

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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Th13d

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 Staff: DL-SD
 Staff Report: May 21, 2008
 Hearing Date: June 11-13, 2008

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-08-40

Applicant: CONC, LLC

Agent: Jean-Louis Coquereau

Description: The proposed project is demolition of an existing 1,255 sq.ft. single-family residence, a 122 sq.ft. shed, a 726 sq.ft. accessory dwelling unit, and two detached garage/storage buildings (12,206 sq.ft. and 1,081 sq.ft.), and construction of a one-story, 2,459 sq.ft. restaurant with 124 sq.ft. of patio dining, a 1,484 sq.ft. mixed use retail and residential building (674 sq.ft. of retail and a one-bedroom, 810 sq. ft. living unit), and a 555 sq.ft. carport with solar panels.

Lot Area	20,221 sq. ft.
Building Coverage	3,538 sq. ft. (17%)
Pavement Coverage	11,926 sq. ft. (59%)
Landscape Coverage	4,757 sq. ft. (24%)
Parking Spaces	21
Zoning	Special Commercial
Plan Designation	Special Commercial
Ht abv fin grade	15 feet

Site: 246 North Cedros, Solana Beach, San Diego County.
 APN 263-341-11.

Substantive File Documents: City of Solana Beach General Plan and Zoning Ordinance.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the proposed project, with special conditions. The proposed uses on the site will have adequate parking and will not impact public views. The project has been designed and conditioned to minimize impacts to water quality, and the project has been conditioned to require only non-invasive landscaping. Thus, the development will not have any adverse impacts on views, public access, water quality, or biological resources.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-08-40 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Revised Landscape Plans: **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and written approval of the Executive Director, a final landscaping plan in substantial conformance with the preliminary landscape plan by M & W Landscaping, Inc. dated 12/07, but revised as follows:

a. Landscaping on the site shall emphasize the use of drought-tolerant native species. Use of drought-tolerant, non-invasive ornamental species is allowed as a small component. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed

to naturalize or persist on the site. No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized.

- b. The planting plan shall be implemented within 60 days of completion of construction.
- c. All required plantings shall be maintained in good growing condition, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
- d. Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.
- e. Five years from the date of issuance of the coastal development permit, the applicant shall submit for review and written approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Sign Program. By acceptance of this permit, the applicant agrees to the following:

Only monument signs, not to exceed eight feet in height, or facade signs are permitted. No tall, free-standing pole or roof signs are allowed.

3. Water Quality Management Plan (WQMP). **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit for the review and approval of the Executive Director, two (2) copies of a Final Water Quality Management Plan (WQMP) for the post-construction project site, prepared by a licensed water quality professional, and shall include plans, descriptions, and supporting calculations. The WQMP shall incorporate structural and non-structural Best Management Practices (BMPs) designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- a. Appropriate structural and non-structural BMPs (site design, source control and treatment control) shall be designed and implemented to minimize water quality impacts to surrounding coastal waters.

- b. Impervious surfaces, especially directly connected impervious areas, shall be minimized, and alternative types of pervious pavement shall be used where feasible.
- c. Irrigation and the use of fertilizers and other landscaping chemicals shall be minimized.
- d. Trash, recycling and other waste containers, as necessary, shall be provided. All waste containers anywhere within the development shall be covered, watertight, and designed to resist scavenging animals.
- e. All parking lots shall be swept and litter shall be removed on a regular basis (i.e. no less than once every two weeks). The parking lots shall not be sprayed down or washed down unless the water used is directed through the sanitary sewer system or a biofiltration area.
- f. The detergents and cleaning components used on site shall comply with the following criteria: they shall be phosphate-free, biodegradable, and non-toxic to marine wildlife; amounts used shall be minimized to the maximum extent practicable; no fluids containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates, or lye shall be used.
- g. Runoff from all roofs, roads and parking areas shall be collected and directed through a system of structural BMPs including vegetated areas and/or gravel filter strips or other vegetated or media filter devices. The system of BMPs shall be designed to 1) trap sediment, particulates and other solids and 2) remove or mitigate contaminants (including trash and debris, sediment, nutrients and pesticides, and vehicular fluids such as oil, grease, heavy metals and hydrocarbons) through infiltration, filtration and/or biological uptake. The drainage system shall also be designed to convey and discharge runoff from the developed site in a non-erosive manner.
- h. Post-construction structural BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.
- i. All BMPs shall be operated, monitored, and maintained for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired at the following minimum frequencies: (1) prior to October 15th each year; (2) during each month between October 15th and April 15th of each year and, (3) at least twice during the dry season.
- j. Debris and other water pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner.

- k. It is the permittee's responsibility to maintain the drainage system and the associated structures and BMPs according to manufacturer's specifications.

The permittee shall undertake development in accordance with the approved water quality management plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The proposed project is demolition of an existing 1,255 sq.ft. single-family residence, a 122 sq.ft. shed, a 726 sq.ft. accessory dwelling unit, and two detached garage/storage buildings (12,206 sq.ft. and 1,081 sq.ft.), and construction of a one-story, 2,459 sq.ft. restaurant with 124 sq.ft. of patio dining, a 1,484 sq.ft. mixed use retail and residential building (673.8 sq.ft. of retail and a one-bedroom, 810 sq. ft. living unit), and a 555 sq.ft. carport with solar panels. Twenty-one parking spaces would be provided.

The site is located on the east side of Cedros Avenue, across from the train station parking lot located at Lomas Santa Fe Drive and Highway 101, in the City of Solana Beach. The applicant has indicated gold LEED (Leadership in Energy and Environmental Design) certification is anticipated for the project.

The site is zoned for Special Commercial uses, which allows a variety of mixed uses, and the footprint of the proposed structures would be very similar to that of the existing structures. As such, the project did not require any discretionary approvals from the City of Solana Beach.

The project site is located within an area that was previously covered by the County of San Diego's Certified Local Coastal Program (LCP). However, the County LCP was never effectively certified and since then, the City of Solana Beach incorporated. The City of Solana Beach does not yet have a certified Local Coastal Program. As such, the standard of review for the proposed development is Chapter 3 of the Coastal Act.

2. Conformance with Chapter 3 Policies. Section 30240 of the Coastal Act is applicable and states:

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Section 30231 of the Coastal Act is applicable to the proposed development and states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30251 of the Act states in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

Sections 30210 through 30214, Sections 30220 through 30224, Section 30252 and Section 30604(c) of the Coastal Act address public access to the shoreline.

The proposed development will be located within an area with a mix of commercial, industrial, public, and residential uses, and has been designed to be comparable in size and scale with the existing uses on the site. No public views of the coastline or beach exist across this site, and the development site will only be briefly and slightly visible to motorists along Highway 101, the nearby coastal scenic highway. In past Commission action on commercial development within this area, the Commission has regulated the height and amount of monument signs because of the potential for adverse impacts on the visual quality of the area and inconsistency with Section 30251 of the Act. To assure that all proposed signage is consistent with Chapter 3 policies, Special Condition #2 has been proposed. The condition allows only monument signs not exceeding eight feet in height or facade signs.

The project includes the extensive use of pervious paving and landscaping (including green roofs), which will reduce any potential impacts to water quality from runoff. The development will have 2,674 sq.ft. of impervious surfaces and 17,547 sq.ft. of pervious surfaces. However, because the water quality plan submitted with the application does not provide details on the various water quality BMP (Best Management Practices) proposed, to ensure impacts to coastal waters are avoided or minimized, Special Condition #3 requires the applicant to submit a final water quality management plan providing for appropriate structural and non-structural BMPs. With implementation of such measures, the biological productivity and quality of coastal waters will be protected.

The proposed landscape plan includes mostly drought-tolerant species compatible with the California/Mediterranean climate; however, two new California pepper trees are proposed. The Cal-IPC (Invasive Plant Council) website indicates that while Peruvian peppertree is sometimes called California peppertree, the trees are native to South

America, and seeds are transported by birds and mammals into natural areas. The aggressive growth of peppers enables them to displace native trees and form dense thickets in natural areas. The subject site is less than ½ mile south of San Elijo Lagoon. To ensure impacts to the lagoon environment are avoided, Special Condition #1 requires the submission of a revised final landscape plan, without any invasive plant species. The condition also prohibits the use of various rodenticides. As conditioned, the Commission finds the proposed landscaping improvements consistent with previously cited Coastal Act policies addressing natural habitats.

The site is located adjacent to a railway transit station, in a pedestrian-oriented special commercial district. The project provides parking consistent with the requirements of the City's Highway 101 specific plan. As conditioned, the proposed development will not have an adverse impact on public access to the coast or to nearby recreational facilities.

In summary, as conditioned the proposed project will not adversely affect visual resources, sensitive habitat, water quality, or public access. Therefore, the Commissions find the project consistent with the policies of Chapter 3 of the Coastal Act.

3. Local Coastal Program. The City of Solana Beach does not have a certified LCP at this time. Thus, the Coastal Commission retains permit jurisdiction in this community and Chapter 3 of the Coastal Act remains the legal standard of review. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the City of Solana Beach to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

4. California Environmental Quality Act. Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

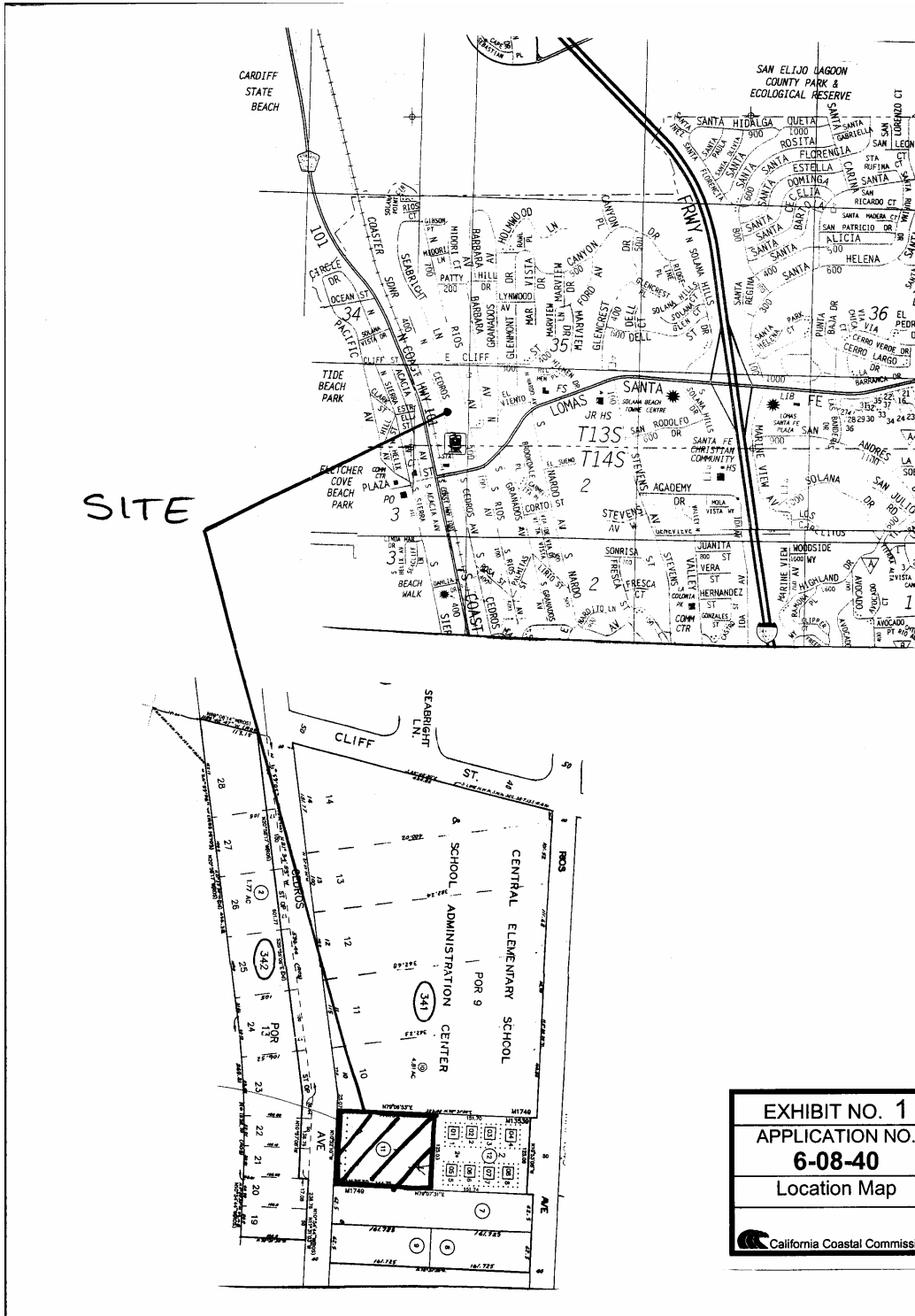


EXHIBIT NO. 1
APPLICATION NO.
6-08-40
Location Map
California Coastal Commission

