

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

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**DATE:**        **SEPTEMBER 13, 2021**

**TO:**            **DANA POINT PLANNING COMMISSION**

**FROM:**        **COMMUNITY DEVELOPMENT DEPARTMENT  
BRENDA WISNESKI, DIRECTOR OF COMMUNITY DEVELOPMENT  
BELINDA DEINES, PRINCIPAL PLANNER**

**SUBJECT: TIME EXTENSION FOR COASTAL DEVELOPMENT PERMIT CDP17-0023 AND SITE DEVELOPMENT PERMIT SDP17-0043 FOR ALTERATIONS TO AN EXISTING COMMERCIAL STRUCTURE, AND JOINT USE OF PARKING FACILITIES WITHIN THE COASTAL AND FLOODPLAIN OVERLAY (FP-2) DISTRICTS; AND CONDITIONAL USE PERMITS CUP17-0012, CUP17-0013, CUP17-0014, AND CUP18-0017 TO OPERATE MAJOR AND MINOR AUTOMOTIVE USES WITHIN THE COMMUNITY COMMERCIAL VEHICULAR (CC/V) ZONE LOCATED AT 25802 AND 25831 VICTORIA BOULEVARD**

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**RECOMMENDATION:**        That the Planning Commission approve a one-year time extension for CDP17-0023, SDP17-0043, CUP17-0012, CUP17-0013, CUP17-0014, and CUP18-0017, subject to all conditions contained in Resolution No. 18-09-10-21 (Supporting Document 3).

**APPLICANT:**                Pickering Properties, Property Owner

**REPRESENTATIVE:**        Todd Skenderian, Architect

**REQUEST:**                Approval of a Time Extension for a Coastal Development Permit and a Site Development Permit for alterations to an existing commercial structure, and joint use of parking facilities; and Conditional Use Permits to operate Major and Minor Automotive Uses within the City's Floodplain Overlay District, Coastal Overlay District, and the Appeals Jurisdiction of the California Coastal Commission.

**LOCATION:**                25802 and 25831 Victoria Boulevard  
(APN: 668-341-45; 121-254-43)

**NOTICE:**                Notices of the Public Hearing were mailed to property owners within a 500-foot radius and occupants within a 100-foot radius on September 3, 2021, published within a newspaper of general circulation on September 3, 2021, and posted on September 3, 2021 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 Categorically Exempt per Section 15301 (Class 1 – Existing Facilities) in that the project involves demolition of accessory (appurtenant) structures including garages, and interior and exterior alterations to an existing commercial structure in a commercial zone.

**BACKGROUND:**

On September 10, 2018, the Planning Commission approved Coastal Development Permit CDP17-0023, Site Development Permit SDP17-0043, and Conditional Use Permits CUP17-0012, CUP17-0013, CUP17-0014, CUP18-0017 to legalize conversion from a single-tenant occupancy to a multiple-tenant commercial establishment on the subject property. The approved entitlements seek to resolve an open code enforcement case by permitting the subdivision of commercial suites within existing structures, approval of the parking lot layout, and allowing businesses subject to conditional use permits. The property owner's commitment to bring the property into compliance with all applicable regulations was detailed in a Settlement Agreement with the City dated December 5, 2017. Additional background and analysis of the overall project approval can be found in the attached Planning Commission Agenda Report dated September 10, 2018 (Supporting Document 2).

Pursuant to the Planning Commission's standard Condition of Approval No. 3, the project's discretionary permits become void if construction work is not commenced within two years from their date of approval unless the applicant is granted a time extension.

**DISCUSSION:**

At present, the applicant is in the plan check process for building permits and seeks additional time to complete reviews, obtain building permits, begin construction for Building A, Building C, and related site improvements, and receive Certificates of Occupancy for the remaining businesses onsite. The applicant has experienced delays in the plan check process due to challenges associated with varied interpretations of remodel requirements for Building A, several rounds of Orange County Fire Department review processing, and COVID-19 related limitations.

Partial construction of improvements approved under CDP17-0023 and SDP17-0043 have been completed to date. The applicant demolished Building B and vacated major automotive and boat repair uses which previously occupied the building. New 6' high chain link fencing was installed along the west property line as requested by OCTA Metrolink/Southern California Regional Rail Authority.

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On September 10, 2020, the applicant received approval from the Director of Community Development for a one-year time extension, in accordance with Section 9.61.130 of the Dana Point Municipal Code. A maximum of two 12-month extensions may be granted, and a second extension request must be considered and approved by the Planning Commission.

On August 24, 2021, staff received a request from the applicant seeking a second time extension (Supporting Document 1). The Zoning Code states that requests to extend permits may be approved or conditionally approved on the basis that the requirements or standards which were in effect at the time of the original approval have not changed. No requirements or standards have changed except for the 2019 California Building Standards Code that took effect January 1, 2020. The applicant has been directed to update the plans submitted for building plan review to comply with current Building Codes. All conditions of approval, as stated in Resolution No. 18-09-10-21, remain valid and must be adhered to as part of the approved project.

Code Enforcement staff will continue to monitor compliance with the settlement agreement between the City and the property owner to bring the property into full compliance with all applicable regulations.

On August 9, 2021, the City Council adopted the Doheny Village Zoning District Update (Update) and the Local Coastal Plan Amendment (LCPA), but LCPA is pending certification by the California Coastal Commission before it becomes effective. If the Update/LCPA were in effect today, a CDP and SDP would still be required for the physical improvements. However, CUPs would not be required because the Major Automotive Uses and Minor Automotive Uses would be permitted by right.

**CORRESPONDENCE:** To date, no correspondence has been received regarding this project.

**CONCLUSION:** Staff believes that the request to extend the discretionary permits can be supported on the basis that the requirements and standards that were in effect at the time of the original approval have not changed. Therefore, staff recommends approval of the time extension.



Belinda Deines, Principal Planner



Brenda Wisneski, Director  
Community Development Department

**ATTACHMENTS:**

**Supporting Documents**

1. Letter from Applicant dated August 24, 2021
2. Planning Commission Agenda Report – September 10, 2018
3. Resolution No. 18-09-10-21

**SUPPORTING DOCUMENT 1:** Letter from Applicant dated August 24, 2021

**Todd Skenderian**

**ARCHITECT**

1100 S. Coast Hwy., Suite 316

Laguna Beach, CA 92651

Office (949) 715-5461

Fax (949) 715-5986

August 24, 2021

Brenda Wisneski  
Director of Community Development  
City of Dana Point Planning Division  
33282 Golden Lantern  
Dana Point, CA 92629

RE: 25802 and 25831 Victoria Blvd: Coastal Development Permit CDP 17-0023, Site Development Permit SDP 17-0043 and Conditional Use Permits CUP 17-0012, CUP 17-0013, CUP 17-0014 and CUP 18-0017

Dear Brenda,

On behalf of Pickering Properties, I would like to request a 12 month extension of the above referenced approvals, originally approved on September 10, 2018, in order to allow additional time by which to secure Building Dept approvals for the proposed work. Please let me know if you need additional information.

Sincerely,



Todd Skenderian

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**SUPPORTING DOCUMENT 2: Planning Commission Agenda Report – September 10, 2018**

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**DATE:** SEPTEMBER 10, 2018

**TO:** DANA POINT PLANNING COMMISSION

**FROM:** COMMUNITY DEVELOPMENT DEPARTMENT  
MATT SCHNEIDER, ACTING DIRECTOR OF COMMUNITY  
DEVELOPMENT  
BELINDA DEINES, SENIOR PLANNER

**SUBJECT:** COASTAL DEVELOPMENT PERMIT CDP17-0023 AND SITE  
DEVELOPMENT PERMIT SDP17-0043 TO DEMOLISH AN EXISTING,  
UNPERMITTED GARAGE STRUCTURE, ALTERATIONS TO AN  
EXISTING COMMERCIAL STRUCTURE, AND JOINT USE OF PARKING  
FACILITIES WITHIN THE COASTAL AND FLOODPLAIN OVERLAY (FP-  
2) DISTRICTS; AND

CONDITIONAL USE PERMITS CUP17-0012, CUP17-0013, CUP17-0014,  
AND CUP18-0017 TO OPERATE MAJOR AND MINOR AUTOMOTIVE  
USES WITHIN THE COMMUNITY COMMERCIAL VEHICULAR (CC/V)  
ZONE LOCATED AT 25802 AND 25831 VICTORIA BOULEVARD

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**RECOMMENDATION:** That the Planning Commission adopt the attached resolution  
approving Coastal Development Permit CDP17-0023, Site  
Development Permit SDP17-0043, and Conditional Use  
Permits CUP17-0012, CUP17-0013, CUP17-0014, CUP18-  
0017

**APPLICANT:** Pickering Properties, Property Owner

**REPRESENTATIVE:** Todd Skenderian, Architect

**REQUEST:** Approval of a Coastal Development Permit and a Site  
Development Permit to demolish an existing, unpermitted  
garage structure, alterations to an existing commercial  
structure, and joint use of parking facilities; and Conditional  
Use Permits to operate Major and Minor Automotive Uses  
within the City's Floodplain Overlay District, Coastal Overlay  
District, and the Appeals Jurisdiction of the California Coastal  
Commission.

**LOCATION:** 25802 and 25831 Victoria Boulevard  
(APN: 668-341-45; 121-254-43)

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**NOTICE:**

Notices of the Public Hearing were mailed to property owners within a 500-foot radius and occupants within a 100-foot radius on August 24, 2017, published within a newspaper of general circulation on August 31, 2017, and posted on August 31, 2017 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 Categorically Exempt per Section 15301 (Class 1 – Existing Facilities) in that the project involves demolition of accessory (appurtenant) structures including garages, and interior and exterior alterations to an existing commercial structure in a commercial zone.

**ISSUES:**

- Project consistency with the Dana Point General Plan, Dana Point Zoning Code (DPZC) and Local Coastal Program (LCP);
- Project compliance with the City's Floodplain Regulations;
- Project compatibility with and enhancement of the site and surrounding neighborhood; and
- Project satisfaction of all findings required pursuant to the DPZC and LCP for approval of a Coastal Development Permit (CDP), Site Development Permit (SDP), and Conditional Use Permits (CUPs).

**BACKGROUND:**

The applicant seeks approval to legalize conversion from a single-tenant occupancy to a multiple-tenant commercial establishment on the subject property. The subject site consists of two parcels and a portion of City public right-of-way located at the west end of Victoria Boulevard in Doheny Village. The site is bounded by the railroad tracks to the west, and a variety of existing commercial and light industrial uses to the south, east, and north (Supporting Document 2).

The property is located within the "Community Commercial/Vehicular" (CC/V) zone, and is located within the City's Floodplain Overlay District (FP-2), Coastal Overlay District (the California Coastal Zone), and the Appeals Jurisdiction of the California Coastal Commission. The Floodplain Overlay designation identifies the property as being subject to areas inundated by 100 year flood and determined to be a special flood hazard area.

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In 2015, Code Enforcement staff issued Citation #50181 for failure to obtain Certificates of Occupancy for the existing, unpermitted businesses at the subject site. In 2016, an Administrative Hearing was held for the Citation, which was upheld by the Hearing Officer. In November 2016, a preliminary review was conducted to provide the applicant with an assessment of the proposed uses and site design of the project. On March 2, 2017, the applicant provided a written request for an interpretation by the Director of Community Development for specific unpermitted uses on the subject property. On April 10, 2017, the Planning Commission upheld the Director's determination that "recreational vehicle storage use" is a prohibited use within the CC/V zone and "major automotive repair use" is a prohibited use within the Transportation Corridor District (TC) zone.

The City entered into a settlement agreement with the applicant to bring the property into full compliance with all applicable regulations. In October 2017, formal application of discretionary permits was submitted and the applications were deemed incomplete by staff. The applications were resubmitted on August 15, 2018 and deemed complete on August 22, 2018.

### **DISCUSSION:**

#### ***25802 Victoria Boulevard***

25802 Victoria Boulevard is a 54,235 square-foot lot located south of Victoria Boulevard and the property is currently developed with existing structures identified as Building A and Building B.

#### **Building A**

Building A is an existing two-story, commercial structure with a total of 16,236 square feet of gross floor area. Records from the County Assessor's Office identify that the original structure was built in 1963 and a 5,040 square-foot storage steel canopy was added to the existing structure in 1972. On August 7, 1996, Coastal Development Permit CDP96-12 and Conditional Use Permit CUP96-22 were approved by the City's Planning Commission to allow retail boat sales, storage, maintenance, and repair. In December 1996, the City issued final building permits for Building A to install garage doors, partition walls, and interior electrical upgrades in compliance with the conditions of approval for CDP96-12 and CUP96-22.

While CUP96-22 allowed boat repair as an accessory use to the primary use of retail boat sales, the operation of the site has changed from single-tenant to multiple-tenant occupancy in recent years. The applicant maintains responsibility for providing day-to-day operations of the dry boat storage operation, property maintenance, rental access, execution of sub-lease and rental agreements, and other general operational requirements of the site (Supporting Document 4).



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Upon review of the commercial tenants, staff determined that Conditional Use Permits are required for Major Automotive Uses currently operating on the property, which include:

- CUP17-0013: Dave's at the Beach, Building A, Suite 108
  - Vintage vehicle body work restoration (no engine repair, car mechanic services, or painting)
  - Hours of operation: 8:00 a.m. to 5:00 p.m., Monday through Saturday
  - Mezzanine floor limited to ancillary storage use only
- CUP17-0014: Orange County Outboards, Building A, Suites 201 and 202
  - Marine engine service and repair for boats only
  - Suite 202 to be used as administrative office use only
  - Hours of operation: 8:00 a.m. to 6:00 p.m., Monday through Saturday
- CUP18-0017: Ruben Gaffoglio, Building A, Suite 109
  - Vehicle restoration (no engine repair, car mechanic services, or painting)

All major automotive repair work will be conducted indoors. Trash receptacles and material storage for each business will be contained within each garage suite. No outdoor display or storage of materials is proposed (Supporting Document 5).

Modifications are also proposed to demolish and construct interior partition walls within the garage and commercial office areas in order to comply with current California Building Code exiting requirements. Any proposed improvements must be built in compliance with all applicable flood hazard reduction provisions of DPZC Section 9.31.060, including anchoring, construction materials and methods, and floodproofing. Building A is built below the Base Flood Elevation (BFE) noted on the FEMA Flood Insurance Rate Map. Therefore, Building A is considered nonconforming to current floodplain standards. Staff has calculated that the proposed improvements do not exceed ten percent of the value of the building.

Nonresidential improvements must be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water; have structural components capable of resisting hydrostatic and hydronamic loads and effects of buoyancy; and be certified by a registered professional engineer or architect that the encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

#### Building B

Building B is a 2,517 square-foot storage structure that was previously used as covered storage bays for lumber and other building products. In 1996, building plans associated with the boat sales and repair uses identified Building B as existing covered storage, which did not include garage doors and partition walls as part of the permit approval.

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Building B had been enclosed with garage doors without permits and is currently occupied by major automotive and boat repair uses.

In 2016, the applicant submitted plans and a topographic survey that showed the rear portion of Building B encroaching 8' into the adjacent OCTA/Metrolink parcel and TC zone. The applicant sought to legalize existing, unpermitted major automotive repair uses that were operating out of Building B. However, the Director's determination that was upheld by the Planning Commission confirmed that "major automotive uses" are prohibited in the TC zone, and Conditional Use Permits could not be obtained for Building B as it exists today.

The applicant proposes to demolish Building B and has future plans to construct a new building, which will be reviewed and approved under a separate application at a later date. Building B is not identified as a historic resource, and is a nonconforming structure encroaching beyond the property line and built below the current BFE. Metrolink/Southern California Regional Rail Authority (SCRRA) has requested that the existing fence that also encroaches into the railroad right-of-way be removed and a new 6' high chain link fence be installed along the west property line.

Table 1 summarizes applicable CC/V zoning designation development standards and the project's conformance with those requirements:

**Table 1: 25802 Victoria Blvd - Compliance with CC/V Development Standards**

Development Standard	Requirement	Proposed	Compliant with Standard
Front Setback	20'	3'	No
Side Setbacks	0'	2", 0'	Yes
Rear Setback	15'	44'-1"	Yes
Height	31'-35' 3 stories	27.69' 2 stories	Yes
Floor Area Ratio	0.5:1 (27,117 SF)	16,220 SF	Yes
Landscape Coverage	15% minimum (8,135 SF)	0.6% (325 SF)	No
Parking Required	40 spaces	29 spaces	No

**25831 Victoria Boulevard**

25831 Victoria Boulevard is a 59,207 square-foot lot located north of Victoria Boulevard and the property is developed with an existing structure identified as Building C.

Building C

Building C is an existing 443 square-foot commercial building. The applicant proposes to install a new accessible ramp to the entry door to meet Building Code requirements. A Conditional Use Permit is required for an upholstery shop, which is defined as a minor automotive use:

- CUP17-0012: Pacific Coast Mobile Upholstery, Building C
  - Custom fabrication and installation of canvas boat upholstery, carpets, headliners, enclosures, boat tops and storage covers
  - Hours of operation: 8:00 a.m. to 6:00 p.m., Monday through Saturday
  - Upholstery repairs may be conducted outside if boats are appropriately covered and screened as viewed from the public right-of-way at the end of Victoria Boulevard

**Table 2: 25831 Victoria Blvd - Compliance with CC/V Development Standards**

Development Standard	Requirement	Proposed	Compliant with Standard
Front Setback	20'	4'-11"	No
Side Setbacks	0'	73'-1"; 1'-8"	Yes
Rear Setback	15'	558'-4"	Yes
Height	31'-35' 3 stories	10.46' 1 story	Yes
Floor Area Ratio	0.5:1 (29,603 SF)	543 SF	Yes
Landscape Coverage	15% minimum (8,135 SF)	0.08% (47 SF)	No
Parking Required	6 spaces	17 spaces	Yes

***Joint Use of Parking Facilities***

Pursuant to DPZC 9.35.060(c)(3), multiple uses on multiple building sites may establish joint use parking facilities. The applicant has provided architectural plans with a detailed joint use parking plan for the entire property that includes the two building sites (25802 and 25831 Victoria Boulevard), and the portion of the City public right-of-way between the two building sites (Supporting Document 5). Sheet CS-1 provides a chart of the proposed business uses, floor areas, required parking ratios, and total required parking stalls. Sheet A-1 shows a site plan of the proposed parking facilities with new striping, driveway access, and pedestrian path of travel. The applicant proposes to remove existing parking stall striping and redesign the parking facilities to meet minimum back-up length, maintain adequate drive aisle width, and provide three (3) accessible stalls.

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Based on the current tenant roll, a total of 46 parking spaces are required for all proposed business uses. The proposed parking layout will provide 29 spaces located at 25802 Victoria Boulevard, and 17 spaces at 25831 Victoria Boulevard. A striped pedestrian walkway across the City public right-of-way provides a clear path of travel for pedestrians to and from the parking facilities behind the existing gate and fencing.

A deed restriction will be required for both properties to guarantee that required parking will continue to be maintained in compliance with the applicable provisions of Chapter 9.35. This assurance must be recorded in the office of the Orange County Clerk Recorder on all properties utilizing the joint use parking facilities.

**Coastal Development Permit CDP17-0023**

Pursuant to Section 9.69.040 of the Dana Point Zoning Code, demolition of a structure on land located in the City's Coastal Overlay District and the Appeals Jurisdiction of the California Coastal Commission requires approval of a Coastal Development Permit (CDP).

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.*

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7. *Conform to the General Plan, Zoning Code, applicable Specific Plan, Local Coastal Program, or any other applicable adopted plans and programs.*

The recommended findings for approval of the CDP are outlined in the draft Resolution No. 18-09-10-XX, attached to this report as Action Document 1.

Site Development Permit SDP17-0043

Pursuant to Chapter 9.31 of the DPZC, site improvements proposed within the City's Floodplain Overlay District require approval of a Site Development Permit (SDP). The subject property is located within the FP-2 district, which is applied to areas subject to 100 year flooding. Furthermore, a SDP is required to establish Joint Use of Parking Facilities on multiple building sites. DPZC Section 9.71.050 requires support for the following four findings in order to grant approval of a SDP:

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 are appropriate for the site and function of the proposed use, without requiring a particular style or type of architecture.*

The recommended findings for approval of the SDP are outlined in the draft Resolution No. 18-09-10-XX, attached to this report as Action Document 1.

Conditional Use Permits CUP17-0012, CUP17-0013, CUP17-0014, CUP18-0017

Pursuant to DPZC Section 9.9.11.020(b), major and minor automotive uses require approval of a Conditional Use Permit (CUP) in accordance with the provisions of DPZC Chapter 9.65. With conditions, the Planning Commission must find that the proposed uses will not jeopardize, adversely affect, endanger, or otherwise constitute a menace to public health, safety, or general welfare, or be materially detrimental to the property of other persons located in the vicinity of such use. In order to grant approval of the CUPs, the Planning Commission must make the following findings:

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*

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*development features prescribed in this Code and required by the Commission in order to integrate the use with existing and planned uses in the vicinity.*

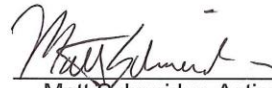
The recommended findings for approval of the CUPs are outlined in the draft Resolution No. 18-09-10-XX, attached to this report as Action Document 1.

**CORRESPONDENCE:** To date, no correspondence has been received regarding this project.

**CONCLUSION:** Staff finds that the proposed project is consistent with the policies and provisions of the City of Dana Point General Plan, Dana Point Zoning Code, and Local Coastal Program. As the project has been found to comply with all standards of development, staff recommends the Planning Commission adopt the attached draft Resolution, approving Coastal Development Permit 17-0023, Site Development Permit 17-0043, and Conditional Use Permits CUP17-0012, CUP17-0013, CUP17-0014, CUP18-0017 subject to the findings and conditions of approval contained therein.



Belinda Deines, Senior Planner



Matt Schneider, Acting Director  
Community Development Department

**ATTACHMENTS:**

**Action Documents**

1. Draft Planning Commission Resolution No. 18-09-10-xx

**Supporting Documents**

2. Vicinity Map
3. Aerial Photo
4. Site Photos
5. Architectural Plans



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**SUPPORTING DOCUMENT 3: Resolution No. 18-09-10-21**

**RESOLUTION NO. 18-09-10-21**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING COASTAL DEVELOPMENT PERMIT CDP17-0023, SITE DEVELOPMENT PERMIT SDP17-0043 TO DEMOLISH AN EXISTING UNPERMITTED GARAGE STRUCTURE, ALTERATIONS TO AN EXISTING COMMERCIAL STRUCTURE, AND JOINT USE OF PARKING FACILITIES WITHIN THE CITY'S FLOODPLAIN AND COASTAL OVERLAY DISTRICTS; AND CONDITIONAL USE PERMITS CUP17-0012, CUP17-0013, CUP17-0014, AND CUP18-0017 FOR MAJOR AND MINOR AUTOMOTIVE USES WITHIN THE COMMUNITY COMMERCIAL VEHICULAR ZONE LOCATED AT 25802 AND 25831 VICTORIA BOULEVARD**

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

WHEREAS, Todd Skenderian, Architect, (the "Representative") has filed an application on behalf of Pickering Properties, ("Applicant"), the owners of real property commonly referred to as 25802 and 24831 Victoria Boulevard (APN 668-341-45 and 121-254-43) (the "Property"); and

WHEREAS, the Representative filed a verified application for a Coastal Development Permit and Site Development Permit to allow demolition of an existing unpermitted garage structure, alterations to an existing commercial structure, and joint use of parking facilities at the Property; and

WHEREAS, the Representative filed verified applications for Conditional Use Permits to operate major and minor automotive uses at the Property; and

WHEREAS, said verified applications constitute requests 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 15301 (Class 1 – Existing Facilities) in that the application proposes demolition of accessory (appurtenant) structures including garages, and interior and exterior alterations to an existing commercial structure in a commercial zone; and

WHEREAS, the Planning Commission did, on the 10<sup>th</sup> day of September, 2018, 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 and arguments, if any, of all persons desiring to be heard, said Commission considered all factors relating to Coastal Development Permit CDP17-0023, Site Development Permit SDP17-0043, and Conditional Use Permits CUP17-0012, CUP17-0013, CUP17-0014, and CUP17-0018.

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

- A. That the above recitations are true and correct and incorporated herein by this reference.
- B. Based on the evidence presented at the public hearing, the Planning Commission adopts the following findings and approves CDP17-0023, SDP17-0043, CUP17-0012, CUP17-0013, CUP17-0014, and CUP18-0017 subject to the following conditions of approval:

Findings:

Coastal Development Permit CDP17-0023

1. That the project is in conformity with the certified Local Coastal Program as defined in Chapter 9.75 of this Zoning Code. (Coastal Act/30333, 30604(b); 14 Cal. Code of Regulations/13096) **in that the proposed demolition of the unpermitted accessory structure that encroaches beyond the property line brings the property into closer conformance with the development standards of the Dana Point General Plan and Zoning Code (the latter acting as the Local Coastal Program Implementation Plan for the property). The project will further General Plan Land Use Element Goal No. 7, which states that development should “achieve the revitalization of the Doheny Village area as a primary business district in the City” by improving the appearance of the area through revitalization activities.**
2. If located between the nearest public roadway and the sea or shoreline of any body of water, that the project is in conformity with the public access and public recreation policies of Chapter Three of the Coastal Act. (Coastal Act/30333, 30604(c); 14 Cal. Code of Regulations/13096) **in that the project is not located between the nearest public roadway and the sea or shoreline, and the property is an already developed lot zoned for commercial use, located within an area that does not contain public access ways or areas of recreation. Moreover, adequate public access to public tidelands or areas of recreation exist nearby at City, County and State beaches and accordingly, the project conforms to the public access and recreation policies of Chapter Three of the California Coastal Act.**
3. That the project conforms to Public Resources Code Section 21000 (the California Environmental Quality Act - CEQA) and following, that there are no feasible mitigation measures or feasible alternatives available which would substantially lessen any potentially significant adverse impact that the activity may have on the environment. (Coastal Act/30333; 14 Cal. Code of Regulations/13096) **in that the project qualifies as Categorically**



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**Exempt from review under CEQA pursuant to Section 15303 (Class 3 – Existing Structures) in that the application proposes demolition of an existing accessory (appurtenant) structure.**

4. That the proposed development will not encroach upon any existing physical access-way legally utilized by the public or any proposed public accessway identified in an adopted Local Coastal Program Land Use Plan, nor will it obstruct any existing public views to and along the coast from any public road or from a recreational area **in that no public access-ways exist on the subject property and so none would be adversely affected with implementation of the proposed project. Accordingly, proposed demolition of the property's existing accessory structure would not result in adverse impacts to any existing public views of or along the coast and as viewed from a public road or recreation area.**
5. That the project has been 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 subject property is a developed parcel containing no environmentally sensitive habitat area (ESHA) and accordingly, the proposed project would not result in adverse impacts.**
6. That the project minimizes the alteration 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 is an already developed property located within an established area of commercial and light industrial uses with little to no natural landforms present and; in that the proposed demolition of the accessory structure will be completed in conformance with applicable regulations for flood and fire, minimizing undue risks from these or other hazards.**
7. That the project is visually compatible with the character of surrounding areas, and, where feasible, will restore and enhance visual quality in visually degraded areas **in that the subject application proposes demolition of an unpermitted accessory structure within an established community of commercial and light industrial uses. The project includes installation of a new fence that conforms to the development standards of the Dana Point Zoning Code, which will result in improvements to the property in a manner that is complementary to surrounding development.**
8. That the project conforms with the General Plan, Zoning Code, applicable Specific Plan, Local Coastal Program, or any other applicable adopted plans and programs **in that the subject project has been reviewed by Planning and Building/Safety Division staff as well as the Public Works/Engineering Department and found to conform with applicable**

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requirements of the Dana Point Zoning Code (which serves as the implementing document for the General Plan and Local Coastal Program Implementation Plan for the subject property). There are no adopted specific plans that apply to the subject property.

Site Development Permit SDP17-0043

1. Compliance of the site design with development standards of this Code.

The proposed interior and exterior tenant improvements meet the anchoring, construction materials, and floodproofing standards for nonresidential development within the Floodplain Overlay (FP-2) District.

The proposed joint use of parking facilities meets the minimum required parking for the proposed multi-tenant commercial establishment. The reconfiguration of parking facilities will be improved to meet current code requirements with new striping, adequate drive aisle width, minimum back-up, accessible spaces, and pedestrian access.

2. Suitability of the site for the proposed use and development.

Proposed improvements to the existing structure includes interior and exterior partition walls and new site fencing. The existing structures were constructed prior to the adoption of the Coastal Act and Floodplain Overlay District provisions as adopted in the City's Local Coastal Program, and the structures are nonconforming to current floodplain standards. However, the improvements constitute ordinary alterations and repair of walls which will not to exceed ten percent of the value of the building and new improvements will be designed to meet the current floodplain standards.

The proposed plan for joint use of parking facilities show and explain all parking facilities, uses and structures that will use the parking and the pedestrian access from the parking facilities to the uses and structures. The parking facilities are within a boundary of 300' of the uses they serve and are connected to the site with an enclosed area with a pedestrian path.

3. Compliance with all elements of the General Plan and all applicable provisions of the Urban Design Guidelines.

General Plan Public Safety Element Policy Policy 2.1 suggests reduction of risk from flood hazards by providing appropriate land use regulations for areas subject to flooding and the proposed additions and improvements to the existing buildings will comply with the

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applicable provisions of the City's Floodplain Overlay District (Chapter 9.31).

General Plan Land Use Element Policy 7.6 encourages properties in Doheny Village to provide adequate and convenient parking areas through the provision of shared parking facilities. Furthermore, Urban Design Element Policy 6.7 suggests developing a parking concept that emphasizes shared parking facilities in Doheny Village. The proposed joint use of parking is in compliance with the intent to apply efficient design of parking facilities.

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

Proposed alterations within the floodplain complement and match the existing site and structural design, which is compatible with the existing commercial development in the immediate area.

The redesign of the parking facilities will result in improved safety and access conditions such that the revised layout will ensure maintenance of adequate driveway widths throughout the boat storage areas of the site, minimum backup, and sufficient number of onsite parking spaces for all commercial tenants.

Conditional Use Permits CUP17-0012, CUP17-0013, CUP17-0014, and CUP18-0017

1. That the proposed conditional uses are consistent with the General Plan in that minor and major automotive uses are compatible with the Community Commercial/Vehicular land use category of the General Plan, supports General Plan Policy 3.3 which calls for priority to be given to projects providing coastal recreational opportunities to the public specifically as repair shops to marine and boating uses. The proposed uses also support General Plan Land Use Element Goal 7, which calls for revitalization of the Doheny Village area as a primary business district.
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 uses are of an intensity and nature similar to surrounding commercial and light industrial uses in terms of noise, traffic and visual impacts, and has been conditioned to minimize potential impacts.
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

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Commission in order to integrate the use with existing and planned uses in the vicinity in that the proposed uses will comply with all applicable standards and requirements of the Dana Point Zoning Code, and the marine and vehicular uses complement and are compatible with other automotive body repair and maintenance uses in the immediate area, specifically on the west side of Doheny Park Road.

Conditions:

General:

1. Approval of this application permits demolition of an accessory structure, interior and exterior improvements to an existing commercial structure, joint use of parking facilities, and major and minor automotive uses for 25802 and 25831 Victoria Boulevard in accordance with the plans on file with the Community Development Department. 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 Implementation Plan and Zoning Code.
2. 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 Division for plan check.
3. Approval of this application is valid for a period of 24 months (two years) from the noted date of determination. If the development approved by this action is not established, or a building permit for the project is not issued within such period of time, the approval shall expire and shall thereafter be null and void.
4. The application is approved as a plan for the location and design of the uses, structures, features, and materials shown on the approved plans. Any demolition beyond that described in the approved plans or 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 of, 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 determines that the proposed change complies with the provisions, spirit and intent of this approval action, and that the action would have been the same for the amendment as for the approved site plan, he/she may approve the amendment without requiring a new public hearing.
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.

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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.

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

The Applicant, and their successors-in-interest, shall be fully responsible for knowing and complying with all conditions of approval, including making known the conditions to City staff for future governmental permits or actions on the project site.

7. The project shall meet all water quality requirements including Low Impact Development (LID) implementation.
8. The Applicant, or Applicant's agent(s), shall be responsible for coordination with OCTA/Metrolink, water district, sewer district, SDG&E, AT&T California and Cox Communication Services for the provision of water, sewer, electric, cable television and telephone and services. The Applicant, or Applicant's agent(s), shall be responsible for coordinating any potential conflicts or existing easements.
9. The applicant shall exercise special care during the construction phase of this project to prevent any off-site siltation. The applicant shall provide erosion and sediment control measures at all times. The applicant shall maintain the erosion and sediment control devices until the final approval of all permits.
10. The Applicant, Applicant's agent(s), or successor-in-interest, shall submit a standard Waste Reduction and Recycling Plan to the City's C&D official per the Dana Point Municipal Code. A deposit will be required upon approval of the Waste Management Plan to ensure compliance. The standard Waste Reduction and Recycling Plan shall be reviewed and approved and deposit posted prior to issuance of any permits.

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11. The entire site is located within the 100 year floodplain as shown on FEMA Flood Insurance Rate Maps and is in Zone AO. Any development on the site is subject to the provisions of Chapter 9.31 of the City's Zoning Code for property located in the FP-2 Floodplain Overlay District.
12. Prior to issuance of any Certificate of Occupancy, the property owner shall execute and record a deed restriction to include restrictions for Joint Use of Parking Facilities, which cannot be removed or changed without prior City amendment to this Site Development Permit. The deed restriction shall be recorded, free of prior liens, to bind the property owner(s) and any successors-in-interest or otherwise recorded to the satisfaction of the City Attorney and Community Development Department.
13. Prior to issuance of Certificate of Occupancy, an Exterior Lighting Plan shall be submitted for approval by the Community Development Director. The lighting plan shall show the fixture type and location of all proposed light standards. Parking lot and security light standards shall have a maximum height of 20 feet. Lighting shall be a maximum of one footcandle in intensity (average on pavement), directed away from all property lines, adjacent streets, and adjacent properties. The Exterior Lighting Plan shall show the location of existing and/or proposed trash enclosures.
14. All required parking stalls shall meet the minimum dimensions of the Dana Point Zoning Code and shall be double striped.
15. Accessible compliant parking stalls shall be provided to comply with the California Building Code (latest adopted edition) and the State of California Health and Safety Code, including blue surface logo, blue paint stripes, signage, number and location so as to provide adequate safety and optimal proximity to building entrances.
16. The total parking area shall include at least 43 standard and three accessible parking stalls. The applicant shall be required to locate all 46 required parking stalls within the gated area in the interior of the property. The parking area shall be designed in accordance with Chapter 9.35 (Access, Parking and Loading) of the Dana Point Zoning Code. The existing public parking spaces along Victoria Boulevard do not count toward the required parking for the subject site.
17. No public address system, loudspeakers or megaphones shall be used on the site, unless within a fully enclosed building or approved as an amendment to this approval.
18. Upholstery work on boats and other marine-related vehicles shall be limited to an area equivalent to one service bay and as close as possible to Building C. Upholstery repairs may be conducted outside if boats are appropriately

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covered and screened as viewed from the public right-of-way at the end of Victoria Boulevard. All materials and equipment must be kept indoors, and all other work must occur within the existing workshop area.

19. All major automotive uses, including vehicle restoration and boat engine repair, shall conduct all work indoors and contained within each designated garage suite.
20. No equipment or materials shall be stored outdoors.
21. No hazardous materials shall be used, stored, or disposed of onsite without proper permits and approvals. Storage or disposal of floatable substances or materials, or of chemicals, explosives, or toxic materials is prohibited in the Floodplain Overlay District.
22. No wash-water, materials, liquids, spills, etc. shall be allowed to enter the storm drain.
23. The Property shall be cleaned daily, trash properly disposed of, and applied general housekeeping "best management practices" (BMPs) to prevent ocean pollution. BMPs shall be implemented in compliance with attached brochures "Proper Maintenance Practices for Your Business" and "Tips for the Automotive Industry" (Attachments A and B). Compliance with these requirements may be examined during future inspections of the Property.

**Prior to Issuance of a Building Permit:**

24. Building plan check submittal shall include two (2) sets of the following construction documents: building plans (4 sets), energy calculations and structural calculations.
25. All documents prepared by a professional shall be wet-stamped and signed.
26. Plans for submittal shall include Water Quality Note #11: Marine uses are subject to the State Industrial Permit, administered by the San Diego Regional Water quality Control Board. WDID 9 30I023824 has been issued for this property. All marine-related uses and activities shall comply with said Permit and the sites Storm Water Pollution Prevention Plan (SWPPP).
27. Plans for submittal shall include a complete table with SIC codes.
28. Plans for submittal shall include a note stating: All businesses shall comply with the attached brochure "Proper Maintenance Practices for your Business," as applicable. Attachment A shall be attached onto plans.
29. Plans for submittal shall include a note stating: Auto-related businesses shall



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conduct all activities in compliance with the attached brochure "Tips for the Automotive Industry." Attachment B shall be attached onto plans.

30. The applicant shall submit a drainage plan in compliance with all City of Dana Point standards for review and approval. The drainage plan shall show all drainage from proposed improvements being directed to an approved outlet.
31. The applicant shall submit a demolition plan in compliance with all City of Dana Point standards for review and approval. The demolition plan shall show erosion and sediment control in place during demolition activities. The plan shall also include all fencing and permanent erosion and sediment control devices to remain after demolition. This may include barriers for vehicles.
32. The proposed improvements must be built in compliance with all applicable flood hazard reduction provisions and shall be incorporated into and referenced on the project plans. The Project's registered professional engineer or architect shall review, sign, and wet-stamp the final building plans and provide a completed "Floodplain Certification" form to the City.
33. The Applicant, or Applicant's agent(s), shall cause the preparation and submittal of three (3) separate sets of building plans directly to the Orange County Fire Authority for review and approval. A fire sprinkler system or waiver is required from the Fire Chief.
34. The Applicant, or Applicant's Agent(s), shall submit payment for all supplemental fees, including school, park, water, sewer and other impact-related fees, as applicable.

**Prior to Final Approval of All Permits:**

35. Public Works final approval will be required for all permits.
36. All landscaping improvements and/or structural best management practices (BMPs) shall be constructed and installed in conformance with approved plans and specifications.
37. The Applicant, or Applicant's agent(s), shall cause the scheduling of a Planning Division final onsite inspection with the Community Development Department that shall include a review of compliance with any outstanding project conditions of approval.

**Enclosures:**

Attachment A – Proper Maintenance Practices for Your Business

Attachment B – Tips for the Automotive Industry



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PASSED, APPROVED, AND ADOPTED at a regular meeting of the Planning Commission of the City of Dana Point, California, held on this 10<sup>th</sup> day of September, 2018 by the following vote, to wit:

AYES: McKhann, Opel, Nelson

NOES: None

ABSENT: Murphy, Dohner

ABSTAIN: None

  
for Danni Murphy, Chairperson  
Planning Commission

ATTEST:

  
Matt Schneider, Acting Director  
Community Development Department