications of the appropriate utility companies and subject to review and approval by the Director of Public Works.
50. 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.

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51. The Final Map shall clearly state the subdivision is for a lot merger and/or condominium purposes. If for condominiums. The total number, up to a maximum of four, shall be indicated.
52. The applicant shall enter into an encroachment agreement with the City of Dana Point for any private improvements below or above the public right-of-way.
53. 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.
54. If condominiums are proposed as a part of the final Parcel Map, 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 Director's of Public Works and Community Development, the Public Works Director/City Engineer, and the City Attorney. The CC&Rs 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 Public Works Director/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 site, any common walls, or disputes regarding the maintenance of the residential versus retail portions of the building 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. Provisions which prohibit any obstructions within any fire protection access easement and shall also require approval of the Orange County Fire Authority for any modifications.

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- f. An acceptable means for the separation of ownership for the residential and commercial spaces.
 - g. Clearly delineate 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.
 - h. Clearly assign maintenance responsibility of the Homeowners' Association for landscaping, irrigation and other improvements installed on City property (if any) for the benefit of the Project.
 - i. Include the Final Water Quality Management Plan (WQMP), which will be recorded as part of the CC&R's.
 - j. Implement conditions on and maintenance provisions for all structural and non-structural improvements and Best Management Practices (BMPs) indicated in the Final WQMP.
55. The applicant shall submit "will serve" letters from the applicable water and sewer district.
56. The approved Fire Master Plan shall be submitted to the City of Dana Point Public Works Department.
57. Prior to the recordation of a subdivision map, a note shall be placed on the map stating that all residential structures shall be protected by an approved automatic fire sprinkler system.
58. 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.
59. Applicant shall enter into a Subdivision Improvement Agreement for the design, construction, and installation of the private and public improvements, as needed, in accordance with City plans and specifications. A security, for an amount equal to 100 percent of the approved Engineer's cost estimate, as verified by the City Engineer, shall be posted, to guarantee the performance of work described in the Subdivision Improvement Agreement will be required as needed.

B. Building Submittal:

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60. Undergrounding of all onsite utilities is required. An Approved SDG&E Work Order and Undergrounding Plan is required prior to permit issuance.
61. Minimum roofing classification is Class "A".
62. Building Code Analysis: Provide building code analysis showing conformance to the Chapter 3 and 5 of the CBC. Specify occupancy group(s), type(s) of construction, including fire sprinklers, location on property, actual and allowable floor area, building height, number of stories, and conforming exiting.
63. Exiting Plan & Analysis: Plans should include an occupant load analysis on the plans and provide an "Exit Plan" to show a clear and dimensioned Means of Egress system that provides a continuous, unobstructed exit from any occupied point in the building to a public way.
64. Fire-rated Construction: Plans should clearly identify the locations of the Fire Areas, Fire Walls, Fire Barriers, Fire Partitions, and all Occupancy separations. Provide complete legends and details on the plans.
65. Third party inspection by an independent certified deputy inspector for fire-stopping, fire-resistant penetrations and joints are required. (CBC Sections 1704, 1705, 1705.16)
66. Fire sprinkler system is required.
67. Plans should clearly show compliance with CBC Chapters 11A (Housing Accessibility for Newly-Constructed Covered Multifamily Dwellings) and 11B Accessibility to Public Buildings, Public Accommodations, Commercial Buildings and Public Housing). A Certified Access Specialist (CAsp) report is required and shall be incorporated onto the plans.
68. Please provide analysis & a summary matrix of the accessible and/or adaptable units on the Title Sheet.
69. Provide an Accessibility and Exit Analysis for the Building/Development.
70. Accessible route: All buildings of covered multifamily dwellings and related facilities such as parking spaces, laundry, storage, and other facilities for the use of the residents; passenger drop off points; the

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public way; and any adjacent public transportation stops, shall be connected by an accessible route of travel.

71. Soils Report (1803): Submit a foundation and soils investigation report by a Registered Design Professional and conducted in conformance with CBC Section 1803.3 through 1803.5. The report shall comply with CBC Section 1803.6.
72. 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 4500 psi.
73. Green Building: Plans shall show compliance & indicate method of verification of compliance with all CALGreen requirements. Third party or other methods shall demonstrate satisfactory conformance with mandatory measures.
74. In Group R occupancies (2 units or more) wall and floor-ceiling assemblies separating dwelling units or guest rooms from each other and from public space such as interior corridors and service areas shall provide airborne sound insulation for walls, and both airborne and impact sound insulation for floor-ceiling assemblies.
75. Provide construction details for penetrations or openings in construction assemblies for piping, electrical devices, recessed cabinets, bathtubs, soffits, or heating, ventilating or exhaust ducts to be sealed, lined, insulated or otherwise treated to maintain the required smoke, fire and sound/noise ratings.
76. Provide blow-up details of all fire-rated construction and sound & noise (acoustical) attenuation assemblies. Call out all construction, finish materials and their approval numbers from approved testing agencies.
77. Separate review, approval, and permits are required for:
 - Separate Structures
 - Retaining Walls
 - Site Walls over 3 ft.
 - Fire Sprinklers
 - Swimming Pool/Spa
 - Signs

C. Prior to the issuance of a grading permit the applicant shall meet the following conditions:

78. 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/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, the Dana Point Municipal Code, the Grading Manual, and all other applicable standards. All grading work must be in compliance with the approved plan and completed to the satisfaction of the Director of Public Works/City Engineer, and conform to the ultimate PCH/Del Prado Street Plan.
79. The Grading plans shall include any ramp locations, temporary drainage during excavation, bicycle/pedestrian path of travel on adjacent streets (including temporary barriers, i.e. k-rail), temporary fencing, and required safety pedestrian protection. All existing improvements to be protected in place. The sidewalk along Del Prado, and all other public streets, shall remain open at all times.
80. A detailed design level geotechnical report shall be prepared, submitted and reviewed by the Public Works Director/City Engineer.
81. The applicant shall apply for all separate Building Permits related to any excavation. 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.
82. The use of public right-of-way for shoring construction including tie-back anchors, is not desired by the City. If the applicant determines, however, that use of the public right of way is necessary to accomplish the construction of their Project, a separate agreement between the applicant and City of Dana Point shall be prepared and approved by the City Engineer, and be paid for entirely by the applicant. The agreement shall be reviewed and approved by the City of Dana Point prior to the issuance of any shoring or related permit. All review fees for the agreement shall be reimbursed on a time and materials basis prior to issuance of the shoring permit.
83. The shoring permit application shall include any traffic control and/or protective barriers to be installed between the pedestrian path of travel, vehicle travel lanes, and the work area per the Public Works Director/City Engineer.

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84. Surety to guarantee the completion of the project grading and drainage improvements, including erosion control and WQMP elements, in an amount equal to 100 percent of the approved Engineer's cost estimate shall be posted to the satisfaction of the Director of Public Works/Public Works Director/City Engineer and the City Attorney. The incremental release of bonds shall be per agreement with Director of Public Works/City Engineer.
85. A separate surety to guarantee the completion of the project shoring and protection of neighboring property and neighboring improvements, in an amount equal to 100 percent of the cost shall be posted to the satisfaction of the Public Works Director/City Engineer and the City Attorney. The incremental release of bonds shall be per agreement with Director of Public Works/City Engineer.
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. The applicant shall obtain coverage under the state NPDES General Permit for Constriction Activities. The project applicant shall apply for coverage under the State electronic system. Approved application and registration shall be provided prior to permit issuance.
88. The applicant shall submit a haul route plan and secure Public Works Director/City Engineer approval and a permit before any trucking commences on the Project.
89. A separate encroachment permit and agreement shall be issued to address pedestrian access around the Development on Del Prado, Amber Lantern, and the adjacent alley. Traffic control to address pedestrian access shall be per the City's Standard Encroachment Permit Conditions and shall be reviewed/approved by the Public Works Director/City Engineer. Pedestrian access on all sidewalks on all public streets around the Project shall remain in continuous operation at all times, unless otherwise approved by the Public Works Director/City Engineer.
90. The Public Works Director/City Engineer reserves the right to approve and issue a phased grading permit, partial grading permit or other grading permit in accordance with the above Conditions of Approval.
91. A storm drain improvement plan shall be submitted and approved for all impacted public drainage facilities. The improvement plans may be

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a part of the precise grading and/or street improvement plans and permit, although the public drainage impacts shall be review and approved prior to Rough Grading Permit issuance.

92. 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/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.
93. The applicant shall submit a final landscape and irrigation plan for review and approval by the Public Works and Community Development Departments. The landscape and irrigation plans shall include work in the public right of way adjacent to the Project, if any.
94. The applicant shall prepare all necessary reports and implement all required actions, 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 water quality-related reports/actions.
95. The applicant shall submit street improvement plans concurrently with the Precise Grading Plans showing street improvements on all adjacent streets. The street improvement plans shall detail the proposed improvements and adhere to City standards and City Standard Encroachment Permit Conditions, the Lantern District Plan and Lantern District standard details. Street improvement plans shall specifically detail the proposed bulb out on the corner of Del Prado/Amber Lantern and any impact to decorative paver crosswalks treatments on Del Prado.
96. Del Prado and Amber Lantern are under a moratorium per the Dana Point Municipal Code. All disturbance and trenching within a moratorium street will require additional paving and additional approval from the Public Works Director/City Engineer beyond the City's Standard Encroachment Conditions, all at the cost of the applicant.
97. The applicant shall protect in place all newly paved street, street and right-of-way 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 Public Works Director/City Engineer.

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98. Applicant shall obtain written approval for any work proposed on adjoining properties.
99. 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.
100. 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. All fire prevention equipment, utility meters, utility equipment, etc., servicing the development shall be within the proposed development and not in the public right-of-way unless previously approved by the Public Works Director/City Engineer
101. 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, to approval by the Public Works Director/City Engineer.
102. Surety to guarantee the completion of the project grading and drainage improvements, including erosion control, in an amount equal to 100 percent of the approved Engineer's cost estimate shall be posted to the satisfaction of the Public Works Director/City Engineer and the City Attorney.

D. Prior to Issuance of a separate Right-of-Way Permit, the applicant shall meet the following conditions:

103. The applicant shall submit an improvement plan, 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, City of Dana Point Municipal Code and the City of Dana Point Grading Manual and City's Municipal Separate Storm Sewer Systems (MS4s) Permit requirements.
104. The applicant shall provide design documents for all traffic control for the construction of all proposed street improvements, unless otherwise approved by the City Engineer. The traffic control plans shall be prepared by a licensed California Traffic Engineer and submitted for review and approval by the City Engineer.

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105. All landscaping (including planting, irrigation, decorative features, etc.) of the right of way surrounding the development shall be a part of the landscape plan and shall be maintained by the applicant.
106. The applicant shall provide a permit from South Coast Water District for water and sewer services, and construct all necessary public and private infrastructure improvements to support said services.
107. The applicant shall provide and install a full-capture trash BMP, as defined per San Diego Regional Water Quality Control Board Order R9-2017-007, as technically feasible, or provide for an equivalent measure, as approved per City Water Quality Engineer, at the downstream inlet along Street of the Golden Lantern.

D. Prior to Issuance of a Building Permit or release on certain related inspections, the applicant shall meet the following conditions:

108. Approvals are required from:
 - Planning Department
 - Public Works
 - Obtain Orange County Fire Authority Approval
 - Obtain Health Department approval
 - Obtain "Will Serve" letter from Water District. This letter needs to specify any requirements for grease trap(s) or interceptor(s).
 - Provide an SDG&E service work order for proposed service location.
 - Cal/OSHA (for chair lifts & elevators)
109. Verification of all conditions of approval is required by all City Departments.
110. All approvals from outside Departments and Agencies are required.
111. "Rough Grade/Pad Certification" or "Grading Release Form" is required from City Engineer.
112. All applicable supplemental/development impact fees shall be paid prior to building permit issuance.
113. Prior to commencement of framing, the applicant shall submit a setback certification, by survey that the structure will be constructed in compliance with the dimensions shown on plans approved by the Planning Commission, including finish floor elevations and setbacks to

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property lines included as part of CDP18-0001/SDP18-0001/CUP18-0001/TPM19-0001. The City's standard "Setback 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.

114. 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 is in compliance with plans approved by the Planning Commission and the structure heights included as part of CDP18-0001/SDP18-0001/CUP18-0001/TPM19-0001. 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.
115. The applicant shall prepare plans and apply for a Building Permit in accordance with the latest submittal requirements.
116. The applicant shall submit, to the Public Works and Engineering Department, a copy of the recorded Final Map as approved by the City and recorded with the Office of the County Recorder.
117. The applicant shall submit a rough grade certification for review and approval by the Public Works Director/City Engineer by separate submittal. The rough grade certification by the civil engineer (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.
118. A licensed land surveyor shall document all pad grades to the nearest 0.1-feet to the satisfaction of the Public Works Director/City Engineer and the Director of Community Development. The civil engineer and/or surveyor shall specifically certify in writing that the elevation of the graded pad is in compliance with the vertical (grade) position approved for the project.
119. The applicant shall submit a Geotechnical rough grade certification for review and approval by the Public Works Director/City Engineer by separate submittal. The rough grade certification by the geotechnical engineer (the City's standard Geotechnical Engineer's Certification Form for Rough Grading) shall state that grading of the site, including associated appurtenances, as being completed in conformance with the recommendations of the preliminary geotechnical report.

120. An as-graded geotechnical report and certification shall be prepared by the project geotechnical consultant following grading of the subject site. The report shall include the results of all field density testing, depth of reprocessing and re-compaction, 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.
121. The applicant shall submit a separate certification for all shoring construction and activities from the geotechnical professional for review and approval by the /Public Works Director/City Engineer by separate submittal.
122. Sufficient lighting for public sidewalk safety shall be provided by the project and retail spaces for the surrounding public sidewalks. Public sidewalk shall follow the Parking Facility Development Standards for lighting for the development, and be directed away from adjacent properties.
123. The applicant and development shall enter into an agreement with the City's waste collection 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 the sidewalk. All collection activities shall be done at a time approved by the applicant and City of Dana Point.
124. The applicant shall be responsible for the proposed irrigation of any proposed parkway landscaping. The irrigation shall be a part of an irrigation plan showing the irrigation connection point and all irrigation in the right-of-way.
125. The applicant shall provide a permit from South Coast Water District for water and sewer services, and construct all necessary public and private infrastructure improvements to support said services.
126. A pedestrian protection plan for all public sidewalks impacted by the building construction, to assure they remain open to use at all times, shall be prepared in compliance with the Building Code.

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127. The applicant shall prepare documentation or dedicate, as necessary, any public street, highway, drainage, utility, and pedestrian access easements for 5 feet northerly of existing alley right-of-way in the rear of the Project as required per the Town Center Plan.

E. Prior to the issuance of a certificate of occupancy, the applicant shall meet the following:

128. Prior to certificate of occupancy, the applicant shall follow the Arts in Public Places process pursuant to DPZC 9.05.240, and all required/approved public art components shall be installed, or if applicable, required fees shall be paid.
129. The applicant shall schedule a final inspection with the Community Development Department at the site that shall include a review of, among other things, landscaping, finish architecture/materials, approved through discretionary action, and compliance with any outstanding project conditions of approval.
130. All required deed restrictions associated with the Senior Citizen Housing age restrictions shall be completed and recorded prior to certificate of occupancy.
131. A Final Geotechnical Report shall be prepared by the project geotechnical consultant in accordance with the City of Dana Point Grading Manual.
132. A written certification per City standards and approval by the Geotechnical Engineer approving the grading as being substantially in conformance with the approved precise grading plan.
133. A written certification per City standards and approval by the Civil Engineer approving the grading as being substantially in conformance with the approved grading plan and which specifically approves construction of line and grade for all engineered drainage devices and retaining walls.
134. All work in the right-of-way shall be completed in conformance with the Encroachment Permit, the Encroachment Permit Conditions, the Lantern District Plan, the Town Center Standards and Construction Details to the satisfaction of the Public Works Director/City Engineer.
135. An As-Built Grading Plan shall be prepared by the Civil Engineer of Record.

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136. Any and all outstanding fees associated with any part of the entire project shall be paid.
137. All permanent BMP's shall be installed and approved by either the project Landscape Architect or the Civil Engineer of Record.
138. The applicant shall obtain all utility agencies' final approval of the project improvement plans.
139. All works of improvements outlined in the Subdivision Improvement Agreement are completed and approved by the City of Dana Point.
140. The applicant shall submit a final certification for all improvements associated with water quality and the project WQMP for review and approval by the Director of Public Works/Public Works Director/City Engineer by separate submittal. The final improvement certification by the civil engineer (City's standard Civil Engineer's Certification Template for Final Grading) shall approve the improvements as being substantially completed in conformance with the approved WQMP.
141. A deed restriction must be placed on the property obligating the property owner to operate and maintain the BMPs and the WQMP and O&M Plan into perpetuity. The document must be executed and recorded with the County prior to issuance of Certificate of Occupancy.
142. The applicant shall demonstrate that all structural best management practices (BMPs) described in the Project's WQMP have been constructed and installed in conformance with approved plans and specifications via the City's WQMP Construction Certification letter template.
143. The applicant shall demonstrate that contracts or qualified personnel to implement all non-structural BMPs described in the Project WQMP Operations and Maintenance Manual are in place.
144. The applicant shall provide a distribution list for the approved Project WQMP and Operations and Maintenance Manual.
145. All landscaping and irrigation shall be installed per the approved final landscape and irrigation plan.
146. All permanent BMP's shall be installed and approved by either the project Landscape Architect or the Civil Engineer of Record.

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147. 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.
148. All landscaping and irrigation shall be installed per the approved final landscape and irrigation plan.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Planning Commission of the City of Dana Point, California, held on this 11th day of March, 2019, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Roy Dohner, Chairman
Planning Commission

ATTEST:

Matt Schneider, Director
Director of Community Development

Supporting Document 2: Vicinity Map

Vicinity Map



Project: Coastal Development Permit CDP18-0001/Site Development Permit SDP18-0001/Conditional Use Permit CUP18-0001/Vesting Tentative Parcel Map TPM19-0001

Applicant: Karen Martin, Pacific Planning Group

Location: 24442, 24452, and 24470 Del Prado Avenue

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Supporting Document 3: CEQA Exemption Form

**CITY OF DANA POINT
NOTICE OF EXEMPTION**

Date: March 11, 2019

To: County Clerk-Recorder
County of Orange
12 Civic Center Plaza, Room 106
P.O. Box 238
Santa Ana, CA 92702
Attn: EIR Clerk

From: City of Dana Point
Community Development Department
33282 Golden Lantern, Suite No. 209
Dana Point, California 92629

Project Title: Coastal Development Permit CDP18-0001/Site Development Permit SDP18-0001/Conditional Use Permit CUP18-0001/Vesting Tentative Parcel Map TPM19-0001

Project Location:

24442, 24452, and 24470 Del Prado Avenue (APNs: 682-234-05, 682-234-06, and 682-234-07) within the Town Center Plan Mixed-Use zone.

Description of Nature, Purpose, and Beneficiaries of Project:

A request to demolish the existing structures, and develop a new mixed-use development with 10,822 square feet of commercial space and 68 residential units, including 12 age restricted senior housing units, and subterranean garage at 24442, 24452, and 24470 Del Prado Avenue in the Coastal Overlay District.

Name of Public Agency Approving Project: City of Dana Point

Project Applicant: Karen Martin, Pacific Planning Group, Inc, 19782 MacArthur Blvd, Suite 100, Irvine, CA, 92612, (949) 874-2795

Exempt Status: (Check One)

Statutory Exemption

___ Section:

___ Ministerial (Sec. 21080(b)(1); 15268):

___ Declared Emergency (Sec. 21080(b)(3); 15269(a))

___ Emergency Project (Sec. 21080(b)(4); 15269(b)(c))

X Categorical Exemption: Class: 32 Section: 15332

Reason Why Project is Exempt:

The proposed project qualifies for a CEQA Class 32, Infill Exemption, based on the following:

The project is consistent with all applicable General Plan designations and policies and all Zoning/Town Center designations. Specifically, the project supports Land Use Goal 1 to achieve a desirable mixture of land uses to meet residential, commercial, industrial, recreational, open space, cultural and public service needs of the City residents. The proposed project consists of a new mixed-use development located in Town Center. The project includes 10,822 square feet of non-residential space, 68 residential units, including 12 age restricted senior units, and two levels of subterranean garage. The proposed development is three-stories and is at or below the maximum height limit. The proposed project has been designed to not impact any identified public views. No Variances have been requested and there is sufficient parking provided on-site for all uses.

The project site is substantially surrounded by urban uses and is less than five (5) acres. Pursuant to Section 15387 of the CEQA Guidelines the definition of an urbanized area is defined as: "a central city or a group of contiguous cities (emphasis added) with a population of 50,000 or more, together with adjacent

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densely populated areas having a population density of at least 1,000 persons per square mile.¹⁰ The contiguous cities of Dana Point, San Clemente, and Laguna Beach have a combined population of 122,511 people (U.S. Census). The population density of Dana Point is 5,133 persons per square mile, and the population density of Dana Point, San Clemente, and Laguna Beach is 3,603 persons per square mile. Pursuant to the CEQA guidelines the project site is within an urbanized area.

The project site has no value as habitat for endangered, rare or threatened species as the project site has been developed, and has been improved with various uses in the decades that followed, and there is no identified habitat located on the project site.

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. A final WQMP will also be prepared and approved to ensure the final construction documents will not result in any water quality impacts consistent with State Permit issued to the San Diego region which the City of Dana Point is covered under.

A noise study prepared by RK Engineering Group, Inc. dated January 23, 2019, analyzed the proposed project, which looked at all potential noise generation including loading/un-loading activities and HVAC equipment. Noise generated from the site to the nearest sensitive receptor, residential properties to the west, will experience an increase in noise by about one (1) decibel, which is not readily perceivable by the human ear (3 decibel change is standard increase perceivable by human ear). The study found that the various noise sources from the site in conjunction with ambient noise, will be below the Thresholds of Significance and standards of the Municipal Code. Thus on-going operations will not negatively impact surrounding residents. 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 was also prepared by RK Engineering Group, Inc dated January 24, 2019, and was peer reviewed by Linscott, Law, and Greenspan (LLG), and determined that the net change in peak period uses will be less than 50 trips, and an addition of 389 trips overall. The intersection of Del Prado and Amber Lantern will continue to operate at a Level of Service (LOS) of B, and the project does not negatively impact that (LOS). The project is consistent with past studies and environmental documents prepared for the Town Center as a whole, and there are no traffic impacts associated with the project.

The proposed project will not directly cause air quality impacts. The South Coast Air Quality Management District's (AQMD) CALEEMOD program was used to model potential Air Quality impacts. Based on the size of the project and thresholds set by AQMD, the project is below all of the construction and operational air quality thresholds, thus there are no Air Quality impact.

The site can be adequately served by all required utilities and public services, including emergency services, in that that the site is located on Del Prado which is an arterial street in the City and all necessary public utilities are readily available or existing on-site and necessary access to accommodate emergency vehicles and required on-site circulation and has been incorporated into the site plan.

When taking into account all of the various studies, and the size of the proposed addition to the site, it has been determined that the Class 32 Categorical Exemption is appropriate for the project. Based on the studies and staff analysis, 15300.2(c) is not applicable due to no unusual circumstances.

Lead Agency Contact Person:

Sean Nicholas, AICP, Senior Planner
City of Dana Point
32282 Golden Lantern
Dana Point, CA, 92629, (949) 248-2588

Signature: _____ Date: _____ Title: _____
____ Signed by Lead Agency ____ Signed by Applicant

Supporting Document 4: Proposed Plans

SEE SEPARATE PROPOSED PLAN BOOK