



# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

### RESOLUTION NO. 001-19 35 N. CALLE CESAR CHAVEZ CONDITIONAL USE PERMIT JANUARY 10, 2018

**APPLICATION OF JOHN CUYKENDALL, DUDEK, AGENT FOR VERDE VENTURES, LLC, PROPERTY OWNER OF 35 N. CALLE CESAR CHAVEZ, APN 017-113-004, OM-1 (OCEAN-ORIENTED LIGHT MANUFACTURING) AND SD-3 (COASTAL OVERLAY) ZONES, LOCAL COASTAL PROGRAM LAND USE PLAN DESIGNATION: OCEAN-ORIENTED INDUSTRIAL (MST2018-00505)**

The project involves a request to operate a building materials supply company and a lumber yard within the existing industrial buildings located on a 28,350 square foot lot at 35 N. Calle Cesar Chavez.

The discretionary application required for this project is a Conditional Use Permit to allow the existing buildings in the OM-1 Zone to be used as a construction materials warehouse and a lumber yard, which are not allowed uses per SBMC §28.73.030.A. (SBMC Chapters.28.73 and 28.94).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15301 Existing Facilities.

**WHEREAS**, the Planning Commission has held the required public hearing on the above application on December 20, 2018 and January 10, 2019, and the Applicant was present.

**WHEREAS**, 10 people appeared on December 20, 2018 to speak in favor of the application, and 5 people appeared on December 20, 2018 to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, December 13, 2018 and January 3, 2019, as amended January 10, 2019
2. Site Plans
3. Correspondence received in support of the project:
  - a. John J. Thyne III, Santa Barbara CA
  - b. Travis Twinning, Santa Barbara CA
  - c. R. Alistair Winn, Santa Barbara CA
  - d. Mark M. Alvarado, Santa Barbara CA
4. Correspondence received in opposition to, or with concerns of, the project:
  - a. Mark Massara, Esq., Santa Barbara CA
  - b. Carolyn Groves, Santa Barbara CA

**NOW, THEREFORE BE IT RESOLVED** that the City Planning Commission:

I. Approved the subject application, making the following findings and determinations:

A. **Conditional Use Permit** (SBMC §§28.94.020 and 28.94.030.X):

1. Any such use is deemed essential or desirable to the public convenience or welfare and is in harmony with the various elements or objectives of the Santa Barbara General Plan.

*The use as a building materials supply company and lumber yard is an allowable use under the M-1 zone district and will provide a desirable and convenient service to the community in that there is little land available for such industrial uses. The use is in harmony with applicable policies of the Santa Barbara General Plan, including Land Use Element Policy LG.8 and Economic Policy EF15 to encourage and protect the long-term integrity of light manufacturing uses and zoning.*

*A determination has been made that the proposed use would not require a new Coastal Development Permit because the proposed use is consistent with the 2014 Coastal Development Permit approval and does not represent an intensification of use in that on-site uses would not be more intensive than the uses contemplated in the 2014 Coastal Development Permit nor the uses when the property was previously used as industrial/ light manufacturing-type uses.*

2. Such uses will not be materially detrimental to the public peace, health, safety, comfort and general welfare and will not materially affect property values in the particular neighborhood involved.

*The site has been used for M-1 zone type uses for over 30 years. The use as a building materials supply company and lumber yard will not be materially detrimental to the public health and safety of the neighborhood and will not affect property values since the surrounding parcels are currently developed with similar industrial type uses.*

3. The total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided.

*The 28,370 square foot property is located within an existing industrial type area and the existing buildings onsite respect all required setbacks. The site also provides adequate on-site parking to meet the parking demand of the proposed building materials supply company and lumber yard use. The use is compatible with adjacent uses and would not have a detrimental impact on surrounding properties in that the area has a mix of uses, most of which are industrial in nature.*

4. Adequate access and off-street parking including parking for guests is provided in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time.

*A building materials supply company and lumber yard are not expected to result in traffic impacts as the use is consistent with historical uses on the property and a majority of the square footage (92%) will be used as warehouse. Transportation Division staff analyzed the redeveloped site in 2014 and found that the anticipated amount of additional traffic generated from the development will not have a project-specific or a cumulative traffic*

*impact. The use as a building materials supply company and lumber yard will generate similar traffic as that analyzed in 2014.*

*Access to the site will remain unchanged and is adequate for the use. Adequate space is available on-site for required parking and for delivery and pick-up of materials. The parking demands of the use are met on-site. The use will not negatively alter the character of the public streets.*

5. The appearance of the developed site in terms of the arrangement, height, scale and architectural style of the buildings, location of parking areas, landscaping and other features is compatible with the character of the area. The Planning Commission shall have the authority to approve the design of open space. Design shall mean size, shape, location and usability for proposed private, public, or quasi-public purposed and development. Approval of such open spaces may be expressly conditioned upon an offer of conveyance by the owner to the City of Santa Barbara of the development rights, the right to prohibit the construction of additional buildings, or other property rights, necessary to achieve the purpose set forth in this title.

*Portions of the site have been recently rebuilt and the design of the new buildings were reviewed and approved by the City's Architectural Board of Review to ensure consistency with applicable design and landscape guidelines. The use as a building materials supply company and lumber yard will not require additional site design changes.*

6. Compliance with any additional specific requirements for a conditional use permit.

- (a) The use is compatible with ocean-dependent or ocean-related uses.

*The property has been used for non-ocean-related light industrial type uses for more than 30 years. The use as a building materials supply company and lumber yard will not conflict with and will be compatible with existing or future ocean-dependent or ocean-related uses as the use will not generate significant noise, smoke or traffic. The use also has many ocean-related applications that include marine construction materials and equipment for piers, docks, shoring, boardwalk and a variety of building structures (e.g., naval, fire stations, boatyards, etc.), including the following marine projects: Channel Islands National Park, Ventura Harbor Marina, Carpinteria Beach, Ventura Pier, Point Mugu, Port Hueneme Naval Base and the Colony at Mandalay Beach).*

- (b) The property would have no feasible economic value if limited to ocean-dependent or ocean-related uses. This finding shall be substantiated by competent evidence determined by the Planning Commission to be objective which includes no present or future demand for ocean-dependent or ocean-related uses.

*The site has been used for non-ocean-related uses for over 30 years. The reconstructed metal buildings were constructed without HVAC and are located in an existing flood hazard zone. There is currently no demand from ocean-related or ocean-dependent uses for these buildings. Radius Commercial Real Estate ("Radius"), who represents the property owner, marketed the subject property since early April 2018 and, despite over 7,000 views, received no interest from ocean-related uses. Radius marketed the three rebuilt buildings down to 1,200*

*square feet in size, which is the smallest division given access to restrooms and entry/roll up doors. Radius did not receive any interest from any ocean-dependent or ocean-related uses for small, large, or entire site tenants. Based on this information, the Planning Commission finds that there is no present interest in ocean-dependent or ocean-related uses.*

*Radius received letters from other commercial real estate firms confirming no interest from ocean-related type uses for the property and/or in general.*

*Furthermore, the substantiated costs associated with the extensive soil investigations and soil remediation onsite, as well as the costs of construction of the rebuilt buildings, which required 36 caissons be installed because of liquefaction soil conditions. Because of those substantial costs the site has no feasible economic value if the property is limited to ocean-dependent or ocean-related uses.*

II. Said approval is subject to the following conditions:

- A. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:
1. Pay Land Development Team Recovery Fee (30% of all planning fees, as calculated by staff).
  2. Record any required documents (see Recorded Conditions Agreement section).
- B. **Recorded Conditions Agreement.** The Owner shall execute a *written instrument*, which shall be prepared by Planning staff, reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:
1. **Approved Development.** The development of the Real Property reviewed and approved by the Planning Commission on December 20, 2018 and January 10, 2019 is limited to use of the project site as a building materials supply company and lumber yard as approved by the Planning Commission on said date and on file at the City of Santa Barbara. Prior to initiating a change of use, the Owner shall submit a letter to the Community Development Director detailing the proposal, and the Director shall determine the appropriate review procedure.
  2. **BMP Training.** Training on the implementation of Best Management Practices (BMPs) shall be provided to every employee by the property owner/management in order to prevent or reduce the discharge of pollutants to storm water from buildings and ground maintenance. The training shall include using good housekeeping practices, preventive maintenance and spill prevention and control at outdoor loading/unloading areas in order to keep debris from entering the storm water collection system.
- C. **General Conditions.**
1. **Prior Conditions.** These conditions are in addition to the conditions identified in Staff Hearing Officer Resolution No. 024-14.

2. **Compliance with Requirements.** All requirements of the city of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.
3. **Approval Limitations.**
  - a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.
  - b. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.
4. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors (“City’s Agents”) from any third party legal challenge to the City Council’s denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively “Claims”). Applicant/Owner further agrees to indemnify and hold harmless the City and the City’s Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of being notified of a lawsuit regarding the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City’s sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City’s Agents from independently defending any Claim. If the City or the City’s Agents decide to independently defend a Claim, the City and the City’s Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

**III. NOTICE OF CONDITIONAL USE PERMIT APPROVAL TIME LIMITS:**

The Planning Commission action approving the Conditional Use Permit shall terminate three (3) years from the effective date of the approval, unless:

1. An extension is granted by the Community Development Director prior to the expiration of the approval; or
2. Operations of the use have commenced.

This motion was passed and adopted on the 10<sup>th</sup> day of January, 2019 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 7 NOES: 0 ABSTAIN: 0 ABSENT: 0

I hereby certify that this Resolution correctly reflects the action taken by the City of Santa Barbara Planning Commission at its meeting of the above date.

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Krystal M. Vaughn, Senior Commission Secretary

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Date

**PLEASE BE ADVISED:**

**THIS ACTION OF THE PLANNING COMMISSION CAN BE APPEALED TO THE CITY COUNCIL WITHIN TEN (10) CALENDAR DAYS AFTER THE DATE THE ACTION WAS TAKEN BY THE PLANNING COMMISSION.**