

**CALIFORNIA COASTAL COMMISSION**

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# W7b

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## STAFF REPORT: CONSENT CALENDAR

**Application No.:** 5-21-0090

**Applicant:** RDR Properties, LLC

**Agent:** Kenneth Kutcher, Susan McCabe

**Location:** 1355 3<sup>rd</sup> Street Promenade, Santa Monica, Los Angeles County (APN: 4291-012-010)

**Project Description:** Reconstruct a 5,808 square foot 3<sup>rd</sup> floor in a commercial building and change the use from retail to a mix of bar/lounge, restaurant and retail on basement and ground floor and from retail to office on three upper levels.

**Staff Recommendation:** Approval with conditions.

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### SUMMARY OF STAFF RECOMMENDATION

The subject site, located at 1355 3<sup>rd</sup> Street Promenade in Santa Monica is currently developed with a 55-foot-high, four-story, 24,188 square foot commercial retail building. The applicant proposes to reconstruct the 5,808 square foot third floor that was previously demolished in 1998, and to change the use of 24,188 square feet of currently retail to 12,572 square feet of restaurant, bar and lounge, retail and 17,424 square feet of creative office space. The planned uses for the building include creative office on the three upper levels and a ratio of retail, restaurant, and bar/lounge on both the ground

floor and basement level. The primary issue before the Commission is the increased parking demand and the impact on public access.

The existing building does not provide any onsite parking. The site is within the downtown parking assessment district, and the current parking demand is supported by the nearby municipal structures controlled by the City of Santa Monica. The proposed reconstruction of the 5,808 square foot third floor as office space and change in use of the lower floors represents an increase in the intensity of use on the site and will increase parking demand by 88 spaces. However, there are sufficient parking resources to accommodate the increased demand in the nearby parking structures. Additionally, the subject site is near high quality transit options such as the Metro Expo Line and Big Blue Bus stations. Furthermore, the applicant has proposed a Transportation Demand Management Plan (TDMP) to reduce parking demand on nearby parking facilities, and as conditioned, reimburse 100% of transit fares for all employees. **Special Condition 3** is imposed to implement the TDMP to ensure the project does not impact public access to the coast. Additional parking information submitted by the City of Santa Monica demonstrates that the nearest beach parking lot has sufficient spaces to accommodate coastal access. The project, as served by the parking district, does provide adequate parking facilities for the new development without impacting public coastal access parking, and the surrounding public transit options provide a substitute to parking spaces to serve the development. As conditioned, the project is consistent with the development and public access policies of the Coastal Act.

Additionally, the applicants have proposed a Construction Staging and Traffic Control Plan that restricts construction activities during peak days and the summer season when coastal activities are at their highest. **Special Condition 2** requires that the permittee adhere to the proposed plan and avoid all impacts to public access. As conditioned, the project is consistent with the public access policies of the Coastal Act.

The new proposed restaurant and bar use may result in the use of plastic food packaging, tableware, and bags. Plastic pollution is a persistent and growing problem that significantly impacts the health of California's oceans and coasts. Therefore, **Special Condition 1** requires the applicant to participate in a marine debris reduction program to reduce waste and single-use plastic foodware and packaging. As conditioned, the proposed project will not adversely impact marine resources and will conform with the marine and water quality protection policies of the Coastal Act.

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## EXHIBITS

[Exhibit 1 – Vicinity Map and Project Site](#)

[Exhibit 2 – Project Plans](#)

## I. MOTION AND RESOLUTION

### 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.

### Resolution:

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

## II. STANDARD CONDITIONS

- 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 applicant 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 applicant to bind

all future owners and possessors of the subject property to the terms and conditions.

### III. SPECIAL CONDITIONS

1. **Marine Debris Reduction Program.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a robust and comprehensive plan to reduce waste and single-use plastic foodware and packaging for the proposed restaurant and bar. The plan shall include at a minimum, all of the following, and the applicant shall implement the approved version of the plan:
  - a. The applicant shall install and maintain educational signage and/or accessories that promotes and encourages the use of reusable items (instead of single-use items) such as bottle re-fill stations.
  - b. Participate in a Marine Debris Reduction Program such as the ReThink Disposable Program (RTDP) or Surfrider's Ocean Friendly Restaurants (OFR) or a substantially similar program. Within 6 months of the completion of the proposed development, the applicant shall participate in an established program to reduce waste and single-use plastic foodware and packaging on-site and for takeout orders. The applicant shall be responsible for the fees needed to participate in the program.
  - c. The applicant shall provide an annual report for the review and approval of the Executive Director, the chosen Marine Debris Reduction Program scope and metrics, and total impact of the program at the project site. The report shall be provided annually for the first 5 years after permit issuance.
  - d. No changes to the approved Marine Debris Reduction Plan shall occur without an amendment to this coastal development permit or a new coastal development permit, unless the Executive Director determines that no amendment or new permit is required.
2. **Construction Staging and Corridor Plan.** By acceptance of this permit, the permittee agrees to adhere to the proposed construction staging and traffic control plan submitted on April 28, 2021.
3. **Transportation Demand Management Program**
  - A. By acceptance of this permit, the permittee agrees to maintain the Transportation Demand Management program submitted on June 18, 2021 at all times and include the following:
    - (i) The applicant and its successors and assigns shall actively encourage employee and residents and customers participation in a Transportation Ride Sharing program.

- (ii) A public transit fare reimbursement program shall be implemented and maintained by the permittee and its successors and assigns. All commercial tenants shall offer full (100 percent) reimbursement of public transit fare to and from work to their employees at the development, provided that the employee purchases a monthly regional public transit pass of the employee's choice (e.g. Big Blue Bus 30-day Pass, Metro EX Pass, Metro TAP or equivalent). An employee accepting the transportation allowance shall be required to sign a statement agreeing that said employee will not utilize a single occupancy vehicle for the majority (at least 51%) of their daily commute distance more often than: (a) five working days per month or (b) 25% of their days of work per month, whichever is less. The employee's statement shall also specify the employee's alternative commute mode (e.g. transit, bike, walk). The employee must demonstrate compliance as reasonably required by the employer.
  - (iii) The applicant and its successors and assigns shall provide lockers (within the Building) for use by future tenant employees of the Building who arrive on bicycles.
  - (iv) The applicant and its successors and assigns shall implement a publicity program, the content of which is subject to the review and approval of the Executive Director, that indicates how the future tenants of the development will be made aware of the provisions of this special condition. A publicity program detailing the TDMP as conditioned shall be distributed by the tenants to their employees during the first month of occupancy of the new development and shall be distributed to all employees annually thereafter for the life of the development.
- B. Any proposed changes to the measures shall be submitted to the Executive Director to determine if an amendment to the permit is legally required.

## **IV. FINDINGS AND DECLARATIONS**

### **A. Project Location and Description**

The project site is located at 1355 3<sup>rd</sup> Street Promenade in the City of Santa Monica (Exhibit 1). In Santa Monica's certified Land Use Plan, the allowable uses for this site in the Downtown Core subarea include retail, pedestrian-oriented, visitor-serving commercial, public parking uses and other complementary uses (such as hotels, offices, cultural facilities, restaurants, social services, and housing). Public access to a sandy beach is located approximately 0.3 miles southwest of the project site, via one of the pedestrian bridges that traverses Pacific Coast Highway. The project site is not located between the first public road and the sea (Exhibit 1). The project site is currently

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developed with a 24,188 square foot, four-story commercial building over basement with no on-site parking. The property fronts 3<sup>rd</sup> Street Promenade to the west, Santa Monica Boulevard to the South and an alley, 3<sup>rd</sup> Court, to the East.

The building was constructed in 1912 as a three-story commercial building. The building was further expanded in the 1920s to include three additional bays and a fourth floor. In 1998, the original third floor was removed through a waiver from the Coastal Commission<sup>1</sup> with the rationale that the decrease in square footage would also decrease parking demand and free up additional parking within Santa Monica's Downtown Parking Assessment District. On September 8, 2014, the City of Santa Monica designated the building as a City Landmark.

The applicant proposes to reconstruct the third floor (Exhibit 2) thereby adding 5,808 square feet of floor area and bringing the total floor area of the structure to approximately 30,000 square feet. The applicant's Construction Staging and Traffic Control Plan, submitted on April 28, 2021, restricts construction activities during peak days and the summer season when coastal activities are at their highest. **Special Condition 2** requires that the permittee adhere to the proposed construction staging and traffic control plan to ensure that the project has no impacts to public access.

Furthermore, the applicant proposes changing the use of 24,188 square feet of retail to a mix of 6,329 square feet of restaurant and retail on the ground floor, 6,243 square feet of restaurant, bar/lounge, and retail in the basement, and 17,424 square feet of creative office space on the three upper levels. Though the applicant proposes a mix of uses, the applicant has analyzed the more intense use (restaurant and bar/lounge), rather than a mix of retail and restaurant/bar, of both the basement and ground floor in the parking analysis. The applicant utilized the parking ratio of 1 space per 50 square feet of service area for the restaurant and bar/lounge. The applicant estimates 3,122 square feet of service area for the bar/lounge and 3,165 square feet of service area for the restaurant. Additional parking demand is generated by the reconstruction of the third floor. As noted in Table 2 of Linscott, Law and Greenspan's (LLG) parking study<sup>2</sup>, the parking demand increases by 88 spaces<sup>3</sup> from the existing retail use to the new mixed uses of restaurant, bar/lounge and office space (via the reconstruction of the 3<sup>rd</sup> floor). As noted earlier, the site has no onsite parking. Per the Santa Monica LUP Policy 52, "new development within the Downtown Parking Assessment District may rely on the public parking structures within the District in lieu of providing onsite parking pursuant to the District regulations, provided that the District assures that sufficient parking exists to accommodate the parking demand of new development..." To maintain the estimated parking demand, the applicant is limited to retail, restaurant and bar/lounge uses on the basement level and ground floor and limited to office use on the three upper levels of the building. As with any development project, future changes to the structure or uses will require Commission action through a new CDP or an amendment.

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<sup>1</sup> CDP Waiver No. 5-98-330

<sup>2</sup> Parking Demand Study for the Proposed Office Project at 1355 Third Street Promenade (April 2, 2021) by LLG.

<sup>3</sup> 107 spaces to 195 spaces.

Commission staff has considered the cumulative effects on coastal access in conjunction with other known projects in the area: the planned demolition of public Parking Structure 3<sup>4</sup> and a current application for development in the area (CDP application 5-20-0522<sup>5</sup>). For CDP application no. 5-20-0522, Walker Consultants prepared an addendum to their original March 25, 2021 report<sup>6</sup> that evaluated parking supply, after demolition of public Parking Structure 3 and after the change of use of the existing retail structure into a health club. In summary, the Walker study found, a range of 265 to 821 parking spaces available among Parking Structures 1-2 and 4-6 during peak summer days from June to August. Should CDP application no. 5-20-0522 be approved by the Commission at a later hearing, the increase in parking demand for the health club (estimated to be 125 spaces at the expected highest peak use) and the redistributed demand of Parking Structure 3 leave adequate parking resources among parking structures 1-2 and 4-6, to support the more intense parking demand of the mixed-use project during peak periods without relying on beach parking.

Furthermore, to offset potential impacts to public access due to the increased parking demand of this project, the applicant proposes a Transportation Demand Management Plan (TDMP). The proposed TDMP, submitted on June 18, 2021, includes providing a public transit fare reimbursement for employees of the commercial space, bike lockers for tenant employees and on-site transportation coordinator. **Special Condition 3** is imposed to ensure that the TDMP will be maintained and mitigate for the increased parking demand.

Potential impacts to public access by the increased parking demand from tenants, customers and employees are mitigated, in part, by available public transportation options in this area. The project site is located 0.4 miles (or an 8-minute walk) to the Downtown Santa Monica station on the Metro Expo light rail line. This rapid transit line connects Downtown Santa Monica to job centers in Culver City and Downtown Los Angeles. The project site is also located 150 feet (or a 1-minute walk) away from 1 transit stop frequented by the Metro 5 and 534 bus as well as Bus 8 for Big Blue Bus. Overall, the project is sited in an area where alternate forms of transportation are readily available for residents to access Downtown Santa Monica and other destinations in the greater Los Angeles Area.

Section 30252 of the Coastal Act requires that the location and amount of new development should maintain and enhance public access to the coast by facilitating the provision or extension of transit service. The development itself would not provide an extension of the surrounding transit services, but the TDMs proposed do provide incentives for employees of the development to use the existing public transit systems nearby. Coastal Act Section 30252 further requires new development to provide adequate parking facilities or provide substitute means of serving the development with

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<sup>4</sup> CDP 5-20-0248 approved at the Commission hearing on May 13, 2021.

<sup>5</sup> Proposes change in the use of approximately 44,936 square feet of retail space to a recreational fitness center on three levels of an existing commercial structure located at 1202 3<sup>rd</sup> Street Promenade.

<sup>6</sup> The City of Santa Monica engaged Walker Consultants to prepare a report analyzing the adequacy of the parking supply in Downtown Santa Monica and the California coastal zone, if the City's Parking Structure 3 were demolished.



public transportation. The City of Santa Monica has a uniquely robust public transit system used by both residents and visitors alike. The proposed development, as explained above, is adequately served by existing public transit infrastructure of the area and therefore, even though the project does not provide onsite parking for the commercial uses, the proposed project as conditioned is consistent with Section 30252 of the Coastal Act.

The conversion of the retail use to mixed commercial uses such as restaurant may result in an increased demand, relative to the retail use, for food packaging, tableware, and other materials generally used at a restaurant and bar/lounge facility. Plastic pollution is a persistent and growing problem worldwide that significantly impacts the health of our oceans and coasts. Roughly 8 million metric tons of plastics are estimated to enter the ocean each year, and the United States is one of the top 20 contributors to plastic pollution.<sup>7</sup> Plastic has been found in a wide range of marine environments including the seafloor, surface water, the water column, and on beaches and shorelines. California communities are estimated to spend more than \$428 million annually to clean up and control plastic pollution. Plastic never truly degrades into its chemical components; instead it physically breaks down into smaller and smaller pieces. Plastics under 5 millimeters in size are called microplastics and are found worldwide, even in places considered pristine. Plastics have been found in the digestive tracts of marine organisms ranging from zooplankton to whales, and microplastics have been found in drinking water and food, including shellfish, salt, beer, and honey.<sup>8</sup> In particular, the use of single-use plastics, Styrofoam or other single-use materials that often are used at restaurants result in adverse effects to marine wildlife, since these materials can make their way to the ocean, causing fish, seabirds, sea turtles, and marine mammals to become entangled in or ingest plastic debris, causing suffocation, starvation, and drowning. The elimination of non-reusable, non-recyclable, and non-compostable products and the reduction of packaging is an effective way to protect the health of wildlife and the environment. Therefore, to ensure that the development maintains marine resources and water quality, **Special Condition 1** requires the applicant to participate in a marine debris reduction program to reduce waste and single-use plastic foodware and packaging on-site and for takeout orders.

## **B. Public Access and Recreation**

As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, 30250 and 30252 of the Coastal Act.

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<sup>7</sup> Ocean Protection Council <https://www.opc.ca.gov/programs-summary/marine-pollution/plastics/>

<sup>8</sup> Ocean Protection Council <https://www.opc.ca.gov/programs-summary/marine-pollution/plastics/>

### **C. Marine Resources**

As conditioned, the proposed development will minimize adverse impacts to marine resources and conforms to Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters.

### **D. Local Coastal Program (LCP)**

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. In August 1992, the Commission certified, with suggested modifications, the land use plan portion of the City of Santa Monica's Local Coastal Program, excluding the area west of Ocean Avenue and Neilson way (Beach Overlay District). On September 15, 1992, the City of Santa Monica accepted the LUP with suggested modifications. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

### **E. California Environmental Quality Act**

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

## **APPENDIX A – SUBSTANTIVE FILE DOCUMENTS**

1. Santa Monica Land Use Plan (1992)