



July 15, 2020

Bryon Ward, President  
Burnham-Ward Properties  
1100 Newport Center Drive, Suite 200  
Newport Beach, CA 92660-6254

Joseph Ueberroth, Founder & President  
Bellwether Financial Group  
610 Newport Center Drive, Suite 490  
Newport Beach, CA 92660

**SUBJECT: SUBSTANTIAL COMPLIANCE DETERMINATION FOR COASTAL DEVELOPMENT PERMIT  
CDP13-0018(I) RELATED TO THE CONSTRUCTION PHASING & CONSTRUCTION  
MANAGEMENT PARKING PLAN**

Dear Mr. Ward and Mr. Ueberroth:

The City has reviewed your requested revisions to the Construction Phasing & Construction Management Parking Plan (CP&CMPP) previously approved as part of the Substantial Compliance Determination made on May 29, 2019 (2019 SCD), related to Coastal Development Permit CDP13-0018(I). The Dana Point City Council approved Coastal Development Permit CDP13-0018(I) on November 18, 2014, for the development otherwise referred to as the Dana Point Harbor Commercial Core.

Further revisions to the CP&CMPP can be considered pursuant to Condition No. 4 of City Council Resolution No. 14-11-18-16 for CDP13-0018(I). Condition No. 4 provides that, if any changes are proposed regarding the location or alteration to the appearance or use of any structure, the Community Development Director may authorize changes to the permits without requiring a new public hearing provided that the following findings can be made to support the proposed changes.

A. The proposed changes comply with the provisions, spirit and intent of the original approvals. The changes are detailed as follows:

1. The *Dana Point Harbor Commercial Core Project Implementation Phasing Schedule (Phasing Schedule)* dated September 2014 was included as an exhibit to City Council's final approval of the Project on November 18, 2014. The *Phasing Schedule* also designated and maintained parking areas for priority (designated boater parking, boat launch ramp and surface boat storage) and non-priority uses. The 2019 SCD included a CP&CMPP to ensure that parking for both priority and non-priority uses was provided throughout Commercial Core construction.

Due to soil conditions and the need to protect the East Marina bulkhead, stabilization through the use of deep soil mixing techniques in the area between the bulkhead and proposed Buildings 6–12 was deemed necessary. This unforeseen change in the construction methods to implement the project, caused a reassessment of the substantial compliance CP&CMPP. The revised CP&CMPP resulted in changes to the number of phases and phase durations, as well as the reapportionment of parking during construction, while maintaining a three (3) year duration to complete the project. The revised CP&CMPP satisfies the Construction Management Plan requirement related to implementation of entitled Commercial Core improvements, as required by Sections 4.5(s) and 5.5(s) of the Dana Point Harbor District Regulations (DPHDR).

The *Phasing Schedule* approved for CDP13-0018(I) also included phases related to the dry stack boat storage building, docks, jib crane and other infrastructure improvements in proximity to the dry stack boat storage building, that the substantial compliance CP&CMPP did not include. The updated CP&CMPP also excludes these phases since the coastal development permit (CDP) required for these elements are currently being processed separately by the California Coastal Commission (CCC). The construction in the dry stack and launch ramp areas (per the CDP13-0018(I) *Phasing Schedule*), could occur at any time during the three-year construction period for the project's commercial retail, restaurants, and office space. The dry stack boat storage building is not anticipated to commence until after completion of the Commercial Core Phase 4B.

In accordance with the CDP13-0018(I) approved *Phasing Schedule* and the 2019 SCD, construction of the proposed three-level parking deck (structure) would occur prior to construction of the proposed buildings, and be available for higher priority uses prior to occupancy of new Commercial Core development as required by the DPHDR.

The revised CP&CMPP continues to temporarily, during Commercial Core construction, utilize surplus parking on the east and west basin island parking lots for merchant and sport fishing parking areas displaced during construction of the new parking structure (Phases 2A–4A). The surplus parking on the island parking lots as well as surplus parking in the west cove parking lot IIIc (*Parking Management Plan Dana Point Harbor: December 2013 (Revised April 2014) (2014 PMP)*) will also be used to accommodate the loss of retail parking as needed during Phases 3–6. All the surplus parking in the aforementioned lots will be used during Phase 6 while the remainder of the 703 space surface parking lot between Golden Lantern and Casitas Place is completed, when most Commercial Core uses and buildings are operational/complete. Shuttle service will be provided to and from the three surplus parking lots and the sport fishing docks on the Wharf and Mariner's Village/Alley commercial uses during Commercial Core construction.

The revised CP&CMPP continues to provide and maintain the higher priority designated boater parking, public boat launch ramp facility, and surface boat storage uses in the Commercial Core throughout construction of the project and as required by Sections 4.5(s), 5.5(s), and 14.2(h) of the DPHDR as follows:

- It maintains a minimum of 222 (as approved for CDP13-0018(I)) designated boater parking spaces (related to boat slip parking demand in the East Marina) in Planning Area (PA) 2 for the Project at all times throughout construction phasing. Upon completion, 92 designated boater parking spaces will be permanently provided on the first level of the new parking structure and 130 designated boater parking spaces will be temporarily provided in the PA 2 surface parking lot (former Mariner's Alley – lot 1a) until the redevelopment of the hotel in PA 3 is approved through a separate CDP.
- Public boat launch ramp facilities maintain a minimum of 334 vehicle with trailer parking spaces adjacent to the public boat launch ramp on a continual basis in PA's 1 and 2 throughout the construction of the improvements in the PA 2. The permanent vehicle with trailer parking space configuration will be included as part of the CDP submittal to the CCC for the dry stack storage building. Any temporary restriping of these areas shall be provided to the Planning Division for review and approval prior to implementation.
- The revised CP&CMPP indicates that up to 493 surface dry boat storage spaces will be provided during the construction of improvements in PA 2. Although a former OC Parks maintenance complex will be used to provide additional dry boat storage areas in the Marine Services Commercial area (PA 1), and as was forecast with the approval of CDP13-0018(I), a temporary off-site dry boat storage lot is necessary to maintain the minimum 493 dry boat storage spaces during construction and until implementation of the dry stack boat storage building. As was the case with the approval of CDP13-0018(I), the nearby South Coast Water District (SCWD) property is anticipated to be the principal location utilized for additional off-site dry boat storage.

The revised CP&CMPP will replace the substantial compliance CP&CMPP that was included as part of both Walker Parking Consultants' 2019 Addendum (Walker Addendum) to their 2014 PMP, and the Substantial Compliance Packet for the revisions to the Project.

2. The 2014 PMP was necessary as part of the initial CDP as specified by the Dana Point Harbor Revitalization Plan and District Regulations (DPHRP&DR). The 2014 PMP accounted for the existing parking supply throughout the Harbor at the time of preparation, divided the Harbor into parking zones, established the long-term future parking assessment, and a shared parking methodology for non-priority land uses within PAs 1, 2, and 11. The 2014 PMP also discussed design and operational elements citing provisions of the DPHRP&DR, discussed construction

management phasing, and provided recommendations.

The Walker Addendum chronicled the new parking structure, revised site plan, updated existing parking supply counts, shared parking analysis, and revisions to designated boater parking areas. Relative to the Walker Addendum, the CP&CMPP was included therein as Appendix C.

Review of the revised CP&CMPP revealed a loss of 72 parking spaces in the proposed three-level parking deck and the surface parking lots in PA 2 at completion of Commercial Core improvements. The Walker Addendum stated on page 12 that “the total number of parking spaces may be subject to change by  $\pm 5\%$  due to final site grading, site vehicle circulation and other site development conditions”, during development of final construction drawings. The applicant confirmed that more detailed site design like addition of ADA spaces, trash enclosures, utilities (transformers, water above ground structures, water quality, etc.), landscape design features resulted in a loss in surface parking at the completion of the project compared to the Substantial Compliance packet. A total of 1,563 parking spaces were proposed to serve Commercial Core uses as illustrated on the Figure 7 of Walker’s Addendum—a  $\pm 5\%$  change totals 78 parking spaces. Consequently, the 72 parking space reduction is consistent with the anticipated plus or minus change noted in the Walker Addendum. The resulting 1,491 parking spaces serving the commercial uses (excluding boater uses) in PA 2 of the Commercial Core will still exceed the 1,043 $\pm$  parking spaces recommended in the Walker Addendum and based on the 2014 PMP shared parking projection.

Additionally, the 1,491 parking spaces proposed to serve the commercial uses in PA 2 continues to exceed the 1,328 spaces required (per Chapter II-14 of the DPHRP&DR) for the commercial uses in PA 2 (shown in Table 2 on page 10 of the Walker Addendum). Parking areas outside of the PA 2 will not be needed to accommodate parking demand associated with the commercial uses in the PA 2.

Designated boater parking areas continue to be located no greater than 600 feet from the land/dock connection point of the docks they serve as stipulated in Chapter II-14 (Sections 14.2 i) and 14.6 d) 3)) of the DPHDR.

**B. That the action would have been the same for the amendment as for the approved plans:**

Based on the City Council’s approval of the project, it is staff’s opinion that the modifications proposed to the CP&CMPP, which still result in an increase of 166 parking spaces in PA 2 of the Commercial Core while maintaining the CDP13-0018(I) approved parking for priority users, would also have been approved. The revised CP&CMPP continues to ensure adequate parking for priority designated boater parking, boat launch ramp and surface boat storage uses is available throughout all phases of Project construction, while satisfying the development regulations and policies in the

DPHRP&DR related to Commercial Core revitalization. Consequently, the proposed revisions substantially comply with the original CDP13-0018(I) approval.

All conditions of approval included in City Council Resolution No. 14-11-18-16 for CDP13-0018(I) and any subsequent revisions shall remain in effect and applicable, except as may be modified by this Substantial Compliance Determination. Compliance issues related to development standards in the DPHRP&DR including, but not limited to building height, pedestrian and vehicular access from parking areas to the Day Use Commercial amenities, layout and design of the Pedestrian Promenade and associated Festival Plaza areas, and the location and number of parking spaces for priority and non-priority uses within the Commercial Core, will be confirmed through the building and grading plan check process.

The revisions to the CP&CMPP are memorialized by their inclusion in the Substantial Compliance Packet and in the Walker Addendum. Updated versions of the CP&CMPP are date stamped by the City on July 6, 2020, and contain a "Substantial Compliance" stamp, signed and dated July 15, 2020. A copy of the revised CP&CMPP and Walker's June 29, 2020, Memorandum are attached to this letter for your records.

Should you have any questions regarding this determination, please contact Kurth B. Nelson III at (949) 248-3572.



Director of Community Development

C: CDP13-0018(I) Case file

Attachments:

1. Walker Revised Construction Phasing and Construction Management Parking Plan Analysis Memorandum
2. Revised CP&CMPP