



August 22, 2022

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**SUBJECT: SUBSTANTIAL COMPLIANCE DETERMINATION FOR COASTAL DEVELOPMENT PERMIT
CDP13-0018(I): CONSTRUCTION LEVEL DOCUMENT REVISIONS**

Dear Mr. Ward and Mr. Ueberroth:

The City has reviewed your requested revisions to the architectural, and on-site circulation and parking design resulting from the preparation of construction level documents and coordination with infrastructure improvements associated with sewer and water lines also affecting the Construction Phasing & Construction Management Parking Plan (CP&CMPP). Architectural, civil engineering and a CP&CMPP were previously approved as part of the Substantial Compliance Determination made on May 29, 2019 (2019 SCD), related to Coastal Development Permit CDP13-0018(I), and an additional update to the CP&CMPP was approved through another Substantial Compliance Determination made on July 15, 2020. 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 project and 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. Development of construction level documents have resulted in revisions to both new and existing buildings which are summarized below:

- Building 1 originally slated for remodel will now be replaced due to the need to address lateral spreading and vertical soil mitigation requirements, update undersized and obsolete utility infrastructure, and replace outdated and structurally compromised foundation and load bearing elements of the building. Two design alternatives are provided to allow lease flexibility for either a multi- or single-tenant two-story restaurant building. Public access would be increased by siting either building to widen the boardwalk from eight (8) to 20 feet on the building's west and south sides, and providing a 25-foot wide public plaza on the building's east side resulting in increased public views and enhanced public access to the waterfront.
- Building 5A is an existing building still proposed for remodel with the exterior design including recladding of the facades in corrugated metal siding, reminiscent of other marina buildings found on the California Coast and consistent with the "California Coastal" design theme consisting of a hybrid style based on historic coastal villages that appear to be built over time. The 2019 SCD finishes included painted cement plaster walls, horizontal wood siding and stone veneer. Maintaining the existing finishes as approved as part of the original CDP13-0018(I) also complies with the original approval and may be an option for Building 5A.
- Building 11 was originally designed as a single-story building and remained a single-story, 35-foot high museum structure as part of the 2019 SCD. Revisions now provide for a two-story, mixed-use building incorporating the same sized 4,158 square foot museum on the second floor, and retail and restaurant uses on the first floor, and also designed to the 35-foot height maximum. The former curved roof and tower design elements have been removed to provide second-floor, public deck space adjacent to the museum on the southern and eastern sides of the building and offering elevated views to the harbor waterfront and the events plaza between Building 11 and the waterfront. The additional story has increased the size of the building 5,627 square feet accommodating the first floor retail and restaurant spaces.
- Building 12 now illustrates two potential design options both of which remain as two-story, 35 feet tall buildings. Both designs offer similar wood siding finishes on each façade, and wood trellis structures on the second floor. The designs offer differing floor plan options creating flexibility for future tenants: the option most consistent with the 2019 approval provided for up to three (3) tenants offering individual identity, while the alternate design is better suited for two (2) tenants incorporating more functional floor plans and separate identities with a streamlined roof.
- The Visitor Serving Facility (observation tower) approved as part of the 2019 SCD has been attached to new Building 8. The relocation better complies with the DPHRP&DR by keeping the view corridor at the terminus of Harbor Way open and by lowering the height from the 2019 SCD by three and half feet, while simultaneously opening up the main Festival Plaza within the central portion of the Harbor's Commercial Core.

All new and remodeled buildings continue to incorporate the design “California Coastal” design theme prescribed in the Land Use Plan of the Dana Point Harbor Revitalization Plan & District Regulations and consistent with the 2019 SCD. This theme is a hybrid-style based on a historic coastal village combined with open space and outdoor living traditions. The model envisions coastal areas that appears to be built over time while allowing diverse buildings based on users and distinctive business. The revisions to architecture continue to provide variations in building form, footprint, and roof elements (predominately sloped but still employing some flat elements). New and remodeled buildings still incorporate common roofing and exterior stone and wood siding materials, with color, texture and pattern variations, while sharing a cool color palette.

The proposed revisions to the buildings maintain the same land use square footages approved as part of the 2019 SCD, and continue to comply with the maximum square footages detailed in the Dana Point Harbor Revitalization Plan Statistical Table 17-A, contained in Chapter 17 of the DPHRP&DR. Proposed buildings still meet the height limit and other development standards of subsection 5.5 of the Day Use Commercial/Planning Area (PA) 2 Regulations of the Dana Point Harbor Revitalization Plan and District Regulations (DPHRP&DR).

The three-level parking structure has also been revised as a result of preparation construction level documents to comply with the Americans with Disabilities Act (ADA), building code requirements, and drainage issues. Construction level documents have revised the overall height of the parking structure to account for additional vertical clearances for vehicular entrances and drive aisles to accommodate ADA requirements. Additionally, height was added at the north end of the structure (nearest Dana Point Harbor Drive) to account for drainage over the 458-foot long structure. The first floor slopes a difference of two (2) feet at the northern end to the southern drive entries to the structure to meet drainage requirements and avoid ponding that could deteriorate concrete in the parking structure’s ocean environment. Due to these and other building code requirements, the top of the parapet on the north end of the parking structures third level has been raised 3.2 feet vertically (38.2’ to 41.4’ using the North American Vertical Datum of 1988) from the 2019 SCD, to a total height of 26 feet five (5) inches and under the 35-foot height maximum. A landscaped berm between the structure and the Dana Point Harbor Drive will mitigate the aesthetics of the parking structure as seen right-of-way along Dana Point Harbor Drive and its intersection with Harbor Way (formerly Golden Lantern).

2. Onsite Circulation and Parking

Revisions to the main entry drive and to secondary drive aisles/lanes off the main entry drive have been added to improve circulation efficiencies during peak traffic periods and Harbor events. The terminus of the main Harbor Way entry has been redesigned removing the traffic circle and replacing it with a “T” intersection that

provides dedicated left and right turn lanes, and a through lane allowing more direct access to Dana Wharf and additional lanes (three total), closer to the waterfront to facilitate easier vehicle drop (busses, shuttles, valet and taxi/uber ride services) offs. The redesign offers an additional traffic lane at the south end of the parking structure compared to the 2019 SCD to assist parking management during peak periods and Harbor events.

Designated boater drop off areas and valet/vehicle drop off areas are also noted on the revised exhibits and in the updated CP&CMPP included in the revised Substantial Compliance Packet, in similar locations to the 2019 and 2020 SCDs. Please note that valet operations were outlined in the original Walker Consultants' Dana Point Harbor Parking Management Plan (2014 PMP) approved as part of CDP13-0018(I), and still a part of the approved documents related to CDP13-0018(I). Valet operations at completion of construction in the Commercial Core shall be as described on page 69 of the 2014 PMP, while preserving as many non-valet parking spaces closer to the waterfront as possible. Tandem parking spaces shown on the approved exhibits and/or the CP&CMPP shall only be used for valet purposes.

Overall, additional refinements to parking and circulation associated with site design [ADA spaces, trash enclosures, utilities (transformers, water above ground structures, water quality, etc), landscape design features] has resulted in a loss of parking, particularly on surface lots, at the completion of the project compared to the 2019 and 2020 SCDs. For the Commercial Core CDP area, the total amount of parking has been reduced from 2,712 in 2019, to 2,640, and now to 2,624 total spaces. The Walker Consultants' 2019 Addendum (Walker Addendum) to their 2014 PMP 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 total loss of 88 spaces represents a 3.24 percent decrease in total parking spaces from the original 2019 SCD: still within the anticipated plus or minus change noted in the Walker Addendum.

Furthermore, Walker Consultants has provided a memorandum dated July 26, 2022, confirming that the reduction in parking spaces from the 2019 and 2020 SCDs still provides surplus parking numbers to meet the following:

- Commercial uses in PA 2 as required by per Chapter II-14 of the DPHRP&DR—+147 spaces;
- Commercial Core retail and restaurant shared parking analysis from the 2014 PMP—+432 spaces; and
- The future parking demand assessment provided in the 2014 PMP and the Walker Addendum project 1,608 parking spaces for Parking Zone 1 with a proposed 2,028 supply—+420.

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.

3. Construction Phasing and Construction Management Parking Plan (CP&CMPP)

The most recent revisions to the CP&CMPP were made in 2020 due to deep soil mixing techniques needed for stabilization due to soil conditions and the need to protect the East Marina bulkhead. Further revisions are now needed to address utility infrastructure improvements and connections between private and public systems to ensure sewage service is maintained at the Harbor during construction and to ensure new buildings are provided wet and dry utility service as building cores and shells are completed during Commercial Core construction. The revisions do not change the number of phases or the overall three (3) year duration to complete the project, rather changes impact the phases in which certain demolition, construction and remodel activities occur.

As with the 2020 SCD, 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 608-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 PA 2 for the Project at all times throughout construction phasing. Upon completion, 93 designated boater parking spaces will be permanently provided on the first level of the new parking structure and 129 designated boater parking spaces will be temporarily provided in the PA 2 surface parking lot (former Mariner’s Alley – lot Ia) 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 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. Prior to issuance of the building permit for the parking structure, please provide the City a copy of the agreement between Dana Point Harbor Partners and the storage facility(ies) to accommodate 230 off-site, dry boat storage spaces. The need for the 230 off-site dry boat storage spaces is identified starting in Phase 2B of the CP&CMPP and through completion of harbor revitalization improvements in PA 1, and are required to maintain the 493 total surface dry boat storage spaces specified in the DPHRP&DR.

The revised CP&CMPP continues to satisfy 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).

In accordance with the CDP13-0018(I) approved *Dana Point Harbor Commercial Core Project Implementation Phasing Schedule (Phasing Schedule)* dated September 2014, and the 2019 SCD, completion of the proposed three-level parking deck (structure) would occur prior to the completion 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 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.

The revised CP&CMPP will replace the 2020 SCD CP&CMPP approved through the 2020 SCD, and is also attached to the Walker memorandum dated July 26, 2022.

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

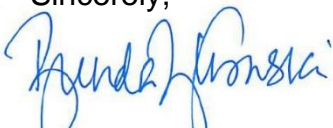
Based on the City Council's approval of the project, it is staff's opinion that the modifications proposed to buildings, parking and circulation, and the CP&CMPP, which still result in a surplus of 150 parking spaces in the Commercial Core while maintaining the CDP13-0018(I) approved parking for priority 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 buildings, parking and circulation (civil engineering Sheet C1.1), and the CP&CMPP are memorialized in the revised Substantial Compliance Packet and in the Walker memorandum dated July 26, 2022. Those applicable portions of the 2019 Walker Addendum will remain as part of approved documents related to CDP13-0018(I). The revised Substantial Compliance Packet and Walker memorandum contain a "Substantial Compliance" stamp, signed and dated August 22, 2022. A copy of the stamped revised Substantial Compliance Packet and Walker's July 26, 2022, 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.

Sincerely,



Brenda Wisneski
Director of Community Development

C: CDP13-0018(I) Case file

Attachments:

1. Revised Substantial Compliance Packet
2. Walker Consultants DPHP 2022 Final Design Parking Update memorandum:
July 26, 2022