

CALIFORNIA COASTAL COMMISSION

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Th20a

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STAFF REPORT: REGULAR CALENDAR

Application No.: 6-18-0723

Applicant: The LOT Del Mar LLC

Agent: Janay Kruger

Location: 2673 Via De La Valle, North City, San Diego, San Diego County (298-490-41)

Project Description: Construction of a 27,896 sq. ft. movie theater consisting of 8 auditoriums and 435 seats, a 2,100 sq. ft. covered patio, and a restaurant on a 34,510 sq. ft. vacant pad within an existing 123,235 sq. ft. shopping complex on a 450,846 sq. ft. lot. Additional work includes improvements to three driveways on San Andres Drive, and the addition of landscaping features.

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

The proposed new theater will be located on a vacant, unpaved pad directly adjacent to other buildings within an existing shopping complex. The pad is bordered on its south and east sides by parking lot stalls, and by a wall running along its north side that demarcates the pad from the adjacent walkway on the interior side of the shopping complex. San Andres Drive runs south along the eastern side of the shopping complex and terminates at the southeast end of the parking lot. East and south of the parking lot area and San Andres Drive is the Coast to

Crest Trail, a public recreational trail that follows the perimeter of the San Dieguito Lagoon and is part of the San Dieguito River Park.

While no sensitive habitat areas or sensitive bird species exist on the project site, the shopping complex is located to the north and west of the San Dieguito Lagoon, and the proposed theater would be the closest structure to the lagoon on the south and east sides of the shopping complex. To protect sensitive vegetation and bird species within the lagoon, three special conditions have been recommended as part of project approval. **Special Condition No. 1** requires submission of revised final plans that will include notes confirming that no outdoor speakers will be permitted and that the material covering the patio area will be dark and non-reflective in order to prevent sky glow. **Special Condition No. 3** requires submission of a final landscaping plan and implementation of the proposed landscaping so as to exclude invasive plant species. **Special Condition No. 4** will require the applicant to complete bird nesting surveys prior to any construction during the nesting season to ensure that no avian species are adversely impacted, with additional provisions in the event of identification of a nest and consequences for construction.

While the new theater is proposed in a previously developed shopping complex, the potential for impacts to water quality remain a concern, as the addition of impervious surfaces and the increased use of the area, including for food and beverage consumption as well as added vehicular traffic, would increase the amount of pollutants generated by stormwater runoff. **Special Condition No. 2** requires the applicant to submit final grading plans that incorporate details of on-site BMP's, including a biofiltration basin, pervious concrete, and parking lot catch basins fitted with water filters. **Special Condition No. 5** requires the applicant to submit a Construction Pollution Prevention Plan that incorporates BMPs designed to address contaminants associated with construction activity. **Special Condition No. 6** requires low impact development strategies that will minimize runoff from the site, as well as a site plan and narrative describing the pollutants generated and the BMPs to be implemented, including their maintenance.

Because the terminus of San Andres Drive is a popular staging area for users of the Coast to Crest Trail, maintaining public access must be ensured. As proposed, the project will provide adequate parking, and existing traffic on San Andres Drive will not be adversely impacted. **Special Condition No. 5** will require the applicant to submit a Construction Staging and Storage Plan to verify that the limits of staging and storage areas do not encroach into the public right of way or public parking spaces.

Because the theater will operate into the evening hours and will feature an outdoor patio on its southern edge, appropriate lighting must be ensured to minimize potential impacts to wildlife and to avoid artificial light spillover onto the San Dieguito Lagoon. In working with the applicant, lighting fixtures have been chosen so as to avoid sky glow and light trespass by limiting to a foot candle of 0.01 (lm.ft⁻²) or less at the property line. **Special Condition No. 7** will also ensure that façade sign specifications will not have an adverse impact on wildlife and that the materials chosen for the outdoor patio will be non-reflective and not cause glare.

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APPENDICES

[Appendix A – Substantive File Documents](#)

EXHIBITS

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – Location Maps](#)

[Exhibit 3 – Site Plan](#)

[Exhibit 4 – Site Photos](#)

[Exhibit 5 – Biological Memorandum by Commission Ecologist Dr. Laurie Koteen](#)

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 6-18-0723 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 6-18-0723 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 Revised 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 Alta Design Development dated 3/19/19, except that they shall be revised as follows:
 - i. Plans shall indicate that no amplified music or outdoor speakers are permitted; and
 - ii. Plans shall indicate that patio cover material shall be composed of dark, non-reflective material that has been demonstrated to minimize the contribution to sky glow.
- (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. **Submittal of Final Grading Plans**

- (a) **PRIOR TO 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 Christensen Engineering & Surveying dated 5/1/19.
- (b) The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

3. **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 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; and
- 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.

4. **Timing of Construction and Bird Nesting Surveys.**

In order to avoid impacts to nesting birds, the permittee shall avoid, to the maximum extent feasible, construction activities that generate noises greater than 60 dB(A) during bird nesting season, from February 15th through September 15th. If project construction is necessary during the bird nesting season, a qualified biologist with experience in conducting bird nesting surveys shall conduct a minimum of three survey days within seven days of initiating construction activities, or within seven days of re-initiating construction activities after a break of at least seven days. At least one survey shall be conducted the day prior to the initiation of construction activities. Bi-weekly surveys for nesting birds shall also be conducted during any work occurring within the nesting season. If during preconstruction or bi-weekly surveys, active California

gnatcatcher or Ridgway's clapper rail nests, or any other special status bird are identified within 500 feet of the project site, or 300 feet from the nest of any bird species, noise monitoring shall be conducted and construction activities shall not occur until a qualified biologist determines that the young have fledged, the nest has been abandoned, or noise monitoring indicates that noise levels remain below 60 d(B)A equivalent continuous noise level, or below ambient if the ambient noise level is above 60 d(B)A. If this level is exceeded, feasible noise attenuation measures shall be implemented to reduce noise levels at active nests to at or below 60 dB(A) or ambient (except as necessary for emergencies with written approval by the Executive Director of the Commission after consultation with the California Department of Fish and Wildlife, and the Carlsbad Fish and Wildlife Office).

Limits of construction around active nests shall be established in the field with flagging, fencing, or other appropriate barriers, and construction personnel shall be instructed on the sensitivity of nest areas. The monitoring biologist shall halt construction activities if he or she determines that the construction activities may be disturbing or disrupting the nesting activities. The monitoring biologist shall make practicable recommendations to reduce the noise or disturbance in the vicinity of the active nests or birds. This may include recommendations such as (1) turning off vehicle engines and other equipment whenever possible to reduce noise, (2) installation of temporary sound barriers or sound blankets, and (3) utilizing alternative construction methods and technologies to reduce the noise of construction machinery. The monitoring biologist shall review and verify compliance with these avoidance boundaries and shall verify that the nesting effort has finished in a written report. Unrestricted construction activities may resume when the biologist confirms no active nests are found. Bird nesting surveys shall be provided to the Executive Director of the Commission, to the California Department of Fish and Wildlife, and to the Carlsbad Fish and Wildlife Office within 48 hours, and if Ridgway's rail are located, within 24 hours of locating any Ridgway's rails.

5. **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. A Construction Staging and Storage Plan shall be included in the final plan set, including the limits of the staging and storage areas, equipment staging area, and worker parking area, as well as the location of construction fencing and temporary structures, such as portable restrooms, waste bins, storage containers, etc.;
 - B. A note shall be added to the plans that no street closure or use of public parking shall occur. No construction staging or storage is allowed in public right-of-ways, public park space, public parking spaces, public roads, or other locations where such use would restrict public access to the coast at any time. All construction worker parking and materials storage, including but not limited to, portable restrooms, waste bins, storage containers, etc. must be contained within the boundaries of the project site;
 - C. Construction is prohibited outside of the defined construction, staging, and storage areas;
 - D. All construction methods to be used, including all methods to keep the construction areas separate 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 required by subdivision (a)vii of this Special Condition; and
 - E. A rain event action plan (REAP) shall be prepared to address the 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. Trash screens or trash capture BMPs shall be provided on all storm drain inlets;
 - B. 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;

- C. 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;
 - D. 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, in order to prevent sedimentation of coastal waters;
 - E. 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; and
 - F. Runoff control BMPs, such as a concrete washout facility, dewatering tank, or dedicated vehicle wash area, shall 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; and
 - (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, 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. Excavated project soils shall be prioritized for re-use in restoration projects to the extent feasible; and
 - B. The use of temporary erosion and sediment control products, such as fiber rolls, erosion control blankets, mulch control netting, and silt fences, may not incorporate plastic netting, such as polypropylene, nylon, polyethylene, polyester, or other synthetic fibers in order 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; and
 - 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.

6. **Post-Development Runoff Plan.**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, a final Post-Development Runoff Plan. The Plan shall incorporate the draft Storm Water Quality Management Plan and Preliminary Drainage Study dated November 6, 2017, and revised plans dated March 26, 2019. The final Post-Development Runoff Plan shall specifically include provisions to install a FloGard FGP-36 or equivalent water quality filter at both the north (if feasible) and the south driveway catch basins, and shall demonstrate that the project complies with the following requirements:

- (a) **Low Impact Development Strategies.** The project shall comply with the following Low Impact Development standards:
 - i. Minimize disturbance of coastal waters and natural drainage features such as stream corridors, rivers, wetlands, natural drainage patterns, drainage swales, groundwater recharge areas, floodplains, and topographical depressions;

- ii. Minimize removal of native vegetation, and plant additional non-invasive vegetation, particularly native plants that provide water quality benefits such as transpiration, interception of rainfall, pollutant uptake, shading of waterways to maintain water temperature, and erosion control;
 - iii. Maintain or enhance appropriate on-site infiltration of runoff to the greatest extent feasible. Use strategies such as avoiding building impervious surfaces on highly permeable soils; amending soil if needed to enhance infiltration; and installing an infiltration Best Management Practice (BMP) (e.g., a vegetated swale, rain garden, or bio retention system);
 - iv. Minimize the addition of impervious surfaces, and where feasible increase the area of pervious surfaces in re-development. Use strategies such as minimizing the footprint of buildings; minimizing the footprint of impervious pavement; and installing a permeable pavement system where pavement is required;
 - v. Disconnect impervious surface areas from the storm drain system, by interposing permeable areas between impervious surfaces and the storm drain system. Design curbs, berms, and similar structures to avoid isolation of vegetative landscaping and other permeable areas, and allow runoff to flow from impervious pavement to permeable areas for infiltration. Use strategies such as directing roof-top runoff into permeable landscaped areas; directing runoff from impervious pavement into distributed permeable areas (e.g., turf, medians, or parking islands); installing a vegetated swale or filter strip to intercept runoff sheet flow from impervious surfaces; and installing a rain barrel or cistern to capture and store roof-top runoff for later use in on-site irrigation; and
 - vi. Where on-site infiltration is not appropriate or feasible, use alternative BMPs to minimize post-development changes in runoff flows, such as installing an evapotranspiration BMP that does not infiltrate into the ground but uses evapotranspiration to reduce runoff (e.g., a vegetated “green roof,” flow-through planter, or retention pond); directing runoff to an off-site infiltration facility; or implementing BMPs to reduce runoff volume, velocity, and flow rate before directing runoff to the storm drain system.
- (b) **Implement Source Control BMPs.** Appropriate and feasible long-term Source Control BMPs, which may be structural features or operational practices, shall be implemented to minimize the transport of pollutants in runoff from the development by controlling pollutant sources and keeping pollutants segregated from runoff. Use strategies such as covering outdoor

storage areas; using efficient irrigation; proper application and clean-up of potentially harmful chemicals and fertilizers; and proper disposal of waste.

(c) **Avoid Adverse Impacts from Stormwater and Dry Weather**

Discharges. The adverse impacts of discharging stormwater or dry weather runoff flows to coastal waters, intertidal areas, beaches, bluffs, or stream banks shall be avoided. The project shall comply with the following requirements:

- i. Runoff shall be conveyed off-site or to drainage systems in a non-erosive manner. If runoff flows to a natural stream channel or drainage course, determine whether the added volume of runoff is large enough to trigger erosion; and
- ii. Protective measures shall be used to prevent erosion from concentrated runoff flows at stormwater outlets, including outlets of pipes, drains, culverts, ditches, swales, or channels, if the discharge velocity will be sufficient to potentially cause erosion. The type of measures selected for outlet erosion prevention shall be prioritized in the following order, depending on the characteristics of the site and the discharge velocity: (1) vegetative bioengineered measures, such as plant wattles; (2) a hardened structure consisting of loose materials, such as a rip-rap apron or rock slope protection; or (3) a fixed energy dissipation structure, such as a concrete apron, grouted rip-rap, or baffles.

(d) **Manage BMPs for the Life of the Development.** Appropriate protocols shall be implemented to manage BMPs (including ongoing operation, maintenance, inspection, and training) to keep the water quality provisions effective for the life of the development.

(e) **Site Plan and Narrative Description.** The Post-Development Runoff Plan shall include a site plan and a narrative description addressing, at a minimum, the following required components:

- i. A site plan, drawn to scale, showing the property boundaries, building footprint, runoff flow directions, relevant drainage features, structural BMPs, impervious surfaces, permeable pavements, and landscaped areas;
- ii. Identification of pollutants potentially generated by the proposed development that could be transported off the site by runoff;
- iii. An estimate of the proposed changes in (1) impervious surface areas on the site, including pre-project and post-project impervious coverage area and the percentage of the property covered by impervious surfaces; (2) the amount of impervious areas that drain

directly into the storm drain system without first flowing across permeable areas; and (3) site coverage with permeable or semi-permeable pavements;

- iv. A description of the BMPs that will be implemented, and the Low Impact Development approach to stormwater management that will be used. Include a schedule for installation or implementation of all post-development BMPs; and
- v. A description and schedule for the ongoing management of all post-development BMPs, including operation, maintenance, inspection, and training, that will be performed for the life of the development.

The permittee shall undertake development in accordance with the approved Post-Development Runoff Plan, unless the Commission amends this permit or the Executive Director determines issues a written determination that no amendment is legally required for any proposed minor deviations.

7. **Project Lighting.**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, a final Lighting Plan that is in substantial conformance with the plans prepared by Electrical Efficacy Consulting, Inc. dated 03/21/19 and received 4/25/19, except that they shall be revised as follows:

- (a) Specifications for lights used for the operation of building façade signs shall be included, and the number and location of façade signs, with light temperatures not to exceed 3000 Kelvin and a foot candle value of no higher than 0.01 fc (lm.ft^{-2}) incident along the property edge;
- (b) Façade signs shall be shielded and turned off at 11:30 pm;
- (c) Patio cover material shall be composed of dark, non-reflective material demonstrated to minimize the contribution to sky glow; and
- (d) Four previously identified parking lot lights on the south and east sides of the building shall be shielded.

The permittee shall undertake development in accordance with the approved Lighting Plan, unless the Commission amends this permit or the Executive Director determines issues a written determination that no amendment is legally required for any proposed minor deviations.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION/HISTORY

The project is construction of a 27,896 sq. ft. movie theater on a vacant pad within a 123,235 sq. ft. existing shopping complex. The theater will feature eight auditoriums for a total of 435 seats, and an associated restaurant with a 2,100 sq. ft. outdoor patio/seating area. Improvements to three driveways on San Andres Drive and landscaping are also be included. The 0.8 acre lot is located within a 10.35 acre shopping center at 2673 Via De La Valle, southeast of the intersection of Interstate 5 (I-5) and Via De La Valle, in the North City area of the City of San Diego ([Exhibits 1 and 2](#)). The shopping center is located adjacent to the San Dieguito Lagoon River Valley and a portion of the Coast to Crest Trail is located on the east and south borders of the site ([Exhibit 3](#)).

The existing shopping center was constructed on filled tidelands during the early 1970s, and, there have since been three past coastal development actions on record for the shopping complex. On February 11, 1998, the Commission approved demolition and reconstruction of a retail shop, (currently Pier 1), in the southwestern part of the existing shopping center (CDP #6-97-161). On March 10, 1998, major remodeling and expansion of the existing neighborhood shopping center was approved, including demolition of an 8,820 sq.ft. retail building, an increase in parking from 478 to 670 spaces, and construction of 54,191 sq.ft. of new retail space in three single story buildings, resulting in a total retail space of 126,517 sq.ft. (CDP #6-98-006). A retail shoe store was proposed in the location of the vacant pad at the time of that approval. On October 14, 1999 an amendment was approved for various modifications to the approved remodeling, including reducing the size of several buildings, retaining a building that was originally slated to be removed, re-designating several building names, and constructing a new building, resulting in a total of 148,767 sq.ft. of retail space (CDP #6-98-6-A1). The vacant pad currently proposed to be developed into the movie theater was not part of the proposed modifications. Later plansets dating from April and June of 1999 show a chain drugstore proposed in that approximate location, but no structure was ever built, and the pad has since remained vacant.

While the North City segment of the City of San Diego Local Coastal Program (LCP) was effectively certified in 1988, the site falls within the original permitting jurisdiction of the Coastal Commission. Therefore, the Coastal Commission retains permitting authority for coastal development and the Coastal Act is the standard of review.

B. BIOLOGICAL RESOURCES

The following Coastal Act policies addressing natural resources and development standards are applicable to the subject proposal.

Section 30240 of the Coastal Act states:

- (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.*

Section 30250 of the Coastal Act states, in relevant 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...*

Sections 30240 and 30250 of the Coastal Act provide for the siting of new development within previously developed areas, as well as the protection of environmentally sensitive habitat areas. The subject parcel is located in the southeast corner of an existing shopping center adjacent to the San Dieguito Lagoon, an environmentally sensitive habitat area, or ESHA. River Valley. The Coast to Crest Trail runs along the southern and eastern border of the shopping complex, and a popular access to the trail is found at the end of San Andres Drive, which runs along the eastern edge of the shopping complex. This particular area of the lagoon is designated a Multi-habitat Planning Area (MHPA) in the City of San Diego's Multiple Species Subarea Plan (MSCP). This MHPA includes upland habitat on the edge of the lagoon, such as isocoma scrub and Diegan coastal sage scrub, as well as several habitat types within the lagoon, including freshwater marsh, California coastal salt marsh, southern willow scrub, mud flats, and patches of open water channel. The area south and east of the project area is considered part of the San Dieguito River Park, and the Coast to Crest Trail is sponsored and maintained by the Park.

The shopping center directly borders the San Dieguito Lagoon system on the south, and is separated from the lagoon reserve by San Andres Drive on the east. The vacant area of the center where the theater building is proposed is located approximately 75 - 120 feet from the boundary of the shopping center property, and separated from the lagoon system by the existing parking lot and a 6 -7 ft. wall, with intermittent six-foot-wide chain link openings, on the southern boundary of the shopping complex, and the parking lot and San Andres Drive on the eastern boundary.

As noted in the Biological Resources Letter Report prepared for the project dated August 16, 2017 by Helix Environmental Planning, the vegetative communities within the San Dieguito River Park and City MHPA include isocoma scrub and Diegan coastal sage scrub in the upland area and freshwater marsh, California coastal salt marsh, southern willow scrub, and patches of open water channels and mud flats within the wetland area. The MHPA also includes upland and wetland habitats to the east and south of the site, including a created wetland east of the site that was designed as mitigation by Southern California Edison. Water quality ponds designed for runoff control are present in the wetland south of the subject site.

While various types of sensitive wetland vegetative communities exist in close proximity to the subject site, no impacts to sensitive vegetation will occur as a result of the project. The location of the proposed movie theater is over 100 feet from the approximate wetland boundary and no sensitive vegetation exists on site. The proposed driveway improvements to the two most southern driveways along San Andres Drive are within 100 feet of wetlands, but will occur entirely within a previously developed (paved) area west of a public street and north of an approximately 6-foot block wall, and will not have any direct adverse impacts on sensitive resources ([Exhibit 4](#)).

The Biological Resources Letter also states that no special status plant or animal species were observed within the study area, and none are expected to occur given the developed nature of the site. It also notes that the current on-site landscaping is likely too small to support any nesting activity and so no issues with bird nesting are anticipated. Nevertheless, the adjacent San Dieguito Lagoon potentially supports a variety of special status animal species, and state and/or federally listed bird species observed within one mile of the project site include: western snowy plover (*Charadrius alexandrinus*), coastal California gnatcatcher (*Polioptila californica californica*), light-footed Ridgway's rail (*Rallus obsoletus levipes*), California least tern (*Sturnula antillarum browni*), and least Bell's vireo (*Vireo bellii pusillus*). None of the aforementioned species is reportedly nesting in lagoon habitats near the project area, apparently due to lack of suitable habitat. The exception to this may be the area directly south of the project site, which contains southern willow scrub with low to moderate potential to support the presence of least Bell's vireo.

Because of the proximity to the San Dieguito Lagoon, it is especially important that the operational lighting of the proposed theater at night be minimized. Although the project is within an existing developed shopping center that currently contains existing building lights, parking lot lights and street lights along San Andres Drive, the proposed theater would introduce new lighting fixtures that increases the visual nighttime footprint of development in the area. Normal nocturnal behaviors of wildlife, including avian species, could potentially be disrupted with the increase of artificial lighting. The existing six- to seven-foot block wall that runs along the southern edge of the property will partially block the lights emanating from the proposed theater and parking lot onto the lagoon in that area, especially considering the difference in elevation and the lagoon's position downslope of the shopping complex development. Additionally, a 5-foot hedge will be planted in the landscaped island in between San Andres Drive and the parking lot area in order to shield the upland and wetland habitat areas to the east from car headlights.

To further minimize any impacts to sensitive resources, the Commission's staff ecologist worked with the applicant on the proposed lighting design and photometrics to ensure that potential impacts due to the addition of new lighting will be avoided and minimized. A memorandum issued by the Commission's staff ecologist confirms the ecological value and protected ESHA status of the San Dieguito Lagoon, as well as explains the impacts to wildlife caused by lighting and the applied mitigation strategies for potential impacts ([Exhibit 5](#)). Lighting specifications for each of the theater's proposed exterior fixtures, including the lumens, color temperature, and proposed height, were reviewed, with the goal of preventing sky glow and light trespass at the property line due to the subject development. The proposed theater lighting will be directed downward and shielded, and lights on the building will not flash or change colors. Façade signs on the south, east, and north sides of the building will be shielded and turned off at 11:30 pm. Light trespass will be minimized to 0.01 foot candles or less at the property line (excluding parking lot lighting) and have a color temperature of 3000 Kelvin or less in order to ensure that disruptions to the adjacent lagoon habitat and its wildlife are minimized.

There are existing parking lot lights that will remain at the site, and no new parking lot lighting is proposed. However, in order to further reduce impacts associated with lighting, the applicant has worked with the owner of the shopping center to get permission to add shielding to four of the existing parking lot light fixtures on the southern and eastern sides of the parking lots that are nearest the lagoon and within the applicant's allocated parking area. To ensure project lighting complies with Commission staff's review, **Special Condition No. 7** requires the applicant to submit Final Lighting Plans, including information on two additional items. The first is in regards to the proposed outdoor patio area on the southern side of the building, which will be required to be covered with an appropriately thick and opaque material so as to prevent sky glow from the lights underneath. The second item refers to the three façade signs, for specifications in regards to fixture type, location and height, color temperature, and foot candle values. The Commission's ecologist has determined that as conditioned, the lighting associated with the proposed project will be minimized to avoid impacts to sensitive biological species.

To further ensure that no impacts to sensitive vegetation or natural resources occur, **Special Condition No. 5** requires the applicant to submit a Construction Pollution Prevention Plan that will include the submission of a Construction Staging and Storage Plan. The Construction Staging and Storage Plan will require the identification of all work areas and ensure that staging and storage areas do not encroach any further east in the wetland buffer than the limits of the driveway. The Construction Pollution Prevention Plan (CPPP) ensures that appropriate BMPs will be utilized during construction and discharge of construction pollutants will be minimized so as to protect sensitive vegetative communities and wetland habitats from the potential impacts of runoff and sedimentation caused by construction of the theater and driveway improvements.

Landscaping on site will include the addition of trees, shrubs, and groundcover on the edge of the outdoor patio, the east side of the building, and within the parking lot islands, including a 5-foot tall shrub along the frontage for the two southernmost parking lot

driveways. Ten existing queen palms just north of the proposed theater will be removed, but will be replaced with eighteen landscaped trees, including aloe, carrotwood, African sumac, redbud, crepe myrtle, Brisbane box, and southern magnolia. These will be planted both along the patio as well as near the entrance to the theater and northern driveway. A number of existing carrotwood, sycamore, eucalyptus and palm trees will remain. **Special Condition No. 3** will require the applicant to submit Final Landscaping Plans to ensure that only those species that are non-invasive and drought-tolerant are planted, as well as that a low-flow efficient irrigation system will be utilized.

Because of the potential for the presence of federally listed bird species within close proximity to the project, **Special Condition No. 4** requires the applicant to avoid construction during bird nesting season (February 15th to September 15th) to the maximum extent feasible. If project construction is found to be necessary during the bird nesting season, a qualified biologist will conduct a bird nesting survey for a minimum of three survey days within seven days of the initiation of construction, or within seven days of re-initiating construction activities after a break of at least one week. Bi-weekly surveys will then continue for any work during the nesting season. If the nest of a special status bird is identified within 500 feet of the project site, or 300 feet from the nest of any bird species, noise monitoring will occur and construction activities will not continue until a qualified biologist has determined the young have fledged, the nest has been abandoned, or noise levels either remain below 60 d(B)A equivalent, or below ambient if the ambient noise level exceeds 60 d(B)A. Limits of construction around active nests will be established in the field with the appropriate barriers. The monitoring biologist will make practicable recommendations to reduce the noise or disturbance in the vicinity of the active nests or birds, and may halt construction activities if disruption of nest activities occurs. Unrestricted construction activities may resume when the biologist confirms no active nests are found. Bird nesting surveys will also be provided to the Executive Director of the Commission and other designated agencies within 48 hours.

Potential noise-related impacts include noise associated with both theater construction and operation. Potential impacts to bird species from construction-related noise could occur if birds become displaced from their nests and fail to breed. Noise associated with the operation of the theater will be mostly confined to within the building and required sound proofing associated with theaters will ensure noise associated with the featured movies themselves will not reach the lagoon; however, the main entrance/exit to the theater is on the east side of the building, and both a secondary entrance/exit and ground-level patio are located on the south side of the building. Both of these building sides are lagoon facing and so it can be assumed that potential impacts from the increased presence of people and vehicles may occur. However, as required under **Special Condition No. 1**, the ground-level outdoor patio will not feature speakers for music, and so the primary source of noise would be human voices. The applicant provided an assessment from an acoustic consultant who stated that noise from the patio area would be approximately the same as from other buildings located on site and should not increase overall average ambient sound level. The likelihood of impacts to sensitive bird species is low due to the location of the theater more than 100 feet from the nearest wetland habitat as well as the ambient noise generated by the nearby roadways (I-5 and Via de la Valle) and the activities generated by other uses within the shopping complex. Project construction will

also not take place after 7 pm, and so noise associated with construction activities will not affect the nocturnal behaviors of wildlife. Nevertheless, **Special Condition No. 4** will ensure that if any bird nests are found during construction, noise levels will be monitored and construction will not begin or continue until the appropriate noise levels as stipulated in the condition have been achieved.

As conditioned, the project will not have direct or indirect impacts on biological coastal resources. Therefore, the proposed development is consistent with Sections 30240 and 30250 of the Coastal Act.

C. WATER QUALITY

The following Coastal Act policies addressing water quality are most applicable to the subject proposal.

Section 30230 of the Coastal Act states:

Marine resource resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance...

Section 30231 of the Coastal Act states:

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, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The subject site, while elevated, is located adjacent to sensitive wetland habitat and approximately a quarter-mile north of the San Dieguito River. The shopping complex lies outside the 100-year floodplain with the exception of a very small portion of the southeast parking lot, and the southern and eastern property lines of the shopping center more or less align with FEMA Zone A. While the entire vacant pad has been previously graded, a small percentage (5.4%) will be graded for the construction of the theater, with approximately 1,350 cubic yards of cut, 750 cubic yards of fill, and 600 cubic yards of export to be taken out of the Coastal Zone. Grading will comply with the City of San Diego Grading Ordinances and Storm Water Standards, and post-construction permanent storm water best management practices (BMP's) would also be required per the City's regulations. In light of the work to be performed, **Special Condition No. 2** requires the applicant to submit final grading plans that are in substantial conformance with those reviewed by staff as well as incorporate details of several on-site BMP's.

In complying with the City of San Diego's Storm Water Standards, the City will incorporate routine BMPs, as well as several other stormwater treatment options. Other BMP selections include permeable paver that will be installed along the east and north sides of the proposed structure, as well as partially along the south side. Additionally, an approximately 8.5-foot wide biofiltration basin will be installed along the southern portion of the building, and will run along the edge of the structure for approximately 96 feet. Runoff from the site flows to the San Dieguito Lagoon and River via a six and half foot by four foot box culvert, and construction of the new theater will not alter drainage patterns. While not owned or under development by the applicant, the parking lot will also undergo a modification with the retrofitting of the southern catch basin (and northern catch basin, if the owner's permission is obtained) to include an inlet filter for pollutants contained in surface runoff from the parking lot. Lastly, the shopping complex also conducts a daily vacuum sweep of the parking lot in the early mornings in order to pick up trash.

A specific concern for this project is the additional degradation of an impaired water body, i.e. the San Dieguito River. The downstream San Dieguito River is listed as impaired under the California 2010 Clean Water Act Section 303(d) list for several pollutants, including Enterococcus, Fecal Coliform, Nitrogen, Phosphorus, TDS, and Toxicity. Because the project would introduce more than 5,000 square feet of impervious surface on an existing site of 10,000 or more square feet of impervious surfaces, as well as sell food and drink and discharge waters to an environmentally sensitive area (i.e. the San Dieguito Lagoon), the project is considered a priority development project that must adhere to site design, source control, and structural pollutant control BMP requirements. Therefore, a Storm Water Quality Management Plan was prepared by Christensen Engineering and Surveying and last revised November 6, 2017. While the applicant has provided for standard storm water controls and water quality BMP's, pollutants from the project site could potentially exacerbate negative impacts to water quality of both the river and the lagoon. Because of this concern, **Special Condition Nos. 5 and 6** will require the applicant to comply with an additional set of BMPs in order to protect water quality in the San Dieguito River and Lagoon both during and after construction of the project. **Special Condition No. 5** requires the applicant to submit a Construction and Pollution Prevention Plan in order to ensure that erosion and sediment discharges will be minimized through the application of various BMP's, that impacts due to construction, including the discharge of construction pollutants, will be minimized, and that a construction site map will be prepared for the description and location of all temporary construction-phase BMP's. **Special Condition No. 6** requires the consideration of low impact development strategies that will minimize runoff from the site, prevent erosion and concentrated runoff flows, provide for the long-term maintenance of BMPs, and a site plan and narrative describing the pollutants generated and BMPs to be implemented, including their maintenance.

The Commission's water quality staff have reviewed the project and determined that as conditioned, the project will not have adverse impacts on the water quality of coastal resources. Therefore, the proposed development is consistent with Sections 30230 and 30231 of the Coastal Act.

D. VISUAL RESOURCES

Section 30251 of the Coastal Act states:

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 minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

The project is located in an existing shopping center that is very visible when approaching Via de la Valle along northbound I-5, and can also be seen from across the river valley on this approach. The addition of the movie theater would not substantially alter the views from I-5, Via de la Valle, or San Andres Drive, as the structures that are part of the shopping center form a general mass from which the movie theater will not stand out. The movie theater is proposed to be 30 feet high. The whole building design would incorporate varied heights and both horizontal and vertical lines along walls and pillars, as well as solid walls, glass, and vegetative elements. The development is located within an existing developed area and the size and design of the structure will be compatible with the character and scale of the surrounding area.

The Coast to Crest Trail runs south and east of the project site, and trail users travelling west have some views of the shopping complex buildings that are ameliorated by vegetation running along the sides of the trail. While it is a visually sensitive resource itself, and trail users travelling west may notice a difference in the viewshed upon theater construction, the addition of the theater would not substantially change views from the trail. The shopping center is located upslope of the trail, and vegetation will continue to partially block views of the shopping complex buildings. Additionally, landscaping features will be added to the perimeter of the parking lot in this area, including a 5-foot hedge that will partially block views of the complex and vehicles parked there.

As discussed above in Part B of the findings on Biological Resources, project lighting was also an issue of special concern for this project. **Special Condition No. 7** minimizes the effects of additional lighting. While visual in nature, the concern with lighting primarily stems from potential impacts to wildlife, including avian species. For further discussion of staff's specific concerns and how potential impacts have been addressed and minimized, please see the referenced section of this report.

As conditioned, the project will not have adverse impacts on the visual quality of coastal resources. Therefore, the proposed development is consistent with Sections 30230 and 30231 of the Coastal Act.

E. PUBLIC ACCESS

Pursuant to Section 30604(c), the Coastal Act requires that for a coastal development permit issued for development between a public road and a coastal water, a specific finding must be made that the development is consistent with the public access and public recreation policies of the Chapter 3. The provision ensures protection of public recreational opportunities and public access to and along the coast. Coastal Act Sections 30210, 30211, 30223 and 30252 require that public access and use of the coast shall be maximized, that development shall not interfere with the public's right to access the coast, or in this case, the trails and walkways along the San Dieguito Lagoon.

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...

Section 30223 of the Coastal Act states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Pursuant to Section 30252 of the Coastal Act cited above, adequate parking must be ensured. The project proposes to eliminate 20 parking spaces along the south side of the pad where the theater structure and patio area are proposed. According to the City's

review, in applying the parking ratio of one parking stall per 3.3 seats, the proposed project will require 132 stalls (based on the total of 435 seats). Currently, the shopping complex has assigned 150 stalls to the new theater, for an exceedance of 18 stalls. The shopping complex overall requires 590 parking stalls for all combined uses, including the predominant retail/office uses, the comparatively smaller restaurant uses, and the theater site. The parking analysis notes 593 stalls are provided for all uses, and therefore parking onsite is adequate and slightly exceeds the requirement.

While the site is not used for beach access, Coast to Crest trail users frequently use San Andres Drive as a staging area, and so trail parking could potentially be impacted if adequate on-site parking was not provided. The City's analysis utilized only those parking standards associated with theaters (1 stall per 3.3 seats), but given there's an attached restaurant, parking demands may be higher than the City's review suggests. A restaurant use alone (i.e. without a common parking area) has a minimum parking ratio of 15 spaces per 1,000 sq. ft. per San Diego Municipal Code Table 142-05F. When considering the square footage of the proposed seated dining area (approximately 4,660 sq. ft.), an estimated 70 additional parking spaces would be needed. In this case, 202 stalls would be required for the development and adequate parking would not be provided. However, as a restaurant associated with the proposed theater, there will clearly be a significant amount of shared use on-site, and parking within the complex is not assigned to particular uses and is shared throughout the lot. Additionally, a site specific parking study conducted over a four day period (including a weekend) found that parking inventory never dropped below 250 available stalls at any time during the survey and that every night during peak movie-going hours (5 pm – 9 pm), the available inventory was 345 stalls. Therefore, for the above stated reasons, the parking demand associated with this site is not expected to have any impacts on public access.

The shopping complex is currently accessed from two driveways along Via de la Valle, and the project site itself can be accessed more directly from the two most southern driveways off San Andres Drive. All three driveways to the shopping complex along San Andres Drive will be upgraded to meet current City standards and to be compliant with Americans with Disabilities Act (ADA) standards. The project is also accessible by public transit via the NCTD Route 308 bus stop at the shopping complex, Class II bike lanes along Via de la Valle, and from sidewalks and trails connecting adjacent neighborhoods and destinations. The project seeks to enhance pedestrian-friendly accommodations by adding walkways and sitting areas for common use. Parking alternatives and provisions for reduced emission vehicles will also be included in the project, including eight electric vehicle charging spaces and 11 carpool/zero emission vehicle spaces. Six ADA parking spaces (including one space for an ADA van) will be located on the east side of the project area near the proposed theater entrance, and 14 bicycle spaces will be provided for on the north side of the building.

Pursuant to Section 30211 of the Coastal Act, development may not impede the public's access to the coast, or in this case, the San Dieguito Lagoon, or those upland areas reserved for the support of coastal recreational uses, such as the Coast to Crest Trail to the east and south of the project site. A portion of the Coast to Crest Trail is located in the San Dieguito Lagoon Reserve approximately 50–100 feet from the southeast corner of

the shopping complex parking lot. The elevation of the trail in in this location is several feet below the elevation of the shopping complex but is the same elevation where San Andres Drive ends on the eastern side of the complex. In this location, trail access is available from the street, and the public frequently uses the southern end of San Andres Drive as a staging area for use of the trail. Public access to the trail area is not anticipated to be impeded by construction or operation of the movie theater. Sufficient parking to serve the proposed development will be provided, and as stated in the project's Negative Declaration, operation of the theater is expected to generate less than significant traffic impacts, with 783 daily trips from entrances along both San Andres Drive and Via de la Valle that peaks during the evening with a total of 63 trips per hour. To ensure public access is not impacted during construction, **Special Condition No. 5** requires the applicant to submit a Construction Staging and Storage Plan that will delineate the limits of staging and storage areas, locations of construction fencing and temporary construction structures, and prohibit construction staging or storage to occur along San Andres Drive or any public right-of-way where access to the San Dieguito Lagoon or Coast to Crest Trail could potentially be impeded.

Therefore, as conditioned, the proposed development will not have an adverse impact on public access to the coast or to nearby recreational trails and will conform to Sections 30210, 30211, 30233, and 30252 of the Coastal Act.

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.

Although the City has a fully-certified LCP and issues its own coastal development permits in most areas, this site is within the Coastal Commission's original permit jurisdiction. Thus, Chapter 3 policies of the Coastal Act are the standard of review for any development proposed. As noted herein, the Commission has found the proposed development, as conditioned, consistent with all applicable Chapter 3 policies. Therefore, the Commission finds that the approval of the project, as conditioned, will not prejudice the ability of the City of San Diego to continue implementation of its certified LCP.

G. CONSISTENCY WITH 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 San Diego found that the proposed development would not have a significant environmental effect and

processed a Negative Declaration (ND) and Conditional Use Permit (CUP) for the project. (No. 537664/No. 1892594, adopted Aug. 23, 2018.)

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 addressing final plans, landscaping, water quality, the protection of sensitive bird species, public access, and project lighting will 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, if so conditioned, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- CDP #6-98-006
- CDP #6-98-006-A
- The LOT Del Mar Negative Declaration (SCH#2018021074)
- The LOT Del Mar Conditional Use Permit No. 1892594 and Site Development Permit No. 1892595
- Biological Resources Letter Report for The LOT Del Mar Project by Helix Environmental Planning Inc. (August 16, 2017)
- Biological Analysis of The LOT Del Mar Project by Helix Environmental Planning Inc. (February 14, 2019)
- Biological Analysis of The LOT Del Mar Project by Helix Environmental Planning Inc. (April 19, 2019)
- Priority Development Project (PDP) Storm Water Quality Management Plan (SWQMP) for The Lot-Del Mar PTS No. 537664 by Christensen Engineering and Surveying (last revised November 6, 2017)