

## RESOLUTION NO. 17-07-10-XX

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT CUP17-0006 TO REPLACE A NON-CONFORMING USE WITH AN ALTERNATIVE NON-CONFORMING USE AT 24532 DEL PRADO AVENUE**

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

WHEREAS, Muller Lighthouse, LLC (collectively, the “Owners”), own the real property commonly referred to as 24532 Del Prado Avenue (APN: 682-191-03) (the “Property”); and

WHEREAS, the Owners caused to be filed a verified application for a Conditional Use Permit to replace an existing non-conforming use with another non-conforming use for the relocation of Union Bank to the project site; and

WHEREAS, said verified application constitutes a request as provided by Title 9 of the Dana Point Municipal Code; and

WHEREAS, the Planning Commission did, on the 10<sup>th</sup> day of July, 2017, hold a duly noticed public hearing as prescribed by law to consider said request; and

WHEREAS, the proposed project qualifies as a Class 1 (Section 15301) exemption pursuant to the applicable provisions of the California Environmental Quality Act (CEQA) in that the project involves locating a similar non-conforming use as the existing use on the first floor of an existing multi-tenant commercial building. No additional square footage or physical modifications are proposed except for the enhancement of the parking area to meet accessibility and parking requirements, and construction of a small trash enclosure five feet from the alley; 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 Conditional Use Permit CUP17-0006.

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 reference;

Findings:

- B) Based on the evidence presented at the public hearing, the Planning Commission adopts the following findings and approves a Conditional Use Permit CUP17-0006, subject to conditions:

- 1) That the proposed conditional use is consistent with the General Plan **in that, the project site is an existing multi-tenant commercial building, and an administrative office use (bank) will help achieve Land Use Element Goal 6 to achieve the development of Town Center as a primary business district in the City. Additionally, Land Use Element Policy 6.1 requires a diversity of uses in the Town Center area. Union Bank has been located in the Town Center for more than 20 years, and serves not only residents but also businesses in Dana Point.**
- 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 development will not be detrimental to the surrounding area as the proposed administrative office use will have limited hours of operation consistent with the existing office hours and bank location. The proposed parking to accommodate the administrative office use (bank) is a traditional parking configuration and provides all of the required parking onsite. The project has been conditioned to ensure there will be no impacts from ATMs or signs on adjacent residential uses.**
- 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 Commission or Council in order to integrate the use with existing and planned uses in the vicinity.**in that, the proposed project will result in a use that meets all applicable development standards including parking. The site has approval to utilize a tandem parking configuration, but with the mix of uses now proposed, a more traditional parking design will be utilized onsite.**

C. **General:**

1. Approval of this application is to allow for the replacement of a non-conforming administrative office use (real estate office) with another non-conforming administrative office use (bank) to relocate Union Bank from its current location at the corner of Pacific Coast Highway

and Golden Lantern to the subject project site at 24532 Del Prado Avenue. 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, Town Center Plan, and the Dana Point Zoning Code.

2. This discretionary permit(s) will become void two (2) years 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 with such two (2) year 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 two-year 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 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, they 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 Owner 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. Owner'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 Owner 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 Owner or the Owner's agents, employees, or contractors. Owner'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 Owner 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 Owner, 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.

6. The Owner and Owner's 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. 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 and Engineering Division for plan check for Building and Grading Permits.
8. The Owner and Owner'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.
9. The construction site shall be posted with signage indicating that construction shall not commence before 7 a.m. and must cease by 8 p.m., Monday through Saturday, and no construction activity is permitted on Sundays or Federal holidays.
10. The project shall meet all water quality requirements.
11. Any ATM facilities proposed associated with the bank shall be located inside the building, and any illumination from the ATM shall be screened to not negatively impact adjacent uses, including the residences beyond the rear alley.

12. Any future signs associated with the project that may be located on the rear of the building facing towards the alley shall be either halo illuminated or externally illuminated with light directed towards the ground. No sign shall be internally illuminated to avoid light impacts on surrounding uses and sensitive receptors. Additionally, any illumination of signs facing the rear alley shall be turned off daily once the bank use ceases operation.
13. All curb, gutter, and sidewalk damaged during construction shall be removed and replaced along the entire frontage of the subject property per the City Engineer.
14. The project shall meet all water quality requirements including Low Impact Development (LID) implementation.
15. The applicant shall be responsible for coordination with 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 is responsible to coordinate any potential conflicts or existing easements.
16. 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.
17. The applicant, property owner 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.
18. Prior to the commencement of any work within the public right-of-way, the applicant shall apply and be approved for an encroachment permit. As a part of the encroachment permit, an indemnity agreement may also be required for improvements left in the right-of-way.

**D. Prior to Issuance of a Building Permit or release on certain related inspections, the applicant shall meet the following conditions:**

19. Verification of all conditions of approval is required by all City Departments.
20. 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.
21. Public Works final approval will be required for all permits.
22. All structural best management practices (BMPs) shall be constructed and installed in conformance with approved plans and specifications.
23. Building(s) shall comply with the 2016 editions of the Building Code and all local amendments.
24. Verification of all conditions of approval is required by all City Departments.
25. The applicant shall schedule a final inspection with the Community Development Department at the site that shall include a review of, among other things, landscaping, finish architecture/materials, approved through discretionary action, and compliance with any outstanding project conditions of approval.

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 July, 2017, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Eric Nelson, Chairman  
Planning Commission

ATTEST:

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Ursula Luna-Reynosa, Director  
Director of Community Development

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