

CALIFORNIA COASTAL COMMISSION

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Th5b

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STAFF REPORT: CONSENT CALENDAR

Application No.: 6-18-0222

Applicant: 439 Cedros, LLC

Agent: Brian Church

Location: 435 & 439 South Cedros Avenue, Solana Beach, San Diego County (APN No. 298-091-09)

Project Description: Conversion of an existing 1,291 sq. ft., 1-story retail tenant space to a café and construction of a 540 sq. ft. outdoor seating area on a 21,498 sq. ft. lot also containing approximately 4,403 sq. ft. of retail commercial space and 5,594 sq. ft. of office space; installation of parking on an adjacent paved parcel to the west.

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

The existing mixed-use building is located in the City's Cedros Design District, which consists of a variety of commercial and tourist-oriented businesses, where parking is at a premium. The site is located approximately 0.6 miles from the Solana Beach train station and 0.4 miles from two coastal access points, Fletcher Cove and Seascapes Surf Beach. The site is currently underparked based on the parking requirements of the certified Land Use Plan (LUP), but as proposed, the project will result in the addition of 13 new spaces, which will adequately serve the demand generated by the proposed project. Sixteen of the required spaces will be located on property immediately adjacent to the west of the site next to the

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railway leased from the North County Transit District (NCTD). The Commission has previously considered parking adjacent to the railway as a potential source of public parking. The site is adjacent to a public pedestrian walkway crossing the railroad tracks and leading to a bikeway/linear park. However, there are several public parking lots and street parking available directly adjacent east to much of Solana Beach's shoreline that provide beach parking, and the linear park, while an important amenity, is not a destination point that is likely to generate a significant demand for public parking in this area. Thus, no impacts to public access or recreation are anticipated.

To ensure the project is constructed consistent with the preliminary plans, **Special Condition #1** requires submittal of stamped final plans in substantial conformance with preliminary plans. **Special Condition #3** requires the submittal of a comprehensive sign program documenting that monument signs will not exceed a height of eight feet consistent with the LUP requirements for visual quality. **Special Condition #2** requires submittal of stamped final landscaping plans, utilizing only drought-tolerant and non-invasive species in the planting palette, and **Special Condition #4** that requires the implementation of post-construction water quality measures. Therefore, as conditioned, the project will be consistent with the public access, visual resource, and water quality protection policies of Chapter 3 of the Coastal Act, and no impacts to coastal resources are anticipated.

Commission staff recommends **approval of** coastal development permit application 6-18-0222, as conditioned.

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Appendix A – Substantive File Documents

EXHIBITS

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – Site Plan](#)

I. MOTION

Motion:

*I move that the Commission **approve** the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

II. STANDARD CONDITIONS

This permit is granted subject to the following 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 of 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.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Final Plans.**
 - (a) **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and written approval of the Executive Director, final site and development plans. Said plans shall be

stamped-approved by the City of Solana Beach and be in substantial conformance with the plans prepared by Brian Church dated 03/26/18.

- (b) The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

2. **Final Landscaping Plan.**

- (a) **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval final landscape plans. Said plans shall first be stamped approved by the City of Solana Beach and be in substantial conformance with the revised landscape plans prepared by Brian Church dated 04/30/18 and shall include the following:

- i. Plans shall indicate the type, size, extent and location of all plant materials, the proposed irrigation system and other landscape features.
- ii. All landscaping shall be drought tolerant and native or non-invasive plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or 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 within the property. If using potable water for irrigation, the project shall use water-conserving emitters (e.g. microspray) and drip irrigation. Use of weather-based irrigation controllers and reclaimed water for irrigation is encouraged.

- (b) The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

3. **Sign Program. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a comprehensive sign program for all proposed signage documenting that only monument signs, not to exceed eight feet in height, or façade signs are proposed. No tall, free-standing pole or roof signs shall be allowed. Said plans shall be subject to the review and written approval of the Executive Director, and signs shall subsequently be installed consistent with the approved plans.

4. **Post Development Runoff Plan (PDRP).**

(a) **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT**

PERMIT, the applicants shall submit for the review and written approval of the Executive Director a Post-Development Runoff Plan which includes a map, drawn to scale, showing the property boundaries, building footprint, runoff flow directions, relevant drainage and water quality features, impervious surfaces, permeable pavements, and landscaped areas. The PDRP shall demonstrate that the project:

- i. Minimizes disturbance of coastal waters and natural drainage features; minimizes removal of native vegetation; and avoids, to the extent feasible, covering or compaction of highly permeable soils.
- ii. Preferentially uses Low Impact Development (LID) techniques to retain and disperse runoff on site.
- iii. Uses infiltration to the greatest extent feasible to retain runoff; minimize the addition of impervious surfaces; disconnect impervious surfaces from the storm drain system by interposing strategically-located pervious areas. Where infiltration is not appropriate or feasible, uses alternative BMPs to minimize changes in the runoff flow regime (e.g., direct roof runoff into rain barrels or cisterns for later use, evaporate roof runoff, employ a green roof, construct a rain garden, and/or plant trees).
- iv. Unless specifically prohibited by conditions as documented in a detailed site analysis certified by a licensed engineer, runoff from the development, up to and including the 85th percentile, 24-hour runoff event, shall be infiltrated on-site.
- v. Minimizes pollutants associated with landscaping and building materials.
- vi. Directs drainage from all parking areas and driveways, roofs, walkways, patios, and other impervious surfaces to, in order of priority, a) landscaped areas or open spaces capable of infiltration, b) earthen-based infiltration BMPs, c) flow-through biofiltration BMPs designed to treat, at a minimum, twice the 85th percentile one-hour storm event volume, accompanied by supporting calculations, d) proprietary filtration systems designed to treat, at a minimum, twice the 85th percentile one-hour storm event volume, accompanied by supporting calculations and product documentation.
- vii. Conveys excess runoff off-site in a non-erosive manner.
- viii. Where flow-through BMPs are used, includes supporting calculations and product documentation.

- ix. Includes all maintenance and operating procedures that will be conducted to keep the water quality provisions effective for the life of the development.
 - (b) The permittee shall undertake development in conformance with the approved PDRP unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.
5. **Future Development.** This permit is for the conversion of an existing 1,291 sq. ft., 1-story retail tenant space to a café, construction of a 540 sq. ft. outdoor seating area, and installation of a parking lot on a site containing approximately 4,403 sq. ft. of retail commercial space and 5,594 sq. ft. of office space. All other development proposals for the site including conversion of the retail commercial, office, or café uses to other uses, or the construction of additional floor area, shall require review and approval by the Coastal Commission under an amendment to this permit. Future development or conversion of the parking lot would also require a separate coastal development permit or amendment by the Coastal Commission or its successor in interest.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

The proposed project involves the conversion of an existing 1,291 square foot, 1-story, commercial retail suite inside of a 3,744 square foot, mixed-use building, to a café. The project also includes construction of a 540 square foot outdoor seating area to accompany the café in a portion of the existing parking lot fronting the building.

The subject site is a fully developed lot located on the west side of South Cedros Avenue, approximately 2,000 feet south of Lomas Santa Fe Drive, in the City of Solana Beach. The 21,598 square foot lot contains a second mixed-use building north of the subject building. In total, the uses on the lot currently consist of approximately 4,403 square feet of retail commercial and 5,594 square feet of office.

The site currently contains 11 off-street diagonal parking spaces located on the street side of the buildings. There is a 16-foot wide public road easement along the South Cedros Avenue property frontage. The City is requiring the applicant to dedicate the easternmost 6 feet of this easement to the City as public right-of-way, which will incorporate the existing sidewalk into the public ROW. As a result of this dedication, as well as adjustments to the driveways providing access to the site, the parking area in front of the buildings will be restriped to provide 6 spaces. Another 2 spaces will be located on-site behind the buildings for a total of 8 on-site spaces. The remaining 10 feet of the road easement, including the 5 parking spaces and a portion of the outdoor seating area, will be subject to an Encroachment Maintenance

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Removal Agreement (EMRA) with the City. The EMRA will allow the applicant to continue to use the 10 feet of the road easement with the understanding that the City could reclaim this space if needed for public improvements in the future. The applicant also proposes to install a bicycle rack and a five-foot-high monument sign in this area that would also be subject to the EMRA.

The area between the buildings and the railroad tracks west of the lot has historically been leased by the property owners of the subject site for informal employee parking and loading and storage. The applicant is proposing to stripe the 8,101 square foot area leased from NCTD to provide an additional 16 parking spaces for the new café. Thus, in total, 24 spaces are proposed to serve the project.

The project also includes restriping the existing public street parking spaces in front of the site from 11 spaces to 13 spaces. New landscaping and hardscape improvements are also proposed. An existing fence that runs along the western boundary of the leased area will remain.

The site is located within the Cedros Design District, which consists of a variety of commercial and tourist-oriented businesses. Many of the buildings are relatively old and were constructed at a time when off-street parking was not required to be provided in conjunction with new development or was approved with less restrictive parking requirements than utilized today. Thus, many of the businesses are deficient in parking and off-street spaces are at a premium in the area. Because inadequate parking and congestion can interfere with public access opportunities, the provision of adequate off-street parking or substitute public transportation is critical for commercial, recreational and residential development near coastal access points.

The site is zoned Special Commercial in the certified LUP and in the Highway 101 Corridor Specific Plan, which allows commercial, retail, and residential uses. Under the certified LUP, the existing uses on the lot would require a total of 33 parking spaces, or 22 more than the 11 currently provided. LUP Policy 2.39 requires 1 off-street parking space for every 143 square feet of gross floor area for restaurants that are part of a mixed-use project within the Special Commercial zone. LUP Policy 2.38 allows outdoor seating to be excluded from the parking requirement if approved by the City Council. For the subject project, the City did not approve exempting the outdoor seating. Thus, after conversion of the subject leasehold to a café and construction of the outdoor seating, the entire site would require approximately 42 parking spaces, 18 more than the 24 proposed.

However, although not specifically addressed in the certified LUP, the City of Solana Beach's Municipal Code (Section 17.16.110) allows a change of use that requires more parking than the previous use if the full amount of required parking for the new use is provided. Similarly, the previously certified County of San Diego LCP, allows conversions of existing structures erected prior to May 10, 1985, with nonconforming parking levels to provide new parking to accommodate only the new development, without bringing the entire site up to compliance. The Commission has accepted this as an approach in Solana Beach in past permits (ref. CDP#s; 6-01-039; 6-99-079; 6-97-147; 6-97-140; 6-97-079; 6-96-27-A1). As approved by the City, the proposed project would require the provision of 9 spaces for the indoor portion of the restaurant and 4 spaces for

the outdoor seating in addition to the 11 existing spaces. Thus, the 24 spaces proposed should ensure that the project will not increase the on-site deficiency in parking causing a “spill-over” impact onto surrounding streets and/or public parking reservoirs.

As noted, 13 of the required parking spaces will be located on a leased area from NCTD, not on the site itself. The Commission has previously raised concerns regarding the use of the area adjacent to the railroad tracks to serve the demand for private parking (CDP#s 6-96-27-A1). The railroad ROW area in Solana Beach and other coastal communities has the potential to serve as a reservoir for public beach parking. Although there is no direct, nearby access to the beach from the project location, the site is immediately south of a pedestrian bridge that provides access across the below-grade railroad tracks to a landscaped walkway/bikepath, and leasing the ROW for the required parking of a private development precludes the possibility that this area could be used for public recreational parking.

However, the leased NCTD property in this area is not likely to ever serve as a potential reservoir of public recreational or beach parking for several reasons. Solana Beach has several public parking reservoirs available directly adjacent east to much of Solana Beach’s shoreline. These reservoirs include Fletcher Cove Park, Plaza Street North and South Parking Lots, and street parking along every public street from Cedros Avenue, west to the ocean. Thus, there are many public parking reservoirs located much closer to the shoreline providing convenient access to the beach when compared to the leased NCTD property.

The pedestrian bridge immediately north of the project site provides access to the linear park, located west of the NCTD railway, which is an approximately 1.5-mile landscaped multi-purpose pathway. The area for the park is composed of the western edge of the railroad ROW that was offered to the City of Solana Beach to create the linear park after the grade separation of the subject railway was approved by the Commission in 1995 (CDP No. 6-94-207). Although the linear park is a popular and important amenity, it serves as more of a travel corridor along the eastern side of Highway 101 than it does a destination point. Thus, the linear park is unlikely to generate a need for public parking on the NCTD property.

The Commission recently approved the San Dieguito Double-Tracking and Bridge Replacement Project which will add a new second track west of the existing track in this area and construct a retaining wall east of the existing track (CC-0001-17). It is not expected to have any impact on the NCTD leasehold proposed for parking for the subject project and there is no need to reserve the area for future expansion of the railroad.

If the project site were closer to Lomas Santa Fe Drive or Via de la Valle, or the site was used for beach parking, the use of NCTD land for private parking could still potentially impact public recreation, and might not be appropriate. However, in this case, adequate parking to serve the proposed use is being provided, and as a result of the revisions to the driveways, 2 new public street parking spaces will be created.

The City approval requires that any off-site parking arrangement is secured through a lease agreement between the applicant and the owner of the off-site lot. The lease with NCTD was originally entered into by the prior business owner of the subject property and was amended on June 24, 2016, to allow the assignment of the lease to the applicant. The lease will expire

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on June 30, 2051. The Commission has not previously required a deed restriction to secure off-site parking spaces in the NCTD right-of-way. Although technically off-site parking, the parking is immediately adjacent to the subject site and has been secured for the long-term. Policy 2.39 of the LUP allows offsite parking arrangements when secured by 30-year lease, and the subject property is consistent with this requirement. The Commission has reviewed a number of projects for new construction or redevelopment in the City's Design District (CDP Nos. 6-98-17; 6-97-147; 6-97-002; 6-96-27-A1; 6-94-184) and has approved both on and off-site parking arrangements using the City's parking standards.

Therefore, no impacts to public beach parking or public recreation are expected to result from the project or the use of the NCTD area to meet the project parking demand. **Special Condition #1** requires the applicant to submit final plans in substantial conformance with preliminary plans showing the proposed new café and parking improvements.

The existing site is fully developed and the proposed project will not increase the amount of impervious surface on the site. However, runoff from parking lots can be a major contributor of non-point source pollution in stormwater which ultimately is disposed into coastal waters. **Special Condition #4** requires the applicant to submit a Post-Development Runoff Plan implementing BMPs to reduce runoff from the various impervious surfaces. The Commission's water quality staff have reviewed the project and determined that, as conditioned, implementation of the project would not result in adverse water quality impacts.

In past Commission actions on commercial development in the Cedros Design District, the Commission has regulated the height and amount of signage because of the potential for adverse impacts on the scenic quality of the area. The City's certified LUP contains Policy 6.28 which states that permitted monument signs shall not exceed eight feet in height and free-standing pole or roof signs are prohibited. The applicant is proposing a monument sign that is five feet in height along with three signs attached to the façade of the building. As proposed, no adverse impacts are anticipated from the signage; however, to assure there is no deviation from the size and/or height of the proposed signage, **Special Condition #3** requires the submittal of a sign plan documenting that only monument signs not exceeding eight feet in height or façade signs will be installed.

The project includes the installation of new landscaping includes trees adjacent to the outdoor seating area and on the western boundary of the parcel leased from NCTD. To ensure the visual resources of the area are protected, **Special Condition #2** requires submission of a final landscaping plan and implementation of the proposed landscaping. Therefore, as conditioned, the project will not have adverse impacts on scenic coastal resources.

While the City of Solana Beach has a certified LUP, the City's Local Coastal Plan (LCP) is not certified because the City has not yet completed, nor has the Commission reviewed, and implementing ordinances. Thus, the standard of review for the proposed development is the Chapter 3 policies of the Coastal Act.

B. BIOLOGICAL RESOURCES

Coastal Act policies 30240 and 30251 restrict the alteration of natural landforms and protect sensitive habitats. Section 30231 of the Coastal Act requires that coastal waters are protected and runoff minimized.

The proposed development will not have an adverse impact on any sensitive habitat, and, as conditioned, will not result in erosion or adverse impacts to water quality, as adequate drainage controls will be provided. Thus, the project is consistent with the resource protection policies of Chapter 3 of the Coastal Act.

C. COMMUNITY CHARACTER/VISUAL QUALITY

The development is located within an existing developed area and, as conditioned, will be compatible with the character and scale of the surrounding area. Therefore, the Commission finds that the development, as conditioned, conforms to Section 30251 of the Coastal Act.

D. PUBLIC ACCESS/PARKING

As conditioned, the proposed development will not have an adverse impact on public access to the coast or to nearby recreational facilities. As conditioned, the proposed development conforms to Sections 30210 through 30214, Sections 30220 through 30224, Section 30252 and Section 30604(c) of the Coastal Act.

E. LOCAL COASTAL PLANNING

The City of Solana Beach does not have a certified LCP at this time. The Commission approved and certified the City's LUP in March 2012. However, at this time, the City's IP has not been certified. 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 local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City of Solana Beach found this infill development project to be exempt from CEQA (Section 15303). 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 is the least environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

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APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- Solana Beach Certified LUP
- Highway 101 Corridor Specific Plan
- Coastal Development Permit No. 6-01-039
- Coastal Development Permit No. 6-99-079
- Coastal Development Permit No. 6-98-17
- Coastal Development Permit No. 6-97-147
- Coastal Development Permit No. 6-97-140
- Coastal Development Permit No. 6-97-079
- Coastal Development Permit No. 6-97-002
- Coastal Development Permit No. 6-96-27-A1
- Coastal Development Permit No. 6-94-207
- Coastal Development Permit No. 6-94-184