

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA

3111 CAMINO DEL RIO NORTH, SUITE 200

SAN DIEGO, CA 92108-1725

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**RECORD PACKET COPY****Tue 16a**

Filed: 6/4/99  
49th Day: 7/23/99  
180th Day: 12/1/99  
Date of Extension Request: 10/14/99  
Length of Extension 90 Days  
Final Date for  
Commission Action 1/12/00  
Staff: GDC-SD  
Staff Report: 12/16/99  
Hearing Date: 1/11-14/00

REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-99-79

Applicant: Darlene Klugherz

Description: Conversion of an existing approximately 1,076 sq. ft. retail space to restaurant use and the addition of approximately 306 sq. ft. of new outdoor restaurant area within an existing approximately 9076 sq. ft. retail center on an approximately 23,522 sq. ft. lot. Also proposed is the use of off-site parking.

Lot Area	23,522 sq. ft.
Building Coverage	9,076 sq. ft.
Parking Spaces	16
Zoning	Commercial
Plan Designation	Commercial
Ht abv fin grade	20 feet

Site: 159 South Highway 101, Solana Beach, San Diego County.  
APN 298-010-61

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STAFF NOTES:Summary of Staff's Preliminary Recommendation:

This application was scheduled for hearing at the November 1999 Commission meeting. However, the matter was postponed in order to allow the applicant more time to work with Commission staff to resolve the parking issue. While the applicant has provided additional information on the hours of operation of the existing uses within the existing center, no new information has been provided which addresses the parking conflicts raised by the proposal. Staff is recommending denial of the proposed development

because adequate on-site parking is not provided to accommodate the increase in intensity of development of the site. The subject site is in close proximity to the beach where parking is a significant concern. No additional on-site parking will be provided for the proposed development, which is located in an existing retail center that lacks sufficient parking to accommodate the existing uses. In addition, the applicant proposes to use (through a lease with the City) parking spaces off-site within a public parking lot that is currently available for beach parking or, alternatively, to lease parking spaces off-site at a nearby office building site that has an insufficient level of parking for its own use. Thus, the proposed off-site parking arrangements would result in the reduction of parking that is currently available for beach access by directly removing spaces from a public parking lot and/or by increasing demand for the public parking lot by users of the office building site. Therefore, the proposed development is not consistent with the Chapter 3 policies of the Coastal Act related to public access.

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Substantive File Documents: City of Solana Beach General Plan; Highway 101 Precise Plan; Draft Fletcher Cove Master Plan; City Request #17-95-15; Solana Beach CUP #17-99-10; Parking Lease between City of Solana Beach and Nadine Fryman signed July 8, 1999; Parking lease between Solana Executive Plaza and Nadine Fryman dated August 26, 1999; CDP No. 6-91-194

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- I. **MOTION:**     *I move that the Commission approve Coastal Development Permit No. 6-99-79 for the development proposed by the applicant.*

**STAFF RECOMMENDATION OF DENIAL:**

Staff recommends a NO vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO DENY THE PERMIT:**

The Commission hereby denies a coastal development permit for the proposed development on the ground that the development will not conform with the policies of Chapter 3 of the Coastal Act and will 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 would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

## II. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The proposed development involves the conversion of approximately 1,076 sq. ft. of existing retail use to restaurant use and the addition of an approximately 306 sq. ft. outdoor dining area to an existing approximately 9,076 sq. ft. commercial center located on an approximately 23,522 sq. ft. lot. The site is located on the west side of Highway 101 just south of Lomas Santa Fe Drive and approximately two blocks southeast of Fletcher Cove Beach in the City of Solana Beach. The approximately 1,076 sq. ft. of retail space that would be converted is part of an approximately 1,376 sq. ft. space of which approximately 300 sq. ft. was initially constructed as retail but was converted to restaurant use in 1991 pursuant to a coastal development permit (ref. CDP 6-91-194/Wintress). The applicant proposes to use the previously converted 300 sq. ft. space along with the approximately 1,076 sq. ft. of proposed converted retail space and the approximately 306 sq. ft. of proposed outdoor dining to create approximately 1,682 sq. ft. of total restaurant space.

The current approximately 9,407 sq. ft. retail center has a total of 16 on-site parking spaces available. The applicant is not proposing to add any on-site parking and is instead proposing to either lease 8 parking spaces on an adjacent City owned public parking lot or off-site at a nearby office building complex, each of which are located within walking distance of Fletcher Cove Beach.

Because the City of Solana Beach does not have a certified LCP, the standard of review in this area is Chapter 3 policies of the Coastal Act. The previously certified County of San Diego LCP is used as guidance.

2. Parking/Public Access. Section 30252 of the Coastal Act states, in part:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities . . . .

The site of the proposed development is located along Highway 101, which is designated as a major coastal access route within the previously certified County of San Diego LCP, which the Commission uses for guidance in review of development within Solana Beach. The site is located approximately two blocks from the beach at Fletcher Cove Park and within walking distance of the Solana Beach Transit Center, a public bus and train access location. Because Fletcher Cove Park is the main accessible public beach area serving the City of Solana Beach that is close to the downtown area and has available public parking, it is a very popular destination point for residents and tourists alike. As such, the streets and public parking lots surrounding the site are heavily used for beach access. In

addition, a number of the existing commercial developments along Highway 101 in this area were constructed prior to the incorporation of the City of Solana Beach and fail to meet the City's current parking standards. Since the existing commercial development in the area does not have sufficient parking, the streets and public parking lots in this area are also used for parking for the existing commercial development. Therefore, it is particularly important that new development provide adequate on-site parking so as not to increase the use of street parking and public parking lots for commercial uses, which would adversely impact beach access by reducing the number of parking spaces available to people going to the beach.

The retail center in which the proposed development is located lacks adequate parking facilities for its currently approved uses. The existing approximately 9,076 sq. ft. retail center contains 16 parking spaces. Under the City of Solana Beach's Highway 101 Specific Plan requirements, the approximately 9,076 sq. ft. retail center requires a total of 30 parking spaces.

Solana Beach Specific Plan	9,076 sq. ft. of existing retail center <u>1:300 parking ratio for retail use</u> * 30 parking spaces required to serve the existing center
County LCP (Used for guidance)	9,076 sq. ft. of existing retail center <u>1:200 parking ratio for retail use</u> 45 parking spaces required to serve the existing center

Thus, the site is in nonconformance with current parking standards. In addition, in 1991 the Commission approved the conversion of 300 sq. ft. of existing retail use within the center to be used as a cafe (ref. CDP #6-91-194/Wintress). This conversion was located within the retail structure that the applicant proposes to convert to restaurant and would become part of the applicant's restaurant. One of the special conditions of approval of the prior conversion required the addition of two additional on-site parking spaces. These spaces were to be created in an area behind the retail center. Although the conversion was made, these 2 additional spaces do not currently exist. Therefore, the existing 300 sq. ft. of permitted restaurant use is lacking 2 parking spaces. Although the cafe is not currently being used; the parking spaces were required as a condition of approval of the conversion from retail to restaurant. Therefore, the failure to provide these two spaces is an apparent violation of the prior permit. The applicant, as lessee of the space where the cafe is located, is now the permittee for the prior permit and is responsible for satisfying the condition of approval requiring the 2 additional parking spaces.

Under both the City of Solana Beach's General Plan and the previously certified County of San Diego LCP, new development within a lot containing nonconforming parking levels is only required to provide new parking to accommodate the new development, not to bring the entire site into compliance with current standards. As such, the proposed conversion of approximately 1,076 sq. ft. of retail use to restaurant would require the

addition of 4 parking spaces utilizing the City's parking requirements (6 spaces would be required utilizing the County's previously used LCP). This requirement is based on the difference between the City's parking requirement for 1,076 sq. ft. of retail space parking which is 4 spaces (1 space per 300 sq. ft. of gross floor area) and 1,076 sq. ft. of restaurant use which is 8 spaces (1 space per 133 sq. ft. of gross floor area).

Solana Beach Specific Plan

1,076 sq. ft. – proposed conversion of retail to restaurant

1:300 Parking ratio for retail uses

1:133 Parking ratio for restaurant uses

1,076 sq. ft. at 1:300 = 4 parking spaces

1,076 sq. ft. at 1:133 = 8 parking spaces

Spaces required to accommodate the conversion =

8 parking spaces – 4 parking spaces = 4 parking spaces

County LCP (Used for guidance)

1,076 sq. ft. – proposed conversion of retail to restaurant

1:200 Parking ratio for retail uses

1:100 Parking ratio for restaurant uses

1,076 sq. ft. at 1:200 = 5 parking spaces

1,076 sq. ft. at 1:100 = 11 parking spaces

Spaces required to accommodate the conversion =

11 parking spaces – 5 parking spaces = 6 parking spaces

In addition, the applicant proposes to add approximately 306 sq. ft. of new outdoor dining which will result in the requirement of 2 additional spaces (1 space per 133 sq. ft.). Therefore, under the City's parking ordinance, the proposed development will require 6 new parking spaces to accommodate the new development. Furthermore, as indicated above, the applicant is proposing to use 300 square feet of restaurant space that was created pursuant to a previously approved permit that required the addition of 2 parking spaces. These two parking spaces were not provided or were provided, but subsequently removed. Thus, to accommodate the proposed development, the applicant needs to provide a total of 8 additional parking spaces (6 for the proposed development, and 2 for the development that was previously approved).

The applicant is proposing to address the parking demand of the proposed development by providing 8 parking spaces (to be leased from the City of Solana Beach) at a City owned public parking lot adjacent to and west of the proposed development site or by leasing 8 parking spaces from an existing off-site office building complex approximately 100 feet from the subject location. Both these proposals for off-site parking raise serious concerns relative to beach access, inconsistent with Coastal Act policies.

Relative to the proposal for use of 8 parking spaces in the public parking lot, the City's Highway 101 Specific Plan has designated the proposed off-site parking property as the future location of a public parking structure to replace parking that is proposed to be removed in the Plaza District after the Plaza District is redesigned as a pedestrian-oriented business area. In addition, the City's draft Fletcher Cove Master Plan identifies this property as the site of replacement parking if Fletcher Cove should be converted to pedestrian use only. The site is close to Fletcher Cove and is currently used by the general public, both to patronize nearby businesses and to visit the beach at Fletcher Cove. The site is also within walking distance of the Solana Beach Transit Center. Thus, the proposed leasing of public parking spaces would reduce the available spaces that are currently in demand by the general public for both commercial and recreational opportunities and could adversely affect the development of a future public parking structure at the site.

In 1994 the City of Solana Beach acquired the property at 140 S. Sierra Avenue (the site of the proposed leased spaces) which contained a dilapidated commercial structure and issued an abatement order to remove the structure as a fire danger and public nuisance. Commission staff reviewed the request to remove the structure and determined that based on the abatement order, no coastal development permit was required for the demolition. Subsequent to that time the City removed the structure and associated improvements and replaced them with a 75 spaced asphalt public parking lot, which is currently available for use by the public. However, the City failed to file an application for a coastal development permit for the construction of the public parking lot which will be handled through a separate enforcement action. Until the Commission has an opportunity to review an after-the-fact permit application for the existing public parking lot at 140 S. Sierra Avenue, the Commission cannot approve the use of the unpermitted lot as off-site parking for the subject development.

The alternative proposal to lease 8 parking spaces at the site of a nearby office building site raises similar concerns related to beach access. The proposed alternative site is located at 215 S. Highway 101 approximately 100 feet south of the subject site at an existing approximately 20,800 sq. ft. office building complex. The City of Solana Beach's parking requirement for office buildings is 1 parking space per each 250 sq. ft. In this case, in order to be in conformance with City standards, the office building site would require 83 parking spaces. However, the office building site has only 70 parking spaces and, therefore, currently has an inadequate level of parking. The applicant's proposal to lease 8 parking spaces at an already deficient parking site would force users of the office building to use the nearby public parking lot at 140 S. Sierra Avenue or other street parking that is currently available for beach access.

In summary, Section 30252 of the Act requires that new development "maintain and enhance" public access to the coast and provide adequate parking. In this case, the proposed development does not have adequate on-site parking to accommodate existing and proposed uses and proposes the use of 8 off-site parking spaces that are currently used by the public for parking for access to the beach or, alternatively, to use 8 off-site parking spaces at an office building site that currently has inadequate parking for its own

use. Approval of the proposed development in this near shoreline area would have a significant adverse impact on public access because it would result in a reduction in public parking available for beach access in an area where such parking is in high demand. Therefore, the Commission finds the proposed development is inconsistent with the public access requirements of Section 30252 and must be denied.

3. Existing Permit Violation. The subject permit application represents a request to add onto a previously approved 300 sq. ft. conversion of retail space to restaurant use. (ref. 6-91-194/Wintress). The use of this 300 sq. ft. converted retail space to restaurant required the installation of two on-site parking spaces. Since these spaces were not installed, or were installed but subsequently removed, there is an apparent violation of the permit. Resolution of this matter will be handled under a separate enforcement action.

4. Local Coastal Planning. Section 30604 (a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can not be made.

The site is zoned and designated in the Solana Beach General Plan and Highway 101 Specific Plan as Commercial. Although the proposed project is consistent with that designation, the proposed development does not meet the requirements of Chapter 3 policies of the Coastal Act relating to the provision of adequate parking to serve the proposed development. Therefore, the Commission finds that project approval will prejudice the ability of the City of Solana Beach to obtain a certified LCP and must be denied.

5. California Environmental Quality Act (CEQA) Consistency. Section 13096 of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit to be supported by a finding showing the permit is 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.

The proposed project has been found inconsistent with the public access policies of the Coastal Act. There are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact, which the activity may have on the environment. These alternatives include the no project alternative, the provision of off-site parking at a different site, the reduction in size of the existing center such that adequate parking is provided or limiting the operation of the restaurant to times when the retail center uses are not in conflict. Therefore, the Commission finds that the proposed project is not the least environmentally damaging feasible alternative and cannot be found consistent with the requirements of the Coastal Act to conform to CEQA.

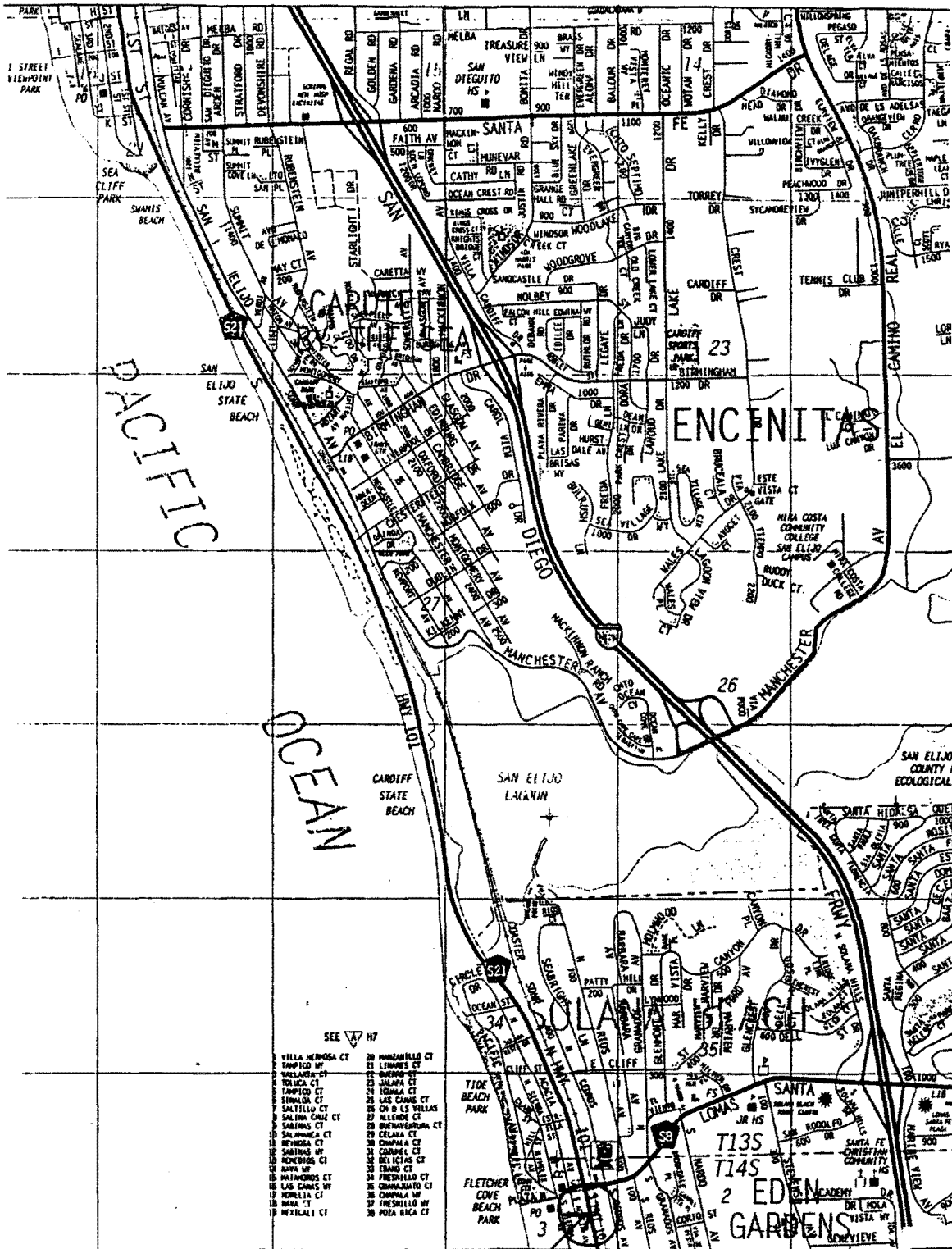


EXHIBIT NO. 1  
APPLICATION NO.  
6-99-79  
Location Map



**Lomas Santa Fe Dr.**

### Alternative Parking at Office Building

## Highway 101

Project  
Site—

**City's Existing  
Public Parking Lot  
(Unpermitted)**

## Parking Lot

SIERRA

AVE

R.S. 707

## Fletcher Cove Beach Park

~~SOLANA  
BEACH  
PARK~~

CONDOM. LAS BRISAS  
DOC78-284291  
(SEE SHIT 2)

~~BEACH PARK~~

ROX. MHT.L.

## Pacific Ocean

EXHIBIT NO. 2  
APPLICATION NO.  
6-99-79

### Parcel Map Identifying Surrounding Uses

Existing Bldg. "A"  
Approx. 5000 sq. ft.

EXISTING PERMITTED  
300 SQ. FT. RESTAURANT AREA

PROPOSED 306 Sq. Ft.  
OUTDOOR DINING AREA

PROPOSED 1076 Sq. Ft.  
CONVERTED AREA

Existing Bldg. "B"  
Approx. 4076 sq. ft.

HIGHWAY 101

EXHIBIT NO. 3  
APPLICATION NO.  
6-99-79  
Site Plan

California Coastal Commission



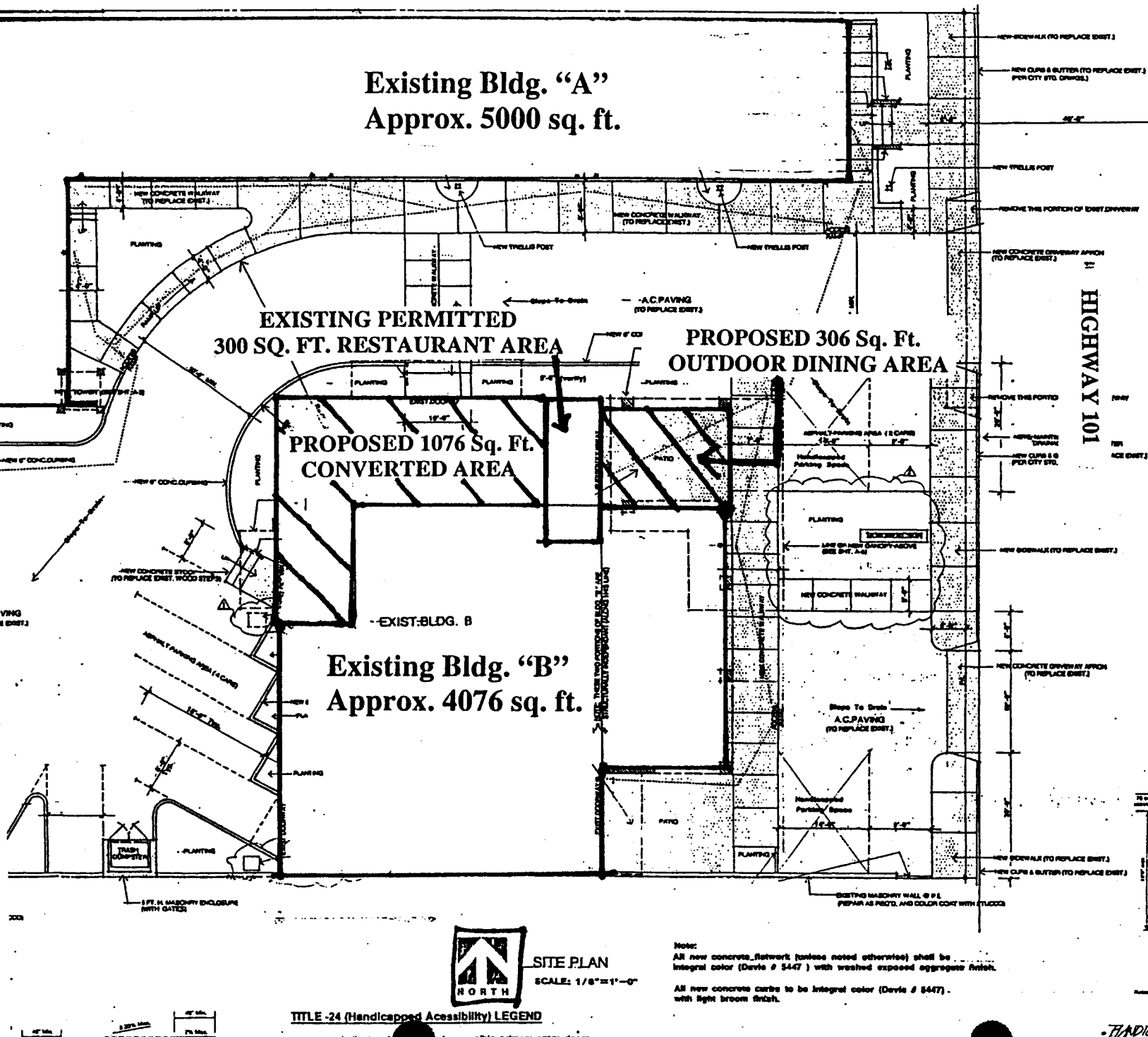
SITE PLAN

SCALE: 1/8"=1'-0"

TITLE -24 (Handicapped Accessibility) LEGEND

- Indicates new and accessible primary entry doors
- Indicates route of travel (from handicapped parking to entries)

Note:  
All new concrete flatwork (unless noted otherwise) shall be integral color (Davis # 5447) with washed exposed aggregate finish.  
All new concrete curbs to be integral color (Davis # 5447) with light broom finish.



12.10.99

California Coastal Commission  
San Diego Office

**RECEIVED**

DEC 10 1999

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

**Attention: Gary Cannon**

RE: Detail of Businesses within Plaza 101 Site Plan

**Building A**


- Suite 1,2 &3 101 Travel-A travel agency occupies 1500 sq. ft.  
Hours of operation 9-5:30 Mon. through Fri.  
Most of business (90%) is phone transactions out of state.
- Suite 4 Center of Balance-personal trainer (Pilates Studio)  
Occupies 500 sq. ft. One on one training.  
By appointment only
- Suite 5 Salon 101-Hair Salon-occupies 500 square feet  
By appointment only. Owner runs entire salon himself.
- Suite 6 The Make-Up Studio-occupies 500 sq. ft.  
Owner run, by appointment only.
- Suite 7 Currently vacant- Occupies 2000 sq. ft. Being remodeled into general  
office space by landlord.

**Building B**

- Suite 1 Restaurant- this is our space currently waiting approval
- Suite 2 Currently vacant-3000 square feet-

Sincerely,

Darlene Klugherz

EXHIBIT NO. 4
APPLICATION NO. <b>6-99-79</b>
Hours of Operation of Existing Retail Center
Page 1 of 2
 California Coastal Commission

