

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

DATE: APRIL 10, 2017

TO: DANA POINT PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT DEPARTMENT
URSULA LUNA-REYNOSA, DIRECTOR
BELINDA DEINES, SENIOR PLANNER

SUBJECT: APPEAL OF THE COMMUNITY DEVELOPMENT DIRECTOR'S DETERMINATION THAT "RECREATIONAL VEHICLE STORAGE USE" IS A PROHIBITED USE WITHIN THE COMMUNITY COMMERCIAL/VEHICULAR DISTRICT (CC/V) ZONE AND "MAJOR AUTOMOTIVE REPAIR USE" IS A PROHIBITED USE WITHIN THE TRANSPORTATION CORRIDOR DISTRICT (TC) ZONE. THEREFORE, THE PROPOSED USES AT 25802 AND 25831 VICTORIA BOULEVARD ARE NOT ALLOWED IN ACCORDANCE WITH THE CITY'S MUNICIPAL CODE.

RECOMMENDATION: That the Planning Commission take action to uphold the Community Development Director's determination by adopting the attached Draft Resolution, provided as Action Document 1.

APPELLANT: Pickering Properties, Property Owner

REPRESENTATIVE: Todd Skenderian, Architect

ADDRESS: 25802 & 25831 Victoria Boulevard
(APN 121-254-43; 668-341-45)

NOTICE: Notices of the Public Hearing were mailed on March 31, 2017 to property owners within a 500-foot radius. On March 31, 2017, a Notice of Public Hearing was published within a newspaper of general circulation in the City of Dana Point. In addition, on March 31, 2017, a Notice of Public Hearing was posted at the Dana Point City Hall, the Dana Point and Capistrano Beach branch post offices, as well as the Dana Point Library.

BACKGROUND:

The property is subject to an active Code Enforcement case for a number of violations related to unpermitted construction, expired building permits, and businesses without active Certificates of Occupancy. The subject site is operating several unpermitted businesses including administrative offices, business services uses, marine uses, boat storage, RV storage, vehicle storage, upholstery shop, boat engine repair shops, vehicle body shop, building materials sales, and a construction office.

A chronology of recent interaction with the City is as follows:

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.

On November 15, 2016, the Appellant's representative submitted a set of plans for preliminary review of the use analysis to legalize multiple businesses located at the subject site.

The preliminary review provides an assessment of the site and architectural design of the proposed project. The objective of this exercise is to provide the applicant with a sense of the issues that need to be addressed in the formal application. The Appellant's representative submitted a set of plans that illustrates the current, as-built conditions and a table with a description of the existing, unpermitted businesses located onsite. Staff has generated an aerial map of the subject site that depicts the various zoning districts in the immediate area as well as the location of "Building B" (Supporting Document A).

After extensive review of the Appellant's submittal, staff provided the Appellant's representative with a response letter that provided preliminary comments regarding concerns related to the use analysis, encroachments, and access/parking requirements on December 22, 2017 (Supporting Document B).

On March 2, 2017, the Appellant's representative provided a written request for interpretation regarding the proposed uses for the subject property. The Director of Community Development made determinations with respect to the following three issues: (1) whether RV Storage use can exist in the Community Commercial/Vehicular District (CC/V) zone; (2) whether boat engine repair is considered a "marine use" permitted by right or a "major automotive use: subject to a Conditional Use Permit; and (3) whether certain uses or property require "Minor Conditional Use Permits" approved by the Director, or "Conditional Use Permits" subject to Planning Commission approval.

The determination letter further stated that uses occupying Building B are not permitted as proposed because the existing, unpermitted structure is built beyond the property line of the subject site and encroaches into the adjacent OCTA property, which is located in the Transportation Corridor (TC) zone. The TC zone does not allow major automotive uses. Furthermore, Building B must be legalized with a Certificate of Occupancy and issues related to encroachments beyond the property lines must be addressed. A letter explaining these determinations was provided to the Appellant's representative on March 10, 2017 (Supporting Document C).

DISCUSSION:

In accordance with Municipal Code Section 9.61.110(a), any decision rendered by the Community Development Director may be appealed to the Planning Commission. On March 24, 2017, the Appellant submitted a letter appealing the Director's determination (Supporting Document D).

In the appeal letter, the Appellant's representative contends that RV storage should be allowed in the CC/V zone, and that the encroachment of Building B and the storage use dates back to the 1960s when the subject property was used as a lumberyard. The appeal letter does not specify how the Appellant is negatively impacted by the Director's determination, as directed in the Dana Point Zoning Code.

The Director has provided a detailed rationale in the determination letter, summarizing the justification to not allow RV storage in the CC/V zone and Major Automotive Uses in the TC zone. In addition, staff has provided additional information to support the Director's determination with key definitions:

RV Storage in CC/V Zone

Pursuant to DPMC Section 9.11.020, any use not expressly allowed is prohibited, in reference to the table of allowable uses in Commercial Districts. The definition for *Marine Uses* specifies boat storage as a typical use, and *Storage Yard Uses* specifies RV storage as a typical use. While the City's Municipal Code defines recreational vehicles to include boats and a variety of vehicle types for recreational or sporting purposes, the definition of Marine Uses explicitly states boat storage as a "marine related" activities, specifically applicable to sea and ocean activities. As such, boats are specific sea and ocean activities, which differs from general storage of all types of recreational vehicles.

- Marine Uses – shall mean establishments which provide goods and services, on a retail or wholesale basis, for marine related activities. Typical uses would include, but not be limited to, boat rental, boat storage, fishing supply stores, surfboard sales and repair, scuba equipment sales and service, marine supply sales, sail making and repair, and jet ski repair.
- Storage Yard Uses – shall mean establishments where construction materials and/or equipment are stored within an enclosed building or properly screened yard. Typical uses would include, but not be limited to, automobile/RV storage, contractor storage yards, equipment sales and rentals, equipment storage, garden equipment sales and storage yards, heating/ventilation/air conditioning equipment storage yards, impound yards, machinery storage yards, plumbing supply yards and truck storage.
- Recreational Vehicle – a vehicle towed or self propelled on its own chassis or attached to the chassis of another vehicle which is designed or used for recreational or sporting purposes. The term recreational vehicle shall include, but not limited to, travel trailers, pickup campers, camping or tent trailers, motor coach homes, converted trucks or buses, boats, and boat trailers and all terrain vehicles

Major Automotive Use in TC Zone

With regard to Building B, the unpermitted structure is built across the property line into the OCTA right-of-way, which is located in the Transportation Corridor (TC) zone. The TC zone only allows roads, streets and highways permitted by right, and transportation uses subject to a Conditional Use Permit. No building permit records of Building B are found on file. The Appellant's representative noted that he intends to submit applications for Conditional Use Permits for the three businesses with *Major Automotive Uses* located at Building B. Pursuant to DPMC Section 9.63.090(a), changing a nonconforming use to a use not permitted in the zoning district shall immediately terminate the right to operate

a nonconformity. As such, the proposed *Major Automotive Uses* are not permitted in the TC zone, and results in a violation of the Municipal Code.

- Major Automotive Uses – shall mean establishments which provide major repair and maintenance related to motor vehicles. Typical uses would include, but not be limited to, auto body repair shops, auto glass shops, automotive painting shops, customizing shops, engine rebuilding, speed shops and transmission shops.
- Transportation Uses – shall mean establishments which provide local and regional passenger transportation by bus, boat or rail

CONCLUSION:

If the Director's determination is upheld by the Planning Commission, the Appellant would have the option of appealing the Planning Commission's decision to the City Council prior to the end of a 15-day appeal period by April 25, 2017.

Staff recommends that the Planning Commission uphold the Director's determination that "Recreational Vehicle Storage Use" is a prohibited use within the Community Commercial/Vehicular District (CC/V) zone and "Major Automotive Repair Use" is a prohibited use within the Transportation Corridor District (TC) zone. Therefore, the proposed uses at 25802 and 25831 Victoria Boulevard are not allowed



Belinda Deines, Senior Planner



Ursula Luna-Reynosa, Director
Community Development Department

ACTION DOCUMENTS:

1. Draft Planning Commission Resolution No. 17-04-10-XX

SUPPORTING DOCUMENTS:

- A. Exhibit A: Aerial Map with Zoning Districts
- B. Use Analysis – 12/22/16
- C. Director Determination Letter - 3/10/17
- D. Appellant's Appeal Letter - 3/24/17

RESOLUTION NO. 17-04-10-xx

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DANA POINT, CALIFORNIA, UPHOLDING THE COMMUNITY DEVELOPMENT DIRECTOR'S DETERMINATION THAT "RECREATIONAL VEHICLE STORAGE USE" IS A PROHIBITED USE WITHIN THE COMMUNITY COMMERCIAL/VEHICULAR DISTRICT (CC/V) ZONE AND "MAJOR AUTOMOTIVE REPAIR USE" IS A PROHIBITED USE WITHIN THE TRANSPORTATION CORRIDOR DISTRICT (TC) ZONE. THEREFORE, THE PROPOSED USES AT 25802 AND 25831 VICTORIA BOULEVARD ARE NOT ALLOWED IN ACCORDANCE WITH THE CITY'S MUNICIPAL CODE.

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

WHEREAS, in November 2016, Todd Skenderian, Architect, (the "Representative") submitted plans to the City of Dana Point for a preliminary review in an attempt to evaluate existing, unpermitted businesses at the subject property located at 25802 and 25831 Victoria Boulevard (the "Property"); and

WHEREAS, the Property is located within the Community Commercial/Vehicular District (CC/V) zone and adjacent to the Transportation Corridor District (TC) zone, and thus the uses permitted at the Property are generally governed by the Dana Point General Plan and the Dana Point Municipal Code ("DPMC"); and

WHEREAS, the Dana Point Municipal Code does not list "storage yard use," specifically, recreational vehicle "RV storage" as a permitted use in the CC/V zone; and

WHEREAS, the Dana Point Municipal Code does not list "major automotive uses" as a permitted use in the TC zone; and

WHEREAS, any use that is not specifically listed as a permitted use in commercial districts is prohibited; and

WHEREAS, in accordance with the foregoing, the City of Dana Point Director of Community Development ("Director") reviewed the Zoning Code to determine whether any uses that were similar to "storage yard use" and "major automotive uses" were listed as either permitted, conditionally permitted, or prohibited uses in the CC/V and TC zoning districts respectively; and

WHEREAS, after such review, the Director determined that RV storage is not considered a "marine use" and that RV storage would not be neighborhood compatible in CC/V zoned areas citywide; and

Action Document #1

WHEREAS, as a result of all of the foregoing, the Director determined that uses occupying “Building B” as shown on Exhibit A are not permitted as proposed because the existing, unpermitted structure is built beyond the property line of the subject site and encroaches into the adjacent OCTA property, which is located in the TC zone; and

WHEREAS, the Director determined that “major automotive uses” is prohibited as proposed in the existing Building B; and

WHEREAS, the Director notified the Representative of her determination on March 10, 2017; and

WHEREAS, on March 24, 2017, the Representative filed a timely appeal of the Community Development Director’s determination in accordance with DPMC Section 9.61.110; and

WHEREAS, on April 10, 2017, the Planning Commission conducted a duly noticed public hearing on the appeal of the decision of the Community Development Director.

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

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

Findings

1. Pursuant to DPMC Section 9.11.020, any use not expressly allowed is prohibited, in reference to the table of allowable uses in Commercial Districts. The definition for *Marine Uses* specifies boat storage as a typical use, and *Storage Yard Uses* specifies RV storage as a typical use. While the City’s Municipal Code defines recreational vehicles to include boats and a variety of vehicle types for recreational or sporting purposes, the definition of Marine Uses explicitly states boat storage as a “marine related” activities, specifically applicable to sea and ocean activities. As such, boats are specific sea and ocean activities, which differs from general storage of all types recreational vehicles.
2. With regard to Building B, the unpermitted structure is built across the property line into the OCTA right-of-way, which is located in the Transportation Corridor (TC) zone. The TC zone only allows roads, streets and highways permitted by

right, and transportation uses subject to a Conditional Use Permit. No building permit records of Building B are found on file. The Appellant's representative noted that he intends to submit applications for Conditional Use Permits for the three businesses with *Major Automotive Uses* located at Building B. Pursuant to DPMC Section 9.63.090(a), changing a nonconforming use to a use not permitted in the zoning district shall immediately terminate the right to operate a nonconformity. As such, the proposed *Major Automotive Uses* are not permitted in the TC zone, and results in a violation of the Municipal Code.

DRAFT

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Planning Commission of the City of Dana Point, California, held on this 10th day of April, 2017, by the following vote, to wit:

AYES:

NOES:

ABSENT:

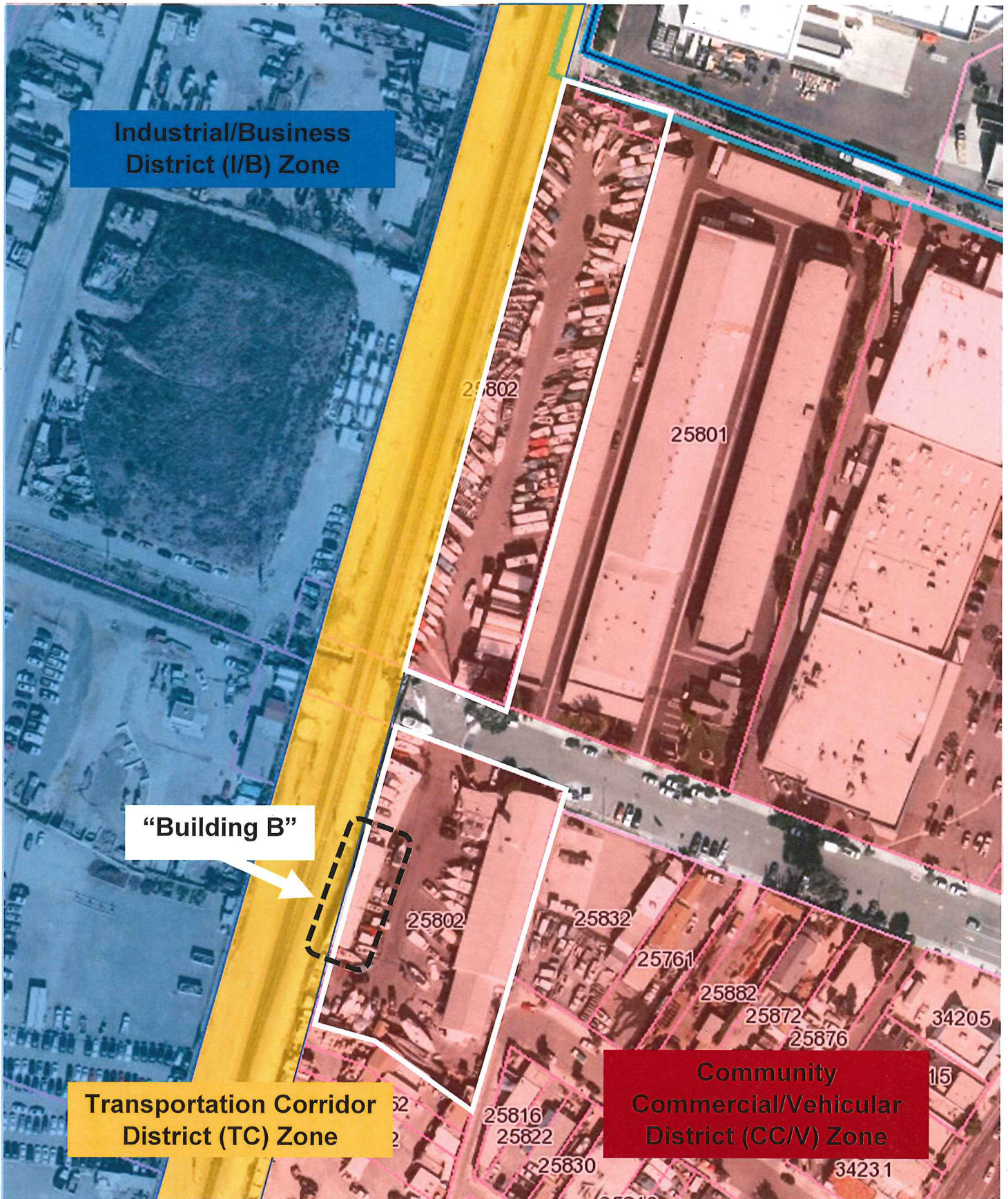
ABSTAIN:

Eric Nelson, Chairman
Planning Commission

ATTEST:

Ursula Luna-Reynosa
Director of Community Development

EXHIBIT A: AERIAL MAP WITH ZONING DISTRICTS



NO.	BY	REVISIONS

ALL DRAWINGS & WRITTEN MATERIAL SHALL BE THE PROPERTY OF PICKERING PROPERTIES. NO REPRODUCTION, DISTRIBUTION, OR DISSEMINATION OF ANY PART OF THE DRAWINGS, WRITTEN MATERIAL, OR INFORMATION THEREON IS TO BE MADE WITHOUT THE WRITTEN CONSENT OF PICKERING PROPERTIES.

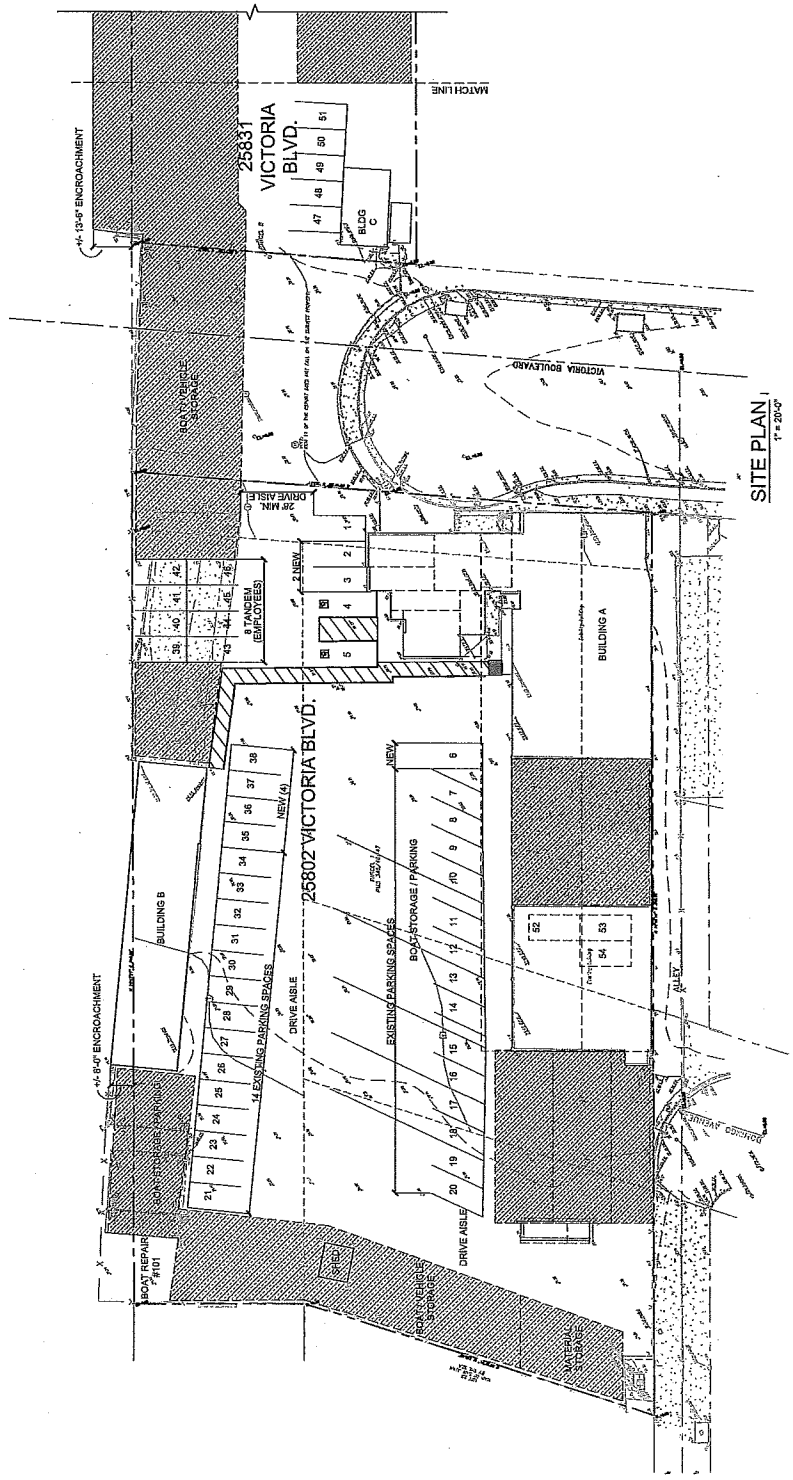
PICKERING PROPERTIES
 25831 AND 25802 VICTORIA BLVD
 DANA POINT, CA 92624

TODD SKENDERIAN ARCHITECT
 1100 S. COAST HWY, #316 LAGUNA BEACH, CA 92651
 OFFICE (949) 715-5461
 FAX (949) 715-5986

SITE PLAN
 SUBMITTAL SET, ZONING DEPT SUB 2.0

DATE: 01/17/17
 SCALE: 1" = 20'-0"
 SHEET NO.: 2818
 OF 2818 SHEETS

A-1
 OF 8 SHEETS



SITE PLAN
 1" = 20'-0"

REVISIONS	BY

ALL DRAWINGS & EXHIBITS HEREBY
 SUBMITTED TO THE CITY OF LAGUNA BEACH
 FOR REVIEW AND APPROVAL ARE THE PROPERTY OF
 THE CITY OF LAGUNA BEACH. THESE
 DRAWINGS ARE NOT TO BE REPRODUCED
 WITHOUT THE WRITTEN CONSENT OF THE CITY.

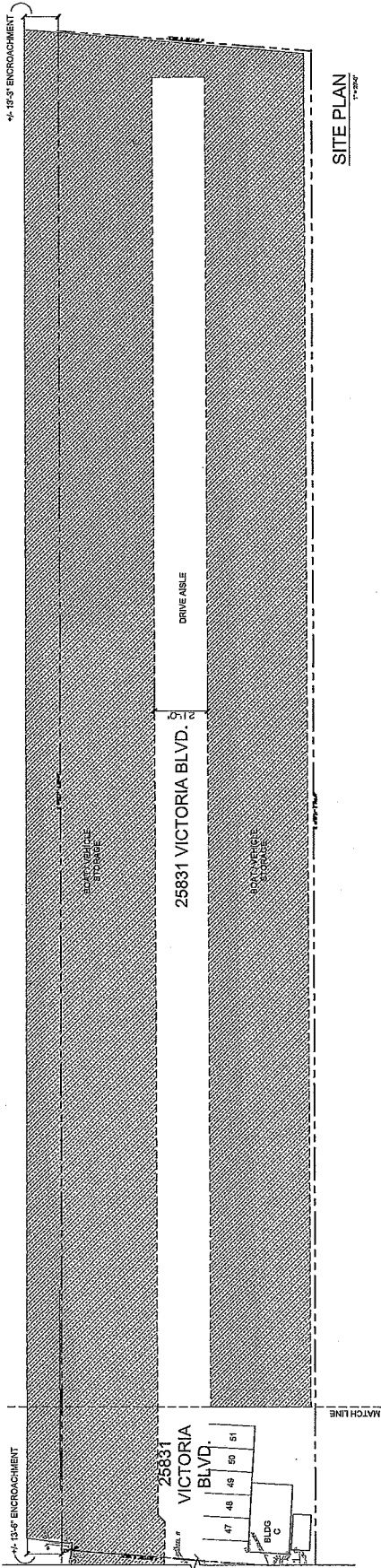
TODD SKENDERIAN ARCHITECT
 1100 S. COAST HWY., #316 LAGUNA BEACH, CA 92651
 OFFICE (949) 715-5461
 FAX (949) 715-5986

SUBMITTAL SET: ZONING DEPT. SUB 2.0
 SITE PLAN

PICKERING PROPERTIES
 25831 AND 25802 VICTORIA BLVD
 DANA POINT, CA 92624

PROJECT NO.	25801-17
DATE	2-20-17
SCALE	AS SHOWN
JOB NO.	17-0001
DRAWN BY	TS
CHECKED BY	TS

A-2
 OF 8 SHEETS





December 22, 2016

Mr. Todd Skenderian
1100 South Coast Highway, Suite 316
Laguna Beach, CA 92651

**SUBJECT: PICKERING PROPERTIES – USE ANALYSIS
25831 AND 25802 VICTORIA BOULEVARD**

Dear Mr. Skenderian:

Thank you for your plan submittal to the City of Dana Point. The Planning Division has conducted a review of the uses for the existing multi-tenant commercial property at 25831 and 25802 Victoria Boulevard ("Subject Site"). The Subject Site is located within the Community Commercial/Vehicular District (CC/V) zone, the Coastal Zone, and the Floodplain Overlay (FP-2) district designated as an "AO" flood zone. A summary of the use determinations is attached for reference. One set of redlined plans will be returned with additional items or issues noted.

Please note that these comments from the Planning Division and others are preliminary, and should not be considered exhaustive. Additional comments and/or corrections may be forthcoming as new or revised materials are received from other City Departments and Divisions, or from any outside agencies/entities.

Use Analysis

The following use analysis evaluates the Subject Site and its active businesses relative to the City's current Zoning Code:

Permitted Uses

Staff has identified the existing businesses that are operating uses that are permitted by right, subject to the issuance of a Certificate of Occupancy. Based on City records, none of the existing businesses have active certificates and/or the secured certificates are expired. The following businesses require a new Certificate of Occupancy to continue operating at the property:

- Dana Point Marine & Storage (administrative office, boat storage)
- B Drafting (professional office)
- Offshore Construction (building and material sales and service)
- Muleje Surfboards (marine use, business service)
- Floral Occasions (retail – ground floor)
- Douglas Landscaping, Inc. (construction and maintenance service)

Conditional Use Permit Required

Businesses operating major and minor automotive uses must submit an application for a Conditional Use Permit (CUP), subject to Planning Commission approval. A CUP application is attached for your reference. The following businesses require CUPs:

- Allur Gellcoat & Fiberglass Repair (boat engine repair)
- Dana Point Detailing (boat detail shop)
- Dave's at the Beach (body repair shop)
- Orange County Outboards (boat engine repair)
- River Ready Marine (boat engine repair)
- Osea Yacht and Boat (boat engine repair)
- Captain's Choice Boat Repair (boat engine repair)
- Pacific Coast Mobile Upholstery (upholstery shop, if repairs onsite)

Nonconforming Uses

Businesses involving personal storage, RV storage and welding are not permitted in the CC/V zone. Generally, these uses are considered industrial uses and are prohibited in commercial zones. Furthermore, there are no records on file that establish legal operation of these businesses. Therefore, these unpermitted uses must be vacated from the Subject Site.

Pursuant to DPMC Section 9.11.020, the following businesses are operating uses that are not permitted in the CC/V zone:

- Dave's at the Beach (welding – metal artist)
- Ruben Gaffoglio (welding – metal artist; vehicle/personal storage)
- Suite 106 and 202 (personal storage)
- Open bays 3, 5, 6 and 7 (RV storage)
- Open parking stalls (RV storage)

If any new structures are proposed, a Coastal Development Permit and Site Development Permit will be required in the entitlement process. New structures must comply with current development standards for the CC/V zone and floodplain requirements, pursuant to DPMC Chapter 9.31 Floodplain Overlay District. All new construction and substantial improvement of any structure must have the lowest floor elevated above the highest adjacent grade at least as high as the depth number specified in feet on the Flood Insurance Rate Map.

Encroachments

Based on the submitted survey and plans, there are several encroachments that have been constructed beyond the property lines of the Subject Site. Building B, wood fencing, and an open storage area encroach into the OCTA right-of-way, adjacent to the Subject Site along the west property line. Building C and open storage areas encroach into the City public right-of-way, at the end of the Victoria Boulevard cul-de-sac. These encroachments must be addressed as part of the entitlement process and may require encroachment permits, demolishing structures and/or acquiring additional property and adjusting property lines. Please note that a Coastal Development Permit is required for demolition of structures beyond 50 percent of the existing structure.

Access and Parking

The site plan shows areas identified as open storage and parking. However, it appears that the plan as designed does not show adequate minimum driveway width for two-way traffic. A parking analysis and striping plan must be provided in order to determine if the required parking meets City standards. In reference to the submitted plans, staff has calculated that the approximate total required parking is 38 parking stalls and 24 stalls/bays for all existing businesses based on gross floor area, excluding nonconforming uses. The applicant must verify proposed uses in relationship to floor area calculations as stated on the redlined plans.

The information provided in this letter is intended to assist the property's owner efforts to address ongoing code enforcement violations. A formal application for all required entitlements shall be submitted to the City by February 22, 2017 to demonstrate substantial progress towards addressing the violations. Moreover, to be clear, the above information is based on the information the City currently has in its possession but is subject to change based on new information/or circumstances (e.g., additional/unknown activities on the property, change of applicable regulations, etc.). Please feel free to contact me directly at (949) 248-3570 or at bdeines@danapoint.org if you have any questions.

Sincerely,



Belinda Deines
Senior Planner

enc

PICKERING: USE ANALYSIS

25802 Victoria Blvd., Building A

Permitted Uses

Business Name	Suite Number	Use	Description	Parking
Dana Point Marine & Storage	100	Administrative office	Property management office	1.96
B Drafting	103	Professional office	Drafting service	1.82
Offshore Construction	104	Building and materials sales and service	Window and door sales	1.03
Muleje Surfboards	105	Marine use; business service use	Surfboard sales; software sales	0.48
Vacant	107	Office	N/A	3.65
Floral Occasions	123	Retail (ground floor)	Floral arrangements	4.31
Douglas Landscaping, Inc.	200	Construction and maintenance service	Construction office use	3.64
N/A	Open Bay 1, 2, 4 and 5	Marine use	Boat storage	*5 total (for all boat storage)
				16.89

Subject to Conditional Use Permit

Business Name	Suite Number	Use	Description	Parking
Allur Gellcoat & Fiberglass Repair	101	Major automotive use	Engine repair (boat)	2 + 3 bays
Dana Point Detailing	102	Minor automotive use	Detail shop (boat)	2 + 3 bays
Dave's at the Beach	108	Major automotive use	Body repair shop	2 + 3 bays
Orange County Outboards	201	Major automotive use	Engine repair (boat)	2 + 3 bays
				8 + 12 bays

Nonconforming Uses

Business Name	Suite Number	Use	Description	Parking
N/A	106	Warehouse and storage uses	Personal storage	
Dave's at the Beach	108	Medium industrial use	Welding (metal artist)	
Ruben Gaffoglio	109	Medium industrial use; storage yard	Welding (metal artist); vehicle/personal storage	
Property Owner's Storage	202	Warehouse and storage uses	Personal storage	
N/A	Open Bay 3, 5, 6, 7	Storage yard	RV storage	

25802 Victoria Blvd., Building B

Subject to Conditional Use Permit

Business Name	Suite Number	Use	Description	Parking
River Ready Marine	120	Major automotive use	Engine repair (boat)	2 + 3 bays
Osea Yacht and Boat	121	Major automotive use	Engine repair (boat)	2 + 3 bays
Captain's Choice Boat Repair	122	Major automotive use	Engine repair (boat)	2 + 3 bays
				6 + 9 bays

25802 Victoria Blvd., Open

Permitted Use

Business Name	Suite Number	Use	Description	Parking
N/A	Open parking stalls	Marine use	Boat storage	*

Nonconforming Use

Business Name	Suite Number	Use	Description	Parking
N/A	Open parking stalls	Storage yard	RV storage	

25831 Victoria Blvd., Building C and Open

Permitted Use

Business Name	Suite Number	Use	Description	Parking
N/A	Open parking stalls	Marine use	Boat storage	*

Subject to Conditional Use Permit

Business Name	Suite Number	Use	Description	Parking
Pacific Coast Mobile Upholstery	Bldg. C	Minor automotive use	Upholstery shop	2 + 3 bays

Nonconforming Use

Business Name	Suite Number	Use	Description	Parking
N/A	Open parking stalls	Storage yard	RV storage	

TOTAL REQUIRED PARKING

Excluding nonconforming uses: 38 parking spaces; 24 bays

DISCLAIMER: THE ABOVE INFORMATION IS BASED ON THE CIRCUMSTANCES AS KNOWN TO THE CITY IN DECEMBER 2016; THIS INFORMATION IS SUBJECT TO CHANGE BASED ON NEW INFORMATION AND/OR CHANGE OF REGULATION.



March 10, 2017

Mr. Todd Skenderian
1100 South Coast Highway, Suite 316
Laguna Beach, CA 92651

**SUBJECT: PICKERING PROPERTIES – DIRECTOR DETERMINATION
25831 AND 25802 VICTORIA BOULEVARD**

Dear Mr. Skenderian:

This letter is in response to your written request for interpretation regarding the proposed uses for the subject property located at 25831 and 25801 Victoria Boulevard, which is located within the City's Community Commercial/Vehicular District (CC/V) zone. The City received your letter dated February 27, 2017. In this letter, we make determinations with respect to the following three issues, per your request: (1) whether RV Storage use can exist in the CC/V zone; (2) whether boat engine repair is considered a "marine use" permitted by right or a "major automotive use" subject to a Conditional Use Permit; and (3) whether certain uses on the property require "Minor Conditional Use Permits" approved by the Director, or Conditional Use Permits subject to Planning Commission approval.

1. With regard to RV storage, I have considered the request in reference to Exhibit B. After extensive review, I am not willing to allow this designation on the property. The CC/V zone is less intensive than the Industrial/Business (I/B) zone where RV storage is specifically allowed. With regard to Exhibit B, I previously made the determination that boat storage is allowed in the I/B zone, in part, due to the intensity of the zone and, in part, due to the fact that there is very limited land designated I/B in Dana Point. Boat storage is consistent with the surrounding character of the entire I/B zone throughout the City. Conversely, the CC/V zone occurs much more frequently in various City neighborhoods and this zone is utilized at major intersections throughout the City. Allowing RV storage within the CC/V zone would create neighborhood compatibility issues. For these reasons, I have determined that RV storage is not compatible with the permitted uses in the CC/V and therefore is not allowed.
2. As to whether Conditional Use Permits are required for certain uses on the subject site, I concur with staff's interpretation that boat engine repair is considered a "major automotive use," not a "marine use," as discussed in the use analysis letter prepared by City staff dated December 22, 2016. While Exhibit E indicates that staff made a determination in the past that jet ski repair falls under "marine uses" by definition, there is no prior supporting documentation that details the activities and services that were otherwise deemed "marine uses." Pursuant to Dana Point Municipal Code Section 9.75.270 (Definitions of Use), I have determined that boat repair is a "major automotive use" akin to major repair and maintenance related to motor vehicles; in arriving at this conclusion, I considered the following use definitions in the Dana Point Municipal Code:



“Marine Uses” — shall mean establishments which provide goods and services, on a retail or wholesale basis, for marine related activities. Typical uses would include, but not be limited to, boat rental, boat storage, fishing supply stores, surfboard sales and repair, scuba equipment sales and service, marine supply sales, sail making and repair and jet ski repair.

“Major Automotive Uses” — shall mean establishments which provide major repair and maintenance related to motor vehicles. Typical uses would include, but not be limited to, auto body repair shops, auto glass shops, automotive painting shops, customizing shops, engine rebuilding, speed shops and transmission shops.

“Minor Automotive Uses” — shall mean establishments which provide routine care and maintenance related to motor vehicles. Typical uses would include, but not be limited to, brake shops, tire stores, muffler shops, alignment shops, car washes (full service or self service), detail shops, radiator shops, upholstery shops, service stations, stereo installation shops, tune-up services and oil and lubrication services.

Motor Vehicle — a machine capable of self-propulsion, with human guidance, whether for the performance of work or as a mode of transportation.

The definition of “marine uses” does not explicitly include boat engine repair as a typical use, with the exception of jet ski repair. A “boat” is defined as a “motor vehicle,” and a body repair shop and a boat engine rebuilding shop meet the definition of “major automotive uses.” As for a boat detailing shop and an upholstery shop, these proposed uses fall under “minor automotive uses.”

3. With respect to parking, the applicant has submitted an application for tandem employee parking, which under the DPMC is subject to a minor Conditional Use Permit process if the Director of Community Development can make the required findings pursuant to DPMC Section 9.35.060(b)(5).

Finally, with respect to the permitting process subject to the uses on the property, I have determined that each of those uses (as listed below) is subject to the Conditional Use Permit (CUP) process, not a minor CUP process. In this regard, I concur with City staff’s interpretation in the letter dated December 22, 2016 and I have determined that the proposed businesses operating major and minor automotive uses must submit an application for a CUP, subject to Planning Commission approval. In the CC/V zone, a CUP is required for both major and minor automotive uses.

DPMC Section 9.65.040(a)(1-6) states that minor Conditional Use permits are restricted to the following requests: shared parking programs, beer/wine/liquor licenses, live entertainment, animal permits, modifications to development standards, and other modifications that have moderate potential for adverse impacts. The proposed uses do not meet the criteria for a minor Conditional Use Permit.



The following chart summarizes the businesses requiring Conditional Use Permits, subject to Planning Commission approval:

Business Name	Description (Use)	Entitlements Required
Allur Gellcoat & Fiberglass Repair	Boat engine repair (Major automotive repair)	CUP (PC approval)
Dana Point Detailing	Boat detail repair (Minor automotive repair)	CUP (PC approval)
Dave's at the Beach	Body repair shop (Major automotive repair)	CUP (PC approval)
Orange County Outboards	Boat engine repair (Major automotive repair)	CUP (PC approval)
River Ready Marine*	Boat engine repair (Major automotive repair)	CUP (PC approval)
Osea Yacht and Boat*	Boat engine repair (Major automotive repair)	CUP (PC approval)
Captain's Choice Boat Repair*	Boat engine repair (Major automotive repair)	CUP (PC approval)
Pacific Coast Mobile Upholstery	Upholstery shop (Minor automotive repair)	CUP (PC approval)

*Note: Uses occupying Building B are not permitted as proposed because the existing, unpermitted structure is built beyond the property line of the subject site and encroaches into the adjacent OCTA property, which is located in the Transportation Corridor (TC) zone. The TC zone does not allow major automotive uses. Furthermore, Building B must be legalized with a Certificate of Occupancy and issues related to encroachments beyond the property lines must be addressed.

Please note that this Director's determination on these three items may be appealable to the City's Planning Commission, pursuant to Dana Point Municipal Code Section 9.61.110(a). Filing of appeals to the Planning Commission must be made no later than fifteen (15) calendar days after the rendering of the decision. Appeals to the Planning Commission shall be filed with the Director of Community Development.

The information provided in this letter is intended to assist the property owner's efforts to address ongoing code enforcement violations. Please note that these comments do not include review of the submitted entitlement applications, and should not be considered exhaustive. Additional comments and/or corrections may be forthcoming as new or revised materials are received from other City Departments and Divisions, or from any outside agencies/entities.

Moreover, to be clear, the above information is based on the information the City currently has in its possession but is subject to change based on new information/or circumstances (e.g., additional/unknown activities on the property, change of applicable regulations, etc.).



If you have any questions, please feel free to contact me directly at (949) 248-3567 or at uluna@danapoint.org.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ursula Luna-Reynosa".

Ursula Luna-Reynosa
Director of Community Development

Todd Skenderian

ARCHITECT

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Laguna Beach, CA 92651

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RECEIVED

MAR 24 2017

**CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT**

March 24, 2017

Ms. Ursula Luna-Reynosa
Director of Community Development
33282 Golden Lantern
Dana Point, CA 92629

RE: Appeal of director's determination of Pickering Properties located at 25831 and 25802 Victoria Blvd.

Dear Ms. Luna-Reynosa:

Please see our appeal below of the March 10, 2017 determination concerning the RV Storage Use and the OCTA Property.

1. RV Storage Use:

The RV storage use is not listed in the CC/V zone. However, the CC/V zone permits "Marine Uses." Dana Point Municipal Code section 9.75.270 defines "Marine Uses" as "establishments which provide goods and services, on a retail or wholesale basis, for marine related activities. Typical uses would include, but not be limited to, boat rental, boat storage, fishing supply stores, surfboard sales and repair, scuba equipment sales and service, marine supply sales, sail making and repair and Jet Ski repair."

Please note the use of the term "related" as a qualifier to marine activities. This particular phrasing demonstrates the intention to allow more than just water based uses. Please also note the definition's use of the phrase "include, but not be limited to" in the listing of typical uses. This non-exclusive list includes the storage of boats. Thus, the Code explicitly allows storage type uses. RVs often tow boats, jet skis and other waterborne vehicles and carry other water related accessories, and such RV's should therefore be allowed to be stored at the subject.

Please also consider the City's decision to allow the South Coast Water District ("SCWD") to store boats in a zone that only allows RV storage (<http://danapoint.org/home/showdocument?id=14389>). In the Planning Commission Staff Report, the finding was made to allow boat storage because "boats are similar to automobile and RV storage." RVs and boats are both registered with the DMV, both are limited to 9' widths on California roads and both fit interchangeably in dry storage parking spaces.

Supporting Document #4

Although we agree with the assertion that I/B zoning is more intensive than CC/V zoning, we don't necessarily feel this comparison is applicable in our case, as we suggest that RV storage provides a Marine Use which is less intensive than boat storage, and it reinforces our request that RV's should be permitted in CC/V zoned areas. This is because RV's are designed for the road and can be readily driven into storage spaces. However, boats must be first loaded on a trailer, winched/strapped to the trailer, electrically connected to the towing vehicle equipped with a ball and hitch, and towed to a storage facility. When parking boats, they are always moved into position by a tow truck in reverse, or disconnected and reconnected to a forklift, detached from the towing vehicle and cranked up to a level position. Also, while RV's can be readily secured by locking its doors and hatches, the boat owners' possessions are generally stored under a vulnerable canvas covering which is far more susceptible to theft. Considering CC/V zoning specifically allows for boat storage, and RV's are less intensive than boats, it suggests that RV's can be more easily stored there as well.

Regarding the concern for RV's parking in other CC/V zoned neighborhoods, viewing those locations using Google Earth shows they all appear to have commercial shopping areas built upon them, representing a higher use and value for their owners. As boats can already be stored on their property, it suggests they would not park RV's there as well. Finally, as the subject property mirrors the SCWD land with OCTA railroad easement positioned in between, the intense train noise and vibration makes the property unsuitable for the preferred uses enjoyed by other CC/V zoned areas and uniquely differentiates the subject property from them. This distinction reinforces the appropriateness of our request that RV's be permitted in the CC/V zoned property.

As the determination notes that there is "very limited land designated I/B in Dana Point", SCWD seems to own all of the I/B zoned property in Dana Point, with their boat and RV storage area built over a year ago, and does not appear to be operating under the RV storage use capacity. Therefore, as SCWD is not currently storing RV's, and should the subject property not be allowed to store RV's, there wouldn't be sufficient accommodations for this use within the City.

2. The encroachment of Building 'B' and the storage use dates back to the 1960s when the subject property was used as a lumberyard. The use continued during the time that Dick Simon (the prior owner) had his yacht operations. Thus, we believe that the continued use of that area has non-conforming rights as defined in Municipal Code sections 9.63.010 and 9.75.140. We will submit additional documentation in support of our position prior to the scheduled Planning Commission hearing on our appeal.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd Skenderian". The signature is fluid and cursive, with a prominent initial "T" and "S".

Todd Skenderian