

---

---

**CITY OF DANA POINT  
ADMINISTRATIVE PERMIT**

---

---

**DATE:** AUGUST 28, 2019  
**TO:** MATT SCHNEIDER, DIRECTOR OF COMMUNITY DEVELOPMENT  
**FROM:** SEAN NICHOLAS, SENIOR PLANNER  
**SUBJECT:** MINOR CONDITIONAL USE PERMIT CUP19-0008(M)

---

---

**APPLICANT:** Phil Sanchez

**PROPERTY OWNER:** Marjack, LLC.

**LOCATION:** 24841 Del Prado

**REQUEST:** A request for a new math tutoring facility within an existing shopping center in Town Center.

**NOTICE:** Property owners within 300 feet of the subject site.

**ENVIRONMENTAL:** The project is categorically exempt from CEQA pursuant to Section 15301 (Class 1) for a new use and minor tenant improvements.

**BACKGROUND/DISCUSSION:** The applicant is requesting approval of a Minor Conditional Use Permit to establish a new educational use (tutoring) in a vacant suite within an existing shopping center in Town Center. Pursuant to the Town Center Plan, educational uses are permitted subject to the approval of a Minor Conditional Use Permit. The site has a surplus of parking, and all parking is shared with the various uses. The proposed use meets all applicable requirements.

**FINDINGS:**

A) For the approval of Minor Conditional Use Permit CUP19-0008(M), the Director of Community Development finds:

1. The proposed conditional use is consistent with the City of Dana Point General Plan and Municipal Code, **in that the use is permitted subject to the approval of a Minor Conditional Use Permit in the Town Center. The project is located on the back side of the Ralphs shopping center and sufficient parking exists to accommodate the proposed use. The subject application has been reviewed and the proposed conditional use is consistent with the General Plan in that it achieves a desirable mixture of land uses to meet the residential, commercial, industrial, recreational, open space, cultural and public service needs of the City residents.**

2. The nature, condition, and development of adjacent uses, buildings, and structures have been considered, and that the proposed, conditional use will not adversely affect or be materially detrimental to the adjacent uses, buildings, or structures **in that, the proposed tutoring services are proposed within an existing building. The existing shopping center has a surplus of parking and meets all applicable requirements. The proposed use is accordingly compatible and complimentary to existing development within the project's vicinity, and as conditioned would not be materially detrimental to adjacent uses, buildings or structures.**
3. 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 the Dana Point Municipal Code (DPMC) in order to integrate the use with existing and planned uses in the vicinity **in that, the existing shopping center is adequate in size and shape to accommodate the new educational use and a surplus of parking exists. The proposed use meets all applicable development standards and the educational use will be integrated with the existing and planned uses in the vicinity.**

**CONDITIONS:**

**A. General**

1. Approval of this application is to allow the establishment of a new tutoring center (educational use) in the Town Center. The project includes minor interior improvements in the vacant suite to meet ADA requirements into conformance with State accessibility requirements. Subsequent submittals for this project shall be in substantial compliance with the plans presented to the Community Development Department, and shall be in compliance with the Dana Point General Plan and the Dana Point Zoning Code.
2. This discretionary permit(s) will become void 24 months following the effective date of the approval if the privileges authorized are not implemented or utilized or, if construction work is involved, such work is not commenced within a 24 month time period or; the Director of Community Development or the Planning Commission, as applicable, grants an extension of time. Such time extensions shall be requested in writing by the applicant or authorized agent prior to the expiration of the initial 24 month approval period, or any subsequently approved time extensions.
3. The application is approved for the location and design of the uses, structures, features, and materials, shown on the approved plans. Any relocation, alteration, or addition to any use, structure, feature, or material, not specifically approved by this application, will nullify this approving action. If any changes are proposed regarding the location or alteration to the appearance or use of any structure, an

**ADMINISTRATIVE PERMIT**

**CUP 19-0008(M)**

**8/28/19**

**PAGE 3**

---

amendment to this permit shall be submitted for approval by the Director of Community Development. If the Director of Community Development determines that the proposed change complies with the provisions and the spirit and intent of this approval action, and that the action would have been the same for the amendment as for the approved plans, he may approve the amendment without requiring a new public hearing.

4. Failure to abide by and faithfully comply with any and all conditions attached to the granting of this permit shall constitute grounds for revocation of said permit.
5. The 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's fees, costs, and expenses incurred concerning the claim, action, or proceeding.

The applicant, and the applicant's successors, heirs, and assigns, shall further defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, or proceedings against the City, its agents, officers, or employees arising out of or resulting from negligence of the applicant or the applicant's agents, employees, or contracts.

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 offers, 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's 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.

6. The applicant and the applicant's successors-in-interest shall be fully responsible for knowing and complying with all conditions of approval, including making known the conditions of approval to City Staff for future governmental permits or actions on the project site or related project sites.

**ADMINISTRATIVE PERMIT**

**CUP 19-0008(M)**

**8/28/19**

**PAGE 4**

---

7. The applicant and applicant's successors in interest shall be responsible for payment of all applicable fees along with reimbursement for all City expense in ensuring compliance with these conditions.
8. 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 for Building Permits.
9. The proposed project requires a building permit, and all components of the project shall comply with the 2016 editions of the Building Code with all local amendments.
10. The applicant shall schedule a final inspection with the Community Development Department at the site that shall include a review of, among other things, finished architecture/materials, approved through discretionary action, and compliance with any outstanding project conditions of approval.
11. The reduced parking stall accessed from the rear of the building shall be utilized daily by employees to ensure parking in the primary lot is made available for customers.
12. The Director of Community Development, or their designee, shall review and approve all approved paint colors in the field prior to painting the building.
13. Building plan check submittal shall include the following construction documents as applicable:
  - Building Plans (4 sets)
  - Electrical/Plumbing/Mechanical plans by a Registered Design Professional
  - Energy Calculations (2 sets)
  - Structural Calculations (2 sets) if applicable
  - Fire/Life/Safety Code Analysis Report (exiting, occupancy separation, fire-rating, etc.).
  - State LicensesAll documents prepared by a registered-design-professional shall be wet-stamped & signed.
14. Provide building code analysis showing conformance to CBC Chapter 3 and 5. Specify occupancy group(s), type(s) of construction, including fire sprinklers (if applicable), and conforming exiting.
15. Exiting Plan & Analysis: Plans should include an occupant load analysis on the plans and provide an "Exit Plan" to show a clear and dimensioned Means of Egress system that provides a continuous, unobstructed exit from any occupied point in the building to a public way.

**ADMINISTRATIVE PERMIT**

**CUP 19-0008(M)**

**8/28/19**

**PAGE 5**

---

16. Plans should clearly show compliance with CBC Chapters 11B Accessibility to Public Buildings, Public Accommodations, Commercial Buildings and Public Housing). A Certified Access Specialist (CAsp) report may be required.

**PRIOR TO ISSUANCE OF A BUILDING PERMIT:**

17. Approvals are required from:

- Planning Department
- Public Works
- Obtain Orange County Fire Authority approval
- Obtain Health Department approval

18. Verification of all conditions of approval is required by all City Departments.

19. All approvals from outside Departments and Agencies is/are required.

20. All applicable supplemental/development impact fees shall be paid prior to building permit issuance.

21. Separate review, approval, and permits are required for:

- Signs

**DETERMINATION:**

The Director of Community Development hereby:

\_\_\_\_\_ APPROVES

\_\_\_\_\_ DENIES

the requested Minor Site Development Permit SDP19-0021(M) described herein subject to the findings and applicable conditions above.

---

Matt Schneider, Director  
Community Development Department

DRAFT