

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR

Application No.: 6-18-0842

Applicant: Zephyr Partners-RE, LLC

Agent: Ryan Herrell

Location: 329-343 South Highway 101 and 112-128 Dahlia Drive, Solana Beach, San Diego County (APN(s): 298-052-06 through -08, 298-052-13 and -14)

Project Description: Demolition of two single-family residences, a retail commercial building, a former service station building, and a coffee kiosk; construction of a 93,764 sq. ft., two-story mixed-use development over a 138,464 sq. ft., two-level subterranean parking garage; consolidation of five separate lots into one 1.79-acre lot.

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

The proposed project involves the construction of a new mixed-use development sited north-west of the Dahlia Drive and Highway 101 intersection in the City of Solana Beach. The project site is located partially within the Highway 101 Corridor, which is a popular destination point in Solana Beach. Fletcher Cove, which is the main public beach access in the City of Solana Beach, is located approximately 0.3 miles from the project site. As proposed, the project will provide adequate parking, and existing traffic conditions will not be significantly exacerbated.

6-18-0842 (**Zephyr Partners-RE, LLC**)

To prepare the site for the construction of the subterranean garage, the applicant will need to excavate approximately 49,000 cubic yards of fill. As conditioned, the applicant will test all excavated material for suitability according to the criteria of the City of Solana Beach's Sand Compatibility and Opportunistic Use Program (SCOUP) for beach quality material. **Special Conditions #3** requires the applicant to submit a Construction Pollution Prevention Plan that incorporates BMPs designed to address contaminants associated with construction activity.

No sensitive habitat areas exist on or adjacent to the project site and no sensitive bird species were observed; however, several mature non-native trees currently exist on-site that provide cover, foraging, and potential nesting for birds. **Special Condition #5** requires the applicant to submit a bird nesting survey to ensure that nesting birds are not adversely impacted.

As proposed, the mixed-use development will be divided between several separate structures to break up the mass of the new development. Landscaping along the project perimeter and in the newly proposed sidewalks will help screen portions of the development from Highway 101. **Special Condition #2** requires submission of a final landscaping plan and implementation of the proposed landscaping. **Special Condition #4** requires the applicant to submit a sign plan documenting that only monument signs not exceeding eight feet in height or façade signs will be installed.

Commission staff recommends **approval** of coastal development permit application 6-18-0842 as conditioned.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION.....	4
II. STANDARD CONDITIONS	4
III. SPECIAL CONDITIONS	5
IV. FINDINGS AND DECLARATIONS.....	13
A. PROJECT DESCRIPTION/HISTORY.....	13
B. PUBLIC ACCESS/PARKING	14
C. WATER QUALITY	17
D. BIOLOGICAL RESOURCES	18
E. VISUAL RESOURCES/COMMUNITY CHARACTER	19
F. LOCAL COASTAL PLANNING.....	22
G. CALIFORNIA ENVIRONMENTAL QUALITY ACT	22

APPENDICES

[Appendix A – Substantive File Documents](#)

EXHIBITS

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – Project Location](#)

[Exhibit 3 – Parking Garage](#)

[Exhibit 4 – Existing Structures](#)

[Exhibit 5 – Traffic Study Area](#)

[Exhibit 6 – DHS 1988 Letter](#)

[Exhibit 7 – LUP Land Use Map](#)

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 6-18-0842 subject to the conditions set forth in the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in conditional approval 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:

The Commission hereby approves coastal development permit 6-18-0842 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

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 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.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Submittal of 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 plans that are in substantial conformance with the plans prepared by M.W. Steele Group received 08/24/18.
 - (b) 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 an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
2. **Final Landscape Plans.**
 - (a) **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for review and written approval by the Executive Director, two (2) full-size sets of final landscaping plans prepared by a licensed landscape architect or a qualified resource specialist. A landscape architect or other qualified landscape professional shall certify in writing that the final Landscape plans are in conformance with the following requirements:
 - i. A plan showing the type, size, extent, and location of all proposed vegetation and any necessary irrigation.
 - ii. Only drought-tolerant native or non-invasive plant materials may be planted throughout the project site. 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 planted.

iii. Low-flow efficient irrigation systems shall be utilized. All irrigation systems shall be designed with: drip lines, where feasible; check valves at low points to reduce excess drainage; automatic controllers; rainy weather shut off controls; and, if rotor heads are used, minimal head coverage overlap.

(b) The permittee shall undertake the development in accordance with the approved final landscape 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 Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. **Construction Pollution Prevention Plan (CPPP).**

(a) **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 Construction and Pollution Prevention Plan prepared and certified by a qualified licensed professional. The plan shall demonstrate that all construction, including, but not limited to, clearing, grading, staging, storage of equipment and materials, or other activities that involve ground disturbance; building, reconstructing, or demolishing a structure; and creation or replacement of impervious surfaces, complies with the following requirements:

i. **Protect Public Access.** Construction shall protect and maximize public access, including by:

A. Construction is prohibited outside of the defined construction, staging, and storage areas.

B. All construction methods to be used, including all methods to keep the construction areas separated from public areas (e.g., using unobtrusive fencing or equivalent measures to delineate construction areas), shall be clearly identified on the construction site map and described in the narrative description (see subdivision vii of this Special Condition).

C. A rain event action plan (REAP) shall be prepared to address the demolition and construction activities for this project.

ii. **Property Owner Consent.** The Construction and Pollution Prevention Plan shall be submitted with evidence indicating that the owners of any properties on which construction activities are to take place, including properties to be crossed in accessing the site, consent to use of their properties.

- iii. Minimize Erosion and Sediment Discharge. During construction, erosion and the discharge of sediment off-site or to coastal waters shall be minimized through the use of appropriate Best Management Practices (BMPs), including:
 - A. Sidewalks shall integrate paver-brick sections or decomposed granite strips, and curb gutters shall use permeable concrete to achieve additional runoff infiltration.
 - B. Trash screens or trash capture BMPs shall be provided on all storm drain inlets.
 - C. Land disturbance during construction (e.g., clearing, grading, and cut-and-fill) shall be minimized, and grading activities shall be phased, to avoid increased erosion and sedimentation.
 - D. Erosion control BMPs (such as mulch, soil binders, geotextile blankets or mats, or temporary seeding) shall be installed as needed to prevent soil from being transported by water or wind. Temporary BMPs shall be implemented to stabilize soil on graded or disturbed areas as soon as feasible during construction, where there is a potential for soil erosion to lead to discharge of sediment off-site or to coastal waters.
 - E. Sediment control BMPs (such as silt fences, fiber rolls, sediment basins, inlet protection, sand bag barriers, or straw bale barriers) shall be installed as needed to trap and remove eroded sediment from runoff, to prevent sedimentation of coastal waters.
 - F. Tracking control BMPs (such as a stabilized construction entrance/exit, and street sweeping) shall be installed or implemented as needed to prevent tracking sediment off-site by vehicles leaving the construction area.
 - G. Runoff control BMPs (such as a concrete washout facility, dewatering tank, or dedicated vehicle wash area) that will be implemented during construction to retain, infiltrate, or treat stormwater and non-stormwater runoff.
- iv. Minimize Discharge of Construction Pollutants. The discharge of other pollutants resulting from construction activities (such as chemicals, paints, vehicle fluids, petroleum products, asphalt and cement compounds, debris, and trash) into runoff or coastal waters shall be minimized through the use of appropriate BMPs, including:
 - A. Materials management and waste management BMPs (such as stockpile management, spill prevention, and good housekeeping practices) shall be installed or implemented as needed to minimize

pollutant discharge and polluted runoff resulting from staging, storage, and disposal of construction chemicals and materials. BMPs shall include, at a minimum:

- (1) Covering stockpiled construction materials, soil, and other excavated materials to prevent contact with rain, and protecting all stockpiles from stormwater runoff using temporary perimeter barriers.
 - (2) Cleaning up all leaks, drips, and spills immediately; having a written plan for the clean-up of spills and leaks; and maintaining an inventory of products and chemicals used on-site.
 - (3) Proper disposal of all wastes; providing trash receptacles on-site; and covering open trash receptacles during wet weather.
 - (4) Prompt removal of all construction debris from the beach.
 - (5) Detaining, infiltrating, or treating runoff, if needed, prior to conveyance off-site during construction.
 - (6) All activities associated with the removal and disposal of asbestos materials shall adhere to State of California hazardous waste handling requirements, including wetting-down asbestos-containing materials prior to removal, removing asbestos-containing material in discrete units where possible, and disposal of asbestos materials at a regulated facility.
- B. Fueling and maintenance of construction equipment and vehicles shall be conducted off-site if feasible. Any fueling and maintenance of mobile equipment conducted on-site shall take place at a designated area located at least 50 feet from storm drain inlets, if feasible (unless those inlets are blocked to protect against fuel spills). The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or other contaminants. Equipment that cannot be feasibly relocated to a designated fueling and maintenance area (such as cranes) may be fueled and maintained in other areas of the site, provided that procedures are implemented to fully contain any potential spills.
- v. Minimize Other Impacts of Construction Activities. Other impacts of construction activities shall be minimized through the use of appropriate BMPs, including:
- A. The damage or removal of non-invasive vegetation (including trees, native vegetation, and root structures) during construction shall be minimized, to achieve water quality benefits such as transpiration,

vegetative interception, pollutant uptake, shading of waterways, and erosion control.

- B. Excavated project soils shall be prioritized for re-use in restoration projects to the extent feasible.
 - C. The use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting, and silt fences) that incorporate plastic netting (such as polypropylene, nylon, polyethylene, polyester, or other synthetic fibers) shall be avoided, to minimize wildlife entanglement and plastic debris pollution.
- vi. Manage Construction-Phase BMPs. Appropriate protocols shall be implemented to manage all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training), to protect coastal water quality.
- vii. Construction Site Map and Narrative Description. The Construction and Pollution Prevention Plan shall include a construction site map and a narrative description addressing, at a minimum, the following required components:
- A. A map delineating the construction site, construction phasing boundaries, and the location of all temporary construction-phase BMPs (such as silt fences, inlet protection, and sediment basins).
 - B. A description of the BMPs that will be implemented to minimize land disturbance activities, minimize the project footprint, minimize soil compaction, and minimize damage or removal of non-invasive vegetation. Include a construction phasing schedule, if applicable to the project, with a description and timeline of significant land disturbance activities.
 - C. A description of the BMPs that will be implemented to minimize erosion and sedimentation, control runoff and minimize the discharge of other pollutants resulting from construction activities. Include calculations that demonstrate proper sizing of BMPs.
 - D. A description and schedule for the management of all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training). Identify any temporary BMPs that will be converted to permanent post-development BMPs.
- (b) The permittee shall undertake development in accordance with the approved Construction-Phase Pollution Prevention Plan, unless the Commission amends this permit or the Executive Director provides written determination that no amendment is legally required for any proposed minor deviations.

4. **Sign Program.**

- (a) **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. Free-standing pole or roof signs are prohibited. 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.
- (b) 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 an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. **Nesting Bird Survey.**

- (a) **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit, in a form and content acceptable to the Executive Director, a plan for a Breeding/Nesting Bird Survey to be conducted by a qualified biologist prior to construction of the proposed improvements, which shall substantially conform to the following requirements:
- i. Should vegetation or tree removal be planned to occur during the bird nesting season, February 1 to September 15, a qualified biologist with experience in conducting bird surveys shall conduct a bird survey no more than 72 hours prior to construction to detect any protected native birds in the habitat to be disturbed and any other such habitat within 300 feet of the construction area.
 - ii. If any active nests are detected, the area shall be flagged and mapped on the construction plans along with a minimum 300-foot buffer and up to a maximum of 500 feet for raptors, as determined by the project biologist, and shall be avoided until the nesting cycle is complete or nests abandoned. Subject to consultation with and the prior written approval of the Executive Director, the project biologist may reduce the avoidance buffer if a reduced buffer maintains protection of the nesting cycle of the avian species.
 - iii.
- (b) 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 an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

6. **SCOUP Suitability and Participation.** The applicant shall comply with and implement its proposal to test all excavated material for suitability according to the criteria of the City of Solana Beach's Sand Compatibility and Opportunistic Use Program (SCOUP) for beach quality material. If found to be consistent with SCOUP criteria, the excavated material shall be deposited on City beaches in conformance with SCOUP. If the excavated material is not consistent with SCOUP criteria, the applicant shall dispose of the excavated material at a licensed and designated disposal site located outside of the Coastal Zone.

7. **Future Development.** This permit is for construction of a 93,764 sq. ft., two-story mixed-use development over a 138,464 sq. ft., two-level subterranean parking garage. All other development proposals for the site, including conversion of commercial, retail, restaurant, or residential uses to other uses, shall require review and approval by the Coastal Commission under an amendment to this permit unless the Executive Director determines that no amendment is legally required. Future development or conversion of the parking garage would also require a separate coastal development permit or amendment by the Coastal Commission or its successor in interest.

6-18-0842 (**Zephyr Partners-RE, LLC**)

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION/HISTORY

The proposed development is a 93,764 square-foot, maximum 32-foot tall mixed-use development sited northwest of the Dahlia Drive and Highway 101 intersection in the City of Solana Beach ([Exhibit #1](#)). The project site is located 0.3 miles from the Fletcher Cove and 0.4 miles from the Solana Beach transit center. Fletcher Cove is a widely used beach located centrally along the City's coastline. An existing bus stop is also located immediately east of the project site.

The project will consist of seven two-story buildings containing office (45,587 square feet), restaurants (10,562 square feet), retail (4,142 square feet), twenty-five multi-family rental units (33,473 square feet), and two one-story buildings consisting of either a retail establishment or a restaurant. A 138,464 square-foot, two-level subterranean parking garage containing 366 parking spaces, fifty-four of which will include EV charging stations, will be constructed underneath the mixed-use development ([Exhibit #3](#)). Twenty-seven street parking spaces will be created along Highway 101, Dahlia Drive, and South Sierra Avenue. Additionally, the five existing lots that currently comprise the project site are proposed to be consolidated into a single 1.79-acre lot.

The project site is located within the Highway 101 Corridor and is subject to the Scenic Area and Highway 101 Corridor Specific Plan. The five lots underlying the project site are zoned for the following uses in the City of Solana Beach's certified LUP: High-Density Residential, Medium Density Residential, Commercial, and Office/Professional.

All of the existing structures on the project site will be demolished, including the remnants of a mobile home park containing twenty-four vacant concrete trailer/mobile home pads, a one-story metal building formerly part of a service station, a small abandoned coffee kiosk, two vacated one-story, single-family residences, and a vacated one-story retail commercial building with a detached garage ([Exhibit #4](#)).

The site is surrounded by one- and two-story office and retail buildings to the north and south and high-density residential units to the west. To the east are the Coastal Rail Trail, a 1.5-mile landscaped linear park, and a pedestrian bridge that provides access over the NCTD railway to the South Cedros District, a popular destination point in Solana Beach.

In 2001, the Commission approved a permit for demolition of a service station canopy and two 30-foot high poles and installation of an approximately 100 square foot "drive-through" coffee cart at the site of an existing retail establishment (CDP #6-01-050). In 2008, the Commission approved a permit waiver for the same lot to construct a detached ten- by fifteen-foot awning/rack designed to display solar modules for sale (CDP #6-08-083-W).

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, any implementing ordinances. Thus, the standard of review for the proposed development is the Chapter 3 policies of the Coastal Act, and the certified LUP is used as non-binding guidance.

B. PUBLIC ACCESS/PARKING

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 of the Coastal Act states, in part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby . . .

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 . . . (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation . . .

Section 30253 of the Coastal Act states, in part:

New development shall do all of the following:

...

(d) Minimize energy consumption and vehicle miles traveled.

(e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

Policy 2.14 of the Solana Beach certified Land Use Plan states:

Open space easements and dedications should be utilized, where warranted, to facilitate the objectives of the City's recreational and/or public access program.

Policy 2.24 of the Solana Beach certified Land Use Plan states:

New development shall provide off-street parking sufficient to serve the approved use in order to minimize impacts to public street parking available for coastal access and recreation.

Policy 6.20 of the Solana Beach certified Land Use Plan states, in part:

Any development involving more than one building or structure shall provide common access roads and pedestrian walkways. . . .

Fletcher Cove, the main public beach access for the City of Solana Beach, is located 0.3 miles from the project site. A public access stairway providing access to the beach is located across the street from the project site. The project site is within walking distance of the shoreline and upon completion will be a visitor-serving destination within the Highway 101 Corridor. Inadequate parking and congestion can interfere with public access opportunities, especially if nearby public parking reservoirs are usurped by the tenants and patrons of the proposed mixed-use development, or vehicles entering the proposed parking garage create queuing lines that extend into the adjacent public rights-of-way. According to the City's certified LUP, the following parking standards are required:

- Residential units containing one bedroom: 1.5 spaces per unit
- Residential units containing two or more bedrooms: 2 spaces per unit
- Additional guest parking: 1 space per 4 residential units
- Business and professional offices: 1 space per 300 square feet of gross floor area
- Restaurants Buildings: 1 space per 100 square feet of gross floor area (excluding outdoor seating/eating area)
- Outdoor Dining Area: 1 space per 100 square feet of gross floor area.
- Multi-tenant commercial centers (retail) less than 25,000 square feet: 1 space per 200 square feet of gross floor area

Under the certified LUP, the proposed project would require a total of 361 parking spaces. The project would exceed the parking requirement through the provision of 366 on-site spaces provided in the proposed subterranean parking garage. **Special Condition #1** requires the applicant to submit final plans in substantial conformance with the preliminary plans showing 366 parking stalls in the proposed parking garage. Thus, the proposed project will provide adequate on-site parking to avoid any "spill-over" impacts onto nearby public parking reservoirs.

Access to the shoreline in Solana Beach is provided primarily by Highway 101, which is located east of the proposed development. Two driveways currently exist along Highway 101 that provides access to the project site. The project will remove the driveways from Highway 101 and provide a driveway from both Dahlia Drive and South Sierra Avenue for ingress and egress into the subterranean garage. A loading dock will also be provided from Dahlia Drive for delivery trucks. This design will prevent large delivery trucks and queuing for the parking garage from forming in the Highway 101 right-of-way, adversely impacting traffic flow along this major access corridor.

The applicant prepared a traffic impact analysis report evaluating the level of service (LOS) on the surrounding roads to determine whether any adverse impacts to public access will result from the proposed project. The traffic conditions for the report were observed during the summer, when access to the beach is at the greatest demand. The analysis determined the current level of service for each roadway segment and intersection along the study area ([Exhibit #5](#)) and then used regional growth models to anticipate traffic conditions in the year 2035.

Using traffic volumes and peak hour conditions observed during August 2016 to calculate traffic volumes along Highway 101, Dahlia Drive, and South Sierra Avenue, the report showed the project will not have a substantial adverse impact on travel times along these routes. A majority of the major intersections and roadway segments in the study area are expected to operate at an acceptable level of service (LOS D or higher) through 2035, even at peak hour conditions. The exception is the Highway 101/Lomas Santa Fe Drive intersection.

This intersection currently operates at an acceptable LOS, but by 2035 without the project, is expected to operate at LOS E during the PM peak hour, with a 69.9-second delay. With the project, by 2035 the intersection is still expected to operate at LOS E during the PM peak hour, with a 70.4-second delay. While an increase of 0.5 seconds in travel time is expected as a result of the project, the increase is so minor that it is not anticipated to discourage a member of the public from accessing the City's beaches or from going on a scenic drive down the Highway 101 corridor. Thus, the project will not significantly exacerbate the level of service at this intersection for the duration of the PM peak hour.

The project site is bordered by three roads: Highway 101 to the east, Dahlia Drive to the south, and South Sierra Avenue to the west. There are approximately seven existing formal street parking spaces adjacent to the project site on Highway 101 and Dahlia Street. No formal public parking is currently available along South Sierra Avenue northbound lane; however, a public parking reservoir containing thirty-seven parking spaces is located directly west of South Sierra Avenue at 423 South Sierra Avenue. Additionally, there are no public sidewalks along Dahlia Drive and South Sierra Avenue to facilitate pedestrian traffic to the shoreline in this area. A vertical public accessway to the shoreline is located west of the project site.

Street parking and several public parking reservoirs are available directly adjacent east to much of Solana Beach's shoreline. These reservoirs include Fletcher Cove Park, the

public parking lot at 423 South Sierra Avenue, and street parking along every public street from Cedros Avenue, west to the ocean. This project will add twenty-seven street parking spaces along Highway 101, Dahlia Drive, and South Sierra Avenue to bolster public parking reservoirs in this area. Two of the twenty-seven public parking spaces will include EV charging stations. The street parking spaces are proposed as a secondary improvement to facilitate public access around the site and will not be used to satisfy the parking demand for the mixed-use development. Other secondary improvements include new sidewalks that will connect pedestrian traffic coming from the South Cedros District via the pedestrian bridge and Coastal Rail Trail to the vertical public accessway west of the project site. Areas of the project site used for new sidewalks and public parking will be dedicated to the City of Solana Beach. The applicant also proposes to contribute towards a regional bike-share program in an amount equivalent to providing twelve shared electric bikes.

This project will enhance public access to the coast for motorists, cyclists, and pedestrians while still allowing for an acceptable level of service for vehicles traveling through the area. Therefore, the project is not anticipated to result in adverse impacts to public access. As conditioned, the proposed development will be consistent with the public access and recreation policies of the Coastal Act and the certified LUP.

C. WATER QUALITY

Section 30231 of the Coastal Act states in part:

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, [. . .] encouraging waste water reclamation, [. . .]

Policy 4.70 of the Solana Beach certified Land Use Plan states:

Inform applicants, for new development in the City and in surrounding areas that do not have permitted SCOUP programs, of the City's SCOUP program and encouraged them to participate. Development on upland sites that will result in 5,000 cubic yards, or more, of export should be required to test the material for suitability for beach deposition. If suitable, the material should be placed on the beach via the SCOUP program.

In the past, the southeast corner of the project site contained a service station with five underground storage tanks. The tanks were removed in 1988, but during the removal process, it was discovered that one of the tanks had ruptured. Over-excavation of the site was conducted and the contaminated soils were removed and disposed of in an appropriate off-site location. In June 1988, the County of San Diego Department of Health Services informed the property owner of the lot that no further action was required

at that time ([Exhibit #6](#)). In 2006, soil testing was conducted at the former service station site that concluded that no petroleum compounds were detected in any of the soil samples.

To prepare the site for the construction of the subterranean parking garage, approximately 49,200 cubic yards of fill will be excavated. To avoid placing all of the excavated material in a landfill, **Special Condition #6** requires the applicant to test the excavated material for beach quality sand. The Commission approved the City's Sand Compatibility and Opportunistic Use Program (SCOUP) in 2008 and extended it in 2013 and 2018, each for a five-year period, with specific criteria for determining beach quality material as well as restrictions on the amount and the timing of beach deposition (CDP Nos. 6-08-038/City of Solana Beach, 6-08-038-A1/City of Solana Beach, and 6-08-038-A2). If any material is compatible with beach quality sediment, the applicant shall incorporate it into the SCOUP for beach replenishment. Any non-beach quality material will be exported to a site outside of the Coastal Zone. **Special Conditions #3.v.B** requires the applicant to prioritize reusing excavated project soil.

Under existing conditions, the grassy/vegetated portions of the project site allow some stormwater to infiltrate and remain on-site, reducing the volume of runoff leaving the site. Runoff that is not captured on-site flows into curb inlets, located near the three streets surrounding the project site, and eventually discharges into the Pacific Ocean. Because the proposed project would increase the amount of impermeable surface compared to existing site conditions, the applicant proposes several water quality improvements including bio-filtration BMPs, underground rain storage in the parking garage, and new gutters/ curbs along Dahlia Drive and South Sierra Avenue. New landscaping is proposed throughout the site, and BMP planters are sited along the perimeter of the site, reducing impermeable surface and allow for more infiltration on-site. In addition, as part of the secondary improvements within the public rights-of-way, the applicant proposes to install landscaping in the new sidewalks abutting Highway 101, Dahlia Drive, and South Sierra Avenue, which will allow further infiltration at the property line.

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. **Special Condition #3** requires the applicant to submit a Construction Pollution Prevention Plan, prepared by a licensed engineer, that incorporates BMPs designed to address contaminants associated with construction activity. Therefore, as conditioned, the project is not anticipated to result in adverse impacts to water quality and is consistent with Section 30231 of the Coastal Act and the certified LUP.

D. BIOLOGICAL RESOURCES

Section 30240 of the Coastal Act states in part:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those

resources shall be allowed within those areas. (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

The project site is located west of Highway 101 and is surrounded by urban development. No sensitive habitat areas exist on or adjacent to the project site and no sensitive bird species were observed; however, several mature non-native trees currently exist on-site that provide cover, foraging, and potential nesting for birds. The applicant proposed to remove these trees to prepare the site for construction. The FEIR prepared for the project acknowledges that these trees may support active nests for nesting birds species that are protected under the federal Migratory Bird Treaty Act, and removal of the trees during the breeding season could potentially result in adverse impacts to the birds.

In order to reduce potential impacts to nesting birds to a less than significant level, the applicant is required to conduct a pre-construction nesting bird survey if construction activity occurs during the breeding season (February 1 to September 15). A qualified biologist shall conduct a pre-construction survey no more than 72 hours before the start of construction activities to determine the presence or absence of nesting birds. If any active nests are detected, the area will be flagged and mapped along with a buffer ranging from 300 to 500 feet, and the area will be avoided until the nesting cycle is complete.

Special Condition #5 requires the applicant to submit a bird nesting survey, with similar requirements as the mitigation measure identified in the EIR, to ensure that nesting birds are not adversely impacted. In addition, the project includes planting approximately seventy-four new trees. Therefore, as conditioned, the project is not anticipated to result in adverse impacts to any biological resources and is consistent with Section 30240 of the Coastal Act.

E. VISUAL RESOURCES/COMMUNITY CHARACTER

Section 30250 of the Coastal Act states in part:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. . . .

Section 30251 of the Coastal 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

6-18-0842 (**Zephyr Partners-RE, LLC**)

minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, [. . .]

Policy 6.10 of the Solana Beach certified Land Use Plan states:

New development shall be sited and designed to minimize adverse impacts on scenic resources visible from scenic roads or major public viewing areas. If there is no feasible building site location on the proposed project site where development would not be visible then the development shall be sited and designed to minimize impacts on scenic areas visible from Scenic Roads or major public viewing areas, through measures including, but not limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height standards, clustering development, minimizing grading, incorporating landscape elements, and where appropriate berming.

Policy 6.20 of the Solana Beach certified Land Use Plan states:

Parking and outside storage areas shall be screened from view, to the maximum extent feasible, from either the scenic highway or the adjacent scenic, historic, or recreational resource. Acceptable screening methods shall include, but are not limited to, the use of existing topography, the strategic placement of buildings and structures, or landscaping and plantings, which harmonize with the natural landscape of the designated area.

Policy 6.28 of the Solana Beach certified Land Use Plan states:

Signs shall be designed and located to minimize impacts to visual resources. Signs approved as part of commercial development shall be incorporated into the design of the project and shall be subject to height and width limitations that ensure that signs are visually compatible with surrounding areas and protect scenic views. Permitted monument signs shall not exceed eight feet in height. Free-standing pole or roof signs are prohibited.

Policy 6.30 of the Solana Beach certified Land Use Plan states:

The Pacific Coast/Highway 101 and Railway Corridor shall be protected as a Scenic Road and major public viewshed.

Policy 6.31 of the Solana Beach certified Land Use Plan states:

Landscape improvements, including median plantings, may be permitted along Pacific Coast Highway/Highway 101. Any proposed landscaping shall be comprised primarily of native non-invasive, drought tolerant, salt-tolerant, and fire resistant plant species. Landscaping shall be designed and maintained to

complement to the character of the area, and designed not to block ocean, or lagoon views at maturity.

New development must be located within, contiguous with, or in close proximity to existing developed areas. Additionally, the scenic and visual qualities of coastal areas must be protected, and the permitted development must be sited and designed to protect views to and along the ocean and be visually compatible with the character of the surrounding area.

Highway 101, located east of the project site, is identified as a scenic road in the City's certified LUP that provides views of the ocean at the north and south gateways into the City. The proposed project is not expected to further block any public views of the ocean. Condominiums located seaward of the project site already block views of the ocean that would otherwise be visible from Highway 101 and the project site.

Additionally, the proposed project site is bound on all sides by existing commercial and residential development, of similar bulk, height, and scale. To minimize visual impacts from the proposed development to motorists, pedestrians, and cyclist traveling along Highway 101, the applicant has designed the development to be divided between several structures instead of one massive structure. Additionally, landscaping along the perimeter of the site and within the newly proposed sidewalks will screen portions of the development such as the loading area that will be located off of Dahlia Drive. The proposed lot consolidation will combine five under-utilized lots into one lot that will accommodate the proposed mixed-use development, expected to reactivate this site with uses consistent with those of the surrounding development. The mixed-use development will be consistent with the character of Highway 101. Thus, the proposed project will not result in adverse impacts to community character.

The Commission has regulated the height and amount of signage for commercial development in other special districts within the City of Solana Beach. Because the development is located in the Highway 101 Corridor Specific Plan, the height and amount of signage has the potential to adversely impact the scenic quality of the area. The City's certified LUP states that permitted monument signs shall not exceed eight feet in height and free-standing pole or roof signs are prohibited. The proposed signs for the project have been incorporated into the design of the project; however, the placement and dimensions of the signs have not been determined at this time. To assure the proposed signs do not deviate from the acceptable height and placement limitations, **Special Condition #4** requires the applicant to submit a sign plan documenting that only monument signs not exceeding eight feet in height or façade signs will be installed.

The project also includes the installation of new landscaping around the perimeter of the site to screen portions of the mixed-use development, such as the proposed loading area, from Highway 101, which is identified as a scenic resource in the City's certified LUP. 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. As conditioned, the project will not have adverse impacts on scenic coastal resources.

Therefore, the propose development is consistent with Section 30251 of the Coastal Act and the certified LUP.

F. 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 be made.

The Commission has certified the City's Local Coastal Program Land Use Plan, but the City has not yet completed, nor has the Commission reviewed any implementing ordinances. Thus, the City's LCP is not fully certified, and Chapter 3 of the Coastal Act is the standard of review. However, as cited above, the certified LUP contains provisions emphasizing enhancement of public access and protection of water quality, biological resources, and public views of the ocean.

The City of Solana Beach determined that the proposed development is consistent with its General Plan and zoning ordinances, which designates the five lots underlying the project site as General Commercial. Residential uses are allowed as a secondary use in conjunction with permitted commercial uses under the General Commercial designation. However, the City's certified LUP designates two of the lots as General Commercial with the other three lots designated as High-Density Residential, Medium Density Residential, and Office/Professional ([Exhibit #7](#)). The project includes commercial, retail, restaurant, and residential uses, but the proposed location of each of the of the various commercial, retail, restaurant, and residential uses proposed do not exactly correlate with underlying land uses as depicted in the certified LUP. However, taken as a whole, the site is being developed in the manner anticipated in the LUP. The project would not result in any decrease in high-priority land use designations such as visitor-serving commercial or open space/recreation or visitor-serving uses, and no impacts to any coastal resources will result from the minor inconsistencies with the land use designations. The City of Solana Beach should submit an LUP amendment to update the land uses for the project site.

As conditioned, the subject development is consistent with the coastal resource protection policies of the LUP. Based on the above findings, the proposed development is consistent with the Chapter 3 policies of the Coastal Act. Therefore, the Commission finds the proposed development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act, and will not prejudice the ability of the City of Solana Beach to complete a certifiable local coastal program.

G. 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. The City of Solana Beach adopted a FEIR in July 2018 (SCH# 2015071004) for the proposed project.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions designed to avoid adverse impacts to nesting birds when removing trees, to protect water quality, maximize public access, and to preserve public views and community character will avoid or minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- City of Solana Beach certified LUP
- CDP #6-01-050
- CDP #6-08-083-W
- Solana 101 Final Environmental Impact Report and Attachments (SCH#2015071004)
- California Air Resources Board 2017 Climate Change Scoping Plan