

**CALIFORNIA COASTAL COMMISSION**

South Coast District Office  
301 E. Ocean Blvd., Suite 300  
Long Beach, CA 90802-4302  
(562) 590-5071



# F17c

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Hearing Date: 07/10/2020

## STAFF REPORT: REGULAR CALENDAR

**Application No.:** **5-19-1064**

**Applicant:** **GRT Portfolio Properties Santa Monica, LLC; GRT Santa Monica Two, LLC (Attn: Patrick Tooley)**

**Agent:** David Goldberg, Armbuster Goldsmith & Delvac, LLP

**Location:** 216-248 Pico Boulevard, Santa Monica, Los Angeles County (APNs: 4289-019-023; 4289-019-022; 4289-019-021; 4289-019-019; 4289-019-018; 4289-019-017)

**Project Description:** Demolition of 24,014-sq. ft. bowling alley and 6,251-sq. ft. mixed-use building; and construction of two clusters of approximately 36-ft. high (above natural grade), three-story mixed-use buildings totaling approximately 97,456-sq. ft. with 105 residential rental units (eight of which will be affordable units) and 10,606 sq. ft. of ground floor commercial space. The project includes 229 vehicle parking spaces in a two-level subterranean parking garage and 185 bicycle parking spaces. The project also includes a total of approximately 7,751 sq. ft. of patio/balcony areas, and additional landscaping and hardscape improvements.

**Staff Recommendation:** Approval with conditions.

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**STAFF NOTE:** Under the Permit Streamlining Act, the Commission must act on this coastal development permit (CDP) application on or before July 5, 2020, 180 days after filing of the CDP application. However, on April 16, 2020, the Governor of the State of California issued Executive Order N-52-20 tolling the time frame for action in the Permit Streamlining Act for 60 days. Accordingly, the Commission must act on this CDP application on or before September 3, 2020.

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## SUMMARY OF STAFF RECOMMENDATION

The project site is a 55,689-square-foot lot currently developed with a 24,014-square-foot commercial building (bowling alley) and 6,251-square-foot mixed-use building. The subject site is located approximately 0.2-mile inland of the beach and is designated Residential – Visitor Commercial in the City of Santa Monica certified Land Use Plan.

The primary issue raised by the proposed development concerns potential impacts to public access and cultural resources. In this particular case, the proposed project is not expected to adversely impact public coastal access. According to the submitted parking analysis, the proposed vehicular and bicycle parking, along with the implementation of a Transportation Demand Management Program, is sufficient for the proposed project and will not impact public parking surrounding the project site or interfere with public access to the coast. Furthermore, the project site is surrounded by a wide array of transportation options within and outside of Santa Monica that do not require a personal vehicle. To ensure that the proposed TDMP measures are implemented, **Special Condition 3** is imposed. Because the project is proposing to provide fewer parking spaces for the proposed affordable units given evidence that affordable units typically do not generate the same demand for parking resources as market-rate apartments, the Commission imposes **Special Condition 2**, which requires that the proposed eight affordable units onsite are maintained as affordable units for the life of the development.

As for cultural resources, although the applicant's Archeological Resources Assessment indicated that the potential for archaeological resources is small due to past development of the site, it found that there is a possibility of a deeply buried site being uncovered during excavation. Therefore, **Special Condition 7** requires cultural and archaeological monitoring. To assure that the proposed project remains sensitive to the concerns of the Gabrielino Tongva Indians of California Tribal Council and the Gabrieleno Band of Tribal Nations-Kizh Nation, Native American monitors shall be present along with an archaeological monitor at the site during excavation activities to monitor the work.

To address concerns regarding potential impacts to public access, cultural resources, community character, and water quality, Commission staff is recommending the Commission **approve** the coastal development permit application with **nine** special conditions, including: **1)** deed restriction; **2)** affordable units; **3)** transportation demand management program; **4)** parking restrictions; **5)** water quality; **6)** landscaping – drought-tolerant, non-invasive plants; **7)** cultural resource treatment and monitoring plan; **8)** construction staging; and **9)** permit compliance. The proposed project, only as conditioned, can be found consistent with Chapter 3 of the Coastal Act.

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Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The City of Santa Monica only has a certified Land Use Plan and has not exercised the options provided in 30600(b) or 30600.5 to issue its own permits. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. Thus, any relevant policies of the certified Land Use Plan may be used for guidance.

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### EXHIBITS

[Exhibit 1 – Project Location](#)

[Exhibit 2 – Project Plans and Elevations](#)

## I. MOTION AND RESOLUTION

### Motion:

I move that the Commission approve Coastal Development Permit 5-19-1064 pursuant to the staff recommendation.

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

### Resolution:

The Commission hereby approves the Coastal Development Permit for the proposed project 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 that conforms to the provisions of Chapter 3 of the Coastal Act. 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. **Deed Restriction PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT,** the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit, as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit, shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.
2. **Affordable units.** By acceptance of this permit, the permittee agrees that the eight (8) affordable units onsite shall be maintained as affordable units for the life of the development. In addition, PRIOR TO COMMENCEMENT OF CONSTRUCTION, the applicant shall provide to the Executive Director evidence that the applicant has met local requirements to record a deed restriction for the creation of affordable rental units.
3. **Transportation Demand Management Program.**
  - A. The proposed project shall implement a Transportation Demand Management Program. By acceptance of this permit, the permittee agrees to maintain the program at all times which includes, but is not limited to, the following:
    - (1) The applicant and its successors and assigns shall actively encourage employee and residents and customers participation in a Transportation Ride Sharing program.
    - (2) A public transit fare reimbursement program shall be implemented by the applicant or its successors and assigns. All commercial tenants shall offer full reimbursement to one hundred percent of the employees of the development for public transit fare to and from work to all employees of 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 for alternative transportation to work (including bike riding) shall be required to sign a statement agreeing 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. Posters, brochures and registration materials of the program shall be available to employees at all times. Employees shall be informed of the program upon orientation and annually thereafter.

- (3) All commercial tenants shall provide a customer incentive program for alternative modes of travel.
- (4) The applicant and its successors and assigns shall provide secure bicycle parking, free of charge, on the property for the public, including residents, employees and visitors. Shower facilities shall also be provided for employees of the commercial uses.
- (5) The applicant and its successors and assigns shall implement a publicity program, the contents of which is subject to the review and approval of the Executive Director, that indicates how the future occupants of the development will be made aware of the provisions of this special condition. The publicity program shall be implemented during the first month of occupancy of the new development and shall be distributed to residents and employees annually thereafter for the life of the development.
- (6) Consistent with the City's requirement for unbundled parking, residents of the affordable units who do not own a car will be eligible for a rent discount.

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.

**4. Parking Restrictions.** With the acceptance of this permit, the applicant and all future assigns acknowledge that any change in the parking proposed under this permit, including, but not limited to, the provision of the leasing or selling of parking spaces to third parties, or reserving parking spaces for other uses not approved under this permit, or change in the number of shared parking spaces between residential and commercial uses, shall be submitted to the Executive Director to determine if an amendment to the permit is legally required. In addition, **the following requirements shall apply:**

- i. A total of 229 spaces will be maintained onsite at all times.
- ii. The applicant shall maintain a minimum of 15 EV charging stations for the life of the development.

**5. Water Quality.**

A. Construction Responsibilities and Debris Removal

- (1) No demolition or construction materials, equipment, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain or tidal erosion and dispersion;
- (2) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers;

- (3) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project;
- (4) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
- (5) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
- (6) The applicant(s) shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
- (7) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
- (8) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
- (9) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;
- (10) The discharge of any hazardous materials into any receiving waters shall be prohibited;
- (11) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible;
- (12) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity;
- (13) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

B. Drainage and Water Quality

- (1) During construction of the proposed project, no runoff, site drainage or dewatering shall be directed from the site to the beach or street that drains toward the beach, unless specifically authorized by the California Regional Water Quality Control Board;
- (2) All equipment and materials shall be stored and managed in a manner to minimize the potential of pollutants to coastal waters;
- (3) All runoff leaving the site shall be directed away from the beach and into the City storm drain system;



- (4) No water from any pool or spa shall be discharged toward the beach or street that drains to coastal waters.

**6. Landscaping – Drought Tolerant, Non-Invasive Plants.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, in a form and content acceptable to the Executive Director, two (2) full size sets of final revised landscaping plans, which shall include and be consistent with the following:

- A. Vegetated landscaped areas shall only consist of native plants and/or non-native drought-tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), 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 a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf> and <http://ucanr.edu/sites/WUCOLS/files/183488.pdf>).
- B. Use of reclaimed water for irrigation is encouraged. If using potable water for irrigation, only drip or microspray irrigation systems may be used. Other water conservation measures shall be considered, such as weather based irrigation controllers.

**7. Cultural Resource Treatment and Monitoring Plan.** By acceptance of this permit the applicant agrees to comply with the following:

- A. Incorporate the following into the archeological monitoring plan:
  - (i) Archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards, and a minimum of 1 Native American monitor from each tribal entity with documented ancestral ties to the area appointed consistent with the standards of the Native American Heritage Commission (NAHC), and the Native American most likely descendent (MLD) when State Law mandates identification of a MLD, shall monitor all project grading, excavation work, site preparation or landscaping activities associated with the approved development. Prior to the commencement and/or re-commencement of any monitoring, the permittee shall notify each archeological and Native American monitor of the requirements and procedures, and shall provide a copy of this special condition, any archeological monitoring or research plans, past archeological reports, and any other plans required pursuant to this condition and which have been approved by the Executive Director, to each monitor;
  - (ii) The permittee shall provide sufficient archeological and Native American monitors to assure that all project grading and any other subsurface activity that has any potential to uncover or otherwise disturb cultural deposits is monitored at all times;
  - (iii) The Native American Monitor(s) shall be required until native soils have been reached.

- B. If an area of tribal cultural deposits is discovered during the course of the project:
- (i) All construction and subsurface activities that have the potential to uncover or otherwise disturb tribal cultural deposits in the area of the discovery shall cease within 50 feet of the deposit immediately;
  - (ii) the permittee shall report all discovered resources as soon as possible, by phone for by email to the Executive Director;
  - (iii) The professional archeological monitor onsite must contact all affected groups of the Native American Tribe and notify them of the discovery in order to determine the results of (iv) and (v) below;
  - (iv) Significance testing may be carried out only if acceptable to the affected Native American Tribe, in accordance with the attached "Cultural Resources Significance Testing Plan Procedures" (**Appendix B**) and in consultation with the Tribe. The Executive Director shall, in writing, determine the adequacy of the Significance Testing Plan and if it can be implemented without further Commission action, provide written authorization to proceed. The Significance Testing Plan results, if applicable, along with the project archaeologist's recommendation as to whether the discovery should be considered significant, and the comments of the Native American monitors and MLD when State Law mandates the identification of a MLD, shall be submitted to the Executive Director for a determination. If the Executive Director determines that the discovery is significant, development shall not recommence and the permittee shall submit to the Executive Director a Supplementary Archaeological Plan consistent with Appendix B.
  - (v) The treatment method or mitigation measure for the discovery shall be prepared in consultation with the Native American monitor(s), and the MLD when State Law mandates the identification of a MLD. The permittee shall inform the Executive Director of the treatment method in writing. In-situ preservation is the preferred treatment and can be achieved through such methods such as, but not limited to, project redesign, capping, and deeding the cultural resource areas in open space. The range of treatment and mitigation measures considered shall not be constrained by the approved development plan.
- C. If the Executive Director determines that the discovery is significant or that the treatment method preferred by the affected Native American tribe is in conflict with the approved development plan, the permittee shall seek an amendment from the Commission to determine how to respond to the discovery and to protect both those and any further cultural deposits that are encountered. Development within at least 50 feet of the discovery shall not recommence until an amendment is approved, and then only in compliance with the provisions of such amendment.

- 8. Construction Staging Plan.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and approval of the Executive Director a construction staging plan that is designed to avoid or minimize impacts to public coastal access.

- 9. Permit Compliance.** All development must occur in strict compliance with the proposal as set forth in the application, subject to any special conditions imposed herein. Any deviation from the approved plans, including, but not limited to, conversion of the apartments into for-sale condominiums, must be submitted for review by the Executive Director to determine whether an amendment to this Coastal Development Permit No. 5-19-1064 is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations.

## IV. FINDINGS AND DECLARATIONS

### A. PROJECT LOCATION AND DESCRIPTION

The project site (216-248 Pico Boulevard) is a 55,689-square-foot lot, and is currently developed with a multi-story 24,014-square-foot commercial building (bowling alley) (1959) and a multi-story 6,251-square-foot mixed-used building (1962) ([Exhibit 1](#)). The subject site is located approximately 0.2-mile inland of the public beach in the City of Santa Monica and is designated 'Residential – Visitor Commercial' by the City of Santa Monica certified Land Use Plan.

The applicant proposes to demolish the existing bowling alley and mixed-use building, and construct two clusters of approximately 36-foot high (above natural grade), three-story mixed-use buildings ("Building A" and "Building B") totaling approximately 97,829 square feet<sup>1</sup> in floor area with 105 residential rental units and 10,606 square feet of ground floor commercial space ([Exhibit 2](#)). The proposed project also includes 185 (short-term and long-term) bicycle parking spaces (8 for commercial uses, and 177 for residents) and a two-level subterranean parking garage with 229 vehicle parking spaces ([Exhibit 2](#)). Of the 229 vehicle parking spaces, 162 are proposed to be provided for the residents, 19 for residential guests, and 48 for the commercial uses. In addition, 15 of the 229 parking spaces would provide EV charging stations (11 stations for residents and 4 stations for commercial).

The residential units will consist of a mix of studios, and one-, two-, and three bedrooms. Of the 105 residential units, the applicant proposes 15 studio apartments, 47 one-bedroom apartments, 20 two-bedroom apartments, and 15 three-bedroom apartments. Of the 105 residential units, eight 30 percent income (very very low income) units are proposed to be deed restricted affordable apartments. The eight affordable units will consist of two (2) studio apartments, three (3) one-bedroom apartments, and three (3) three-bedroom apartments. The average sizes of the proposed market-rate residential units are: 535 square feet for studio apartments, 733 square feet for the one-bedroom apartments, 920 square feet for the two-bedroom apartments, and 1,104 square feet for the three-bedroom apartments. The average sizes of the proposed affordable residential units are: 579 square feet for studio apartments, 671 square feet for the one-bedroom apartments, and 1,147 square feet for the three-bedroom apartments.

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<sup>1</sup> Proposed 87,223 square feet of residential floor area + 10,606 square feet of commercial space = 97,829 square feet gross floor area.

The residential units will be located on the ground level along the sides and rear, as well as upper stories. The ground level commercial uses will be located at the public street/alley corners (Pico Boulevard/Main Court and Pico Boulevard/Third Street), and would consist of retail use (7,307 square feet) and a café (4,055 square feet). The two-level subterranean parking garage will be accessed from the Main Court alley.

The project also includes a total of approximately 7,751 sq. ft. of patio/balcony areas, and additional landscaping and hardscape improvements. Approximately 75,000 cubic yards of grading is also proposed.

On October 13, 2013, the City's Landmarks Commission designated the "BOWL" ground sign of the existing bowling alley as a City Landmark. The Project proposes to preserve and incorporate the Landmark "BOWL" sign as a building inset.

## **B. PUBLIC ACCESS**

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 30214 of the Coastal Act states, in relevant part:

- (a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:
  - (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.
  - (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

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

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acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Policy 20 of the certified LUP states, in relevant part:

New development shall provide adequate parking to meet all demands created by the development. With the exception of development with the Third Street Assessment District and at the Santa Monica Pier, required off-street parking spaces shall be located on the parcel or building site...

Coastal Act Section 30210 requires the provision of maximum access and recreational opportunities, Coastal Act Section 30213 states that lower cost visitor and recreational facilities shall be protected and provided. Coastal Act Section 30252 requires that the location and amount of new development must maintain and enhance public access to the coast, such as by providing adequate parking facilities or providing substitute means of serving the development with public transportation. Including onsite parking with new development is necessary to protect public beach parking for members of the public who wish to access the coast. Based on past Commission action, and since the 1980's (e.g. CDP No. 5-18-0380), the Commission has typically required that new multi-family residential development provide two vehicle parking spaces per residential unit, plus one additional guest parking space for every three units. The applicant has proposed a total of 229 parking spaces and proposed that 181 spaces would be provided for residential uses.

Following prior Commission actions related to parking in Santa Monica, the project should provide a minimum of 210 spaces for the 105 residential units. However, in past Commission action (e.g. CDP No. 5-19-0181), the Commission has accepted reduced parking for projects that include affordable accommodations. In fact, in 2019 the Commission approved a 100 percent affordable housing project in the City of Santa Monica with a reduced parking rate of 0.5 space per affordable unit. Past parking studies for this area have concluded that parking usage for affordable units is typically only 0.5 spaces per unit (for studio, one-, and two- bedroom units), but that family units (three-bedroom units) typically require closer to 0.85 spaces per unit.

Recently, the City of Santa Monica has adopted revised parking standards for new development where all off-street private parking spaces are "unbundled" (offered separately) from the dwelling units and commercial tenant spaces, in order to provide more flexibility for those who do not want or need parking.

The City's code provides an exception for residential units of 3 or more bedrooms and requires those units have 1 parking space bundled with the lease or ownership of the unit for the life of the development. The code also requires that for deed-restricted affordable units, the tenant may choose to either receive 1 parking space, which shall be included within the unit's affordable rent level, or receive a rent discount equivalent to half the amount charged for monthly lease of a parking space, in exchange for not receiving a parking space.

The eight affordable units will consist of two (2) studio apartments, three (3) one-bedroom apartments, and three (3) three-bedroom apartments, as such, according to reduced parking approved by the Commission in the past for affordable projects, five of the affordable units onsite would require 0.5 spaces per unit, and three units would require 0.85 spaces per unit, and according to the City's code- the (3) three bedroom units would be granted one space per unit. As such, the proposed affordable units onsite would require approximately five spaces total. The remaining 97 units (not affordable) require two spaces per unit for a total of 194 spaces (not including guest spaces). In sum, a minimum of 199 spaces (of the 229 proposed to be constructed) are needed onsite to meet the demand for the residential units. Because the project is proposing to provide fewer parking spaces for the proposed affordable units given evidence that affordable units typically do not generate the same demand for parking resources as market-rate apartments, the Commission imposes **Special Condition 2**, which requires that the proposed eight affordable units onsite are maintained as affordable units for the life of the development. This condition is necessary to ensure protection of public access so that residents and/or patrons of the proposed development do not use on-street parking that would otherwise be available to members of the general public to access the beaches in Santa Monica.

Based on past Commission findings (e.g. 5-12-047 and 5-16-0066) with regard to commercial spaces and parking, one space per 225 square feet of retail and one space per 50 square feet of public service area for restaurant uses would be required to meet anticipated parking demand. Accordingly, the proposed 4,055-square-foot café with approximately 1,653 square feet of service area (interior and patio) and the 7,307-square-foot retail space would need to include 65 parking spaces to meet parking demand and avoid impacts to public access. The project proposes only 48 spaces for these commercial spaces. However, given that the residential uses require 199 spaces total, there would only be 30 spaces remaining for the commercial uses. As such, the proposed commercial uses are underparked. It should be noted however, that because the City requires the residential units be offered "unbundled" from the parking spaces, once the building is occupied it is possible that not all 199 spaces will be used by the residents. Spaces that are not occupied by the residents can and should be able to serve the commercial uses onsite. That is a unique advantage of mixed-use buildings and having shared parking arrangements.

Data provided by the City of Santa Monica in past studies indicates that the average unit in this area only needs about 1.15 vehicles per unit, indicating that most residents do not own two vehicles<sup>2</sup>. As such, if each of the residential units only used one parking space, there would be a surplus of as many as 97 spaces onsite that could serve the commercial uses on the ground floor. It is possible that the parking demand for the residential units may not be as high as past Commission action has anticipated and required (two spaces per residential unit), and the submitted parking analysis suggests, based on the City's data that the project may provide a surplus of parking that will meet (and surpass) the demand for parking created by the proposed project. Commission

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<sup>2</sup> Parking Zoning Ordinance Update prepared for the City of Santa Monica by Nelson Nygaard, dated January 2013

staff understands that there may not be a demand for two parking spaces per unit at this time, but also cannot predict what type of residential parking may be needed in the future.

In contrast to past Commission findings regarding parking requirements for commercial uses (which indicate the project could need as many as 65 spaces), the applicant has provided a parking study by Linscott, Law & Greenspan, Engineers (LLG) that evaluates the anticipated parking demand for the proposed development, and whether the Commission's typical parking ratios are appropriate for this project. The study indicates that "there have been significant changes with respect to services, infrastructure, as well as local government policies and mandates which have substantially reduced the need for a personal automobile, and thus, the number of parking spaces required for development projects." The LLG parking study concluded that the proposed 48 spaces for commercial uses would be more than sufficient; the City of Santa Monica required 45 spaces for the proposed commercial uses. However, even using the applicant's estimated demand for parking for this development, due to the parking needs for the proposed residential uses (discussed above), the commercial spaces would have a shortage of approximately 15 spaces needed to meet the demand for this development.

In addition to the proposed on-site parking facilities, the applicant proposes to provide 185 bicycles parking spaces onsite (long-term and short-term), eight of which are proposed for the commercial uses in order to ease the parking demand by providing alternative options, and proposed a robust Transportation Demand Management Program (TDMP) which includes providing an onsite Project Transportation Coordinator to manage onsite transportation information (routes, maps, schedules, rideshare opportunities, bike facilities, etc.), employee parking cash out program, employee commuter matching services and transportation allowances of all residents and employees, and customer incentive program for alternative modes of travel for the commercial uses. The TDMP includes an annual monitoring plan, which would be submitted to the City. To ensure the TDMP measures are implemented, the Commission imposes **Special Condition 3**.

Finally, any impacts of the project on public access due to the shortage of on-site parking are mitigated by the fact that alternative public transportation options are readily available within the project vicinity. The project site is located 0.4 miles (or a little less than a 10 minute walk) to the Downtown Santa Monica station on the Metro Expo light rail line, which facilitates transportation to job centers in Culver City and Downtown Los Angeles without the need for a car. The project site is also located approximately 320 feet away from the Pico Boulevard / 4<sup>th</sup> Street Big Blue Bus transit stop, and approximately 180 feet away from the Main Street / Pico Boulevard Big Blue Bus transit stop. These stops house six local bus routes that run north, south, and east from the project site to job centers in Downtown Santa Monica, the Venice subarea and the City of Los Angeles Downtown Union Station. Residents could also easily bike or take ride-sharing services (i.e. Uber, Lyft) to the Third Street Promenade, which is only half a mile (or a 10 minute walk) away from the project site. 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.

Specifically, Section 30252 (1) 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 cannot control the surrounding transit services, however the TDMs proposed do provide incentives for the residents and visitors of the development to use the existing public transit systems nearby. Similarly, Section 30252 (2) requires that commercial facilities are provided within or adjoining residential development or in other areas that will minimize the use of coastal access roads. The proposed development conforms to that standard as a mixed-use development with residential and commercial components. Lastly, Section 30252 (4) of the Coastal Act require new development to providing adequate parking facilities **or** provide substitute means of serving the development with 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 the amount of onsite parking typically required by the Commission for comparable forms of development. The proposed project is consistent with Section 30252 of the Coastal Act.

Construction projects can adversely impact public access by displacing otherwise available on-street, public parking spaces or by blocking traffic. During construction, measures should be implemented to ensure that temporary impacts to public access be minimized. Therefore, **Special Condition 8** requires a construction staging plan that does not impact public coastal access.

The subject site is located approximately 0.2-mile inland of the public beach and is not proposing to provide any public parking opportunities for beach visitors. If the proposed project proves to be underparked, there is a possibility that the residents and commercial visitors could park on public streets and displace public parking spaces for beach visitors. However, the City of Santa Monica has several beach parking lots that provide public parking for coastal visitors, one of the largest of which is near the subject site. Additionally, visitors to the area that patronize the downtown businesses of Santa Monica park in the municipal parking structures and do not usually occupy public paces spaces on the streets. As such, the project as proposed and as conditioned will not have any negative impacts to public access to the coast, including impacts on the ability of the public to access public parking options while visiting the coast.

The Commission imposes **Special Condition 9** to ensure permit compliance. In addition, to ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, **Special Condition 1** requires the applicant to record a deed restriction acknowledging that, pursuant to the subject permit (CDP No. 5-19-1064), the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of the subject property; and imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property.

According to the submitted parking analysis, the parking is sufficient for the proposed project and will not impact public parking surrounding the project site or interfere with public access to the coast. Furthermore, the project site is surrounded by a wide array of



transportation options within and outside of Santa Monica that do not require a personal vehicle. Therefore, the proposed project is consistent with Sections 30210, 30211, and 30252 of the Coastal Act.

### **C. CULTURAL RESOURCES**

Section 30244 of the Coastal Act states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

The proposed site is currently developed and has been disturbed in the past. According to the applicant's Archeological Resources Assessment (ARA) prepared by SWCA Consultants, there are two prehistoric sites within a one-mile radius of the Civic Center area. The ARA states that the potential for archaeological resources is small due to past development of the site, but concluded that there is a possibility of a deeply buried site being uncovered during excavation. Therefore, the project site still has a high sensitivity for containing Historic-period (non-Native American) archaeological resources. The ARA recommended that measures include retaining a qualified archaeologist, preparing a monitoring plan, and monitoring for archaeological resources.

Moreover, the applicant's consultant wrote to the Native American Heritage Commission (NAHC) to request a Sacred Lands File Check for the project site. The NAHC indicated that no known cultural records were available for the project site in the Sacred Lands File, but encouraged the applicant to reach out to local Native American tribes who would have a more detailed understanding of the cultural resources in the area.

In order to better understand the cultural significance of the project site and the surrounding project area, Commission staff reached out to tribal organizations to request consultation consistent with the Commission's Tribal Consultation Policy. The Gabrielino Tongva Indians of California Tribal Council and the Gabrieleno Band of Tribal Nations-Kizh Nation responded to Commission staff with an interest in consulting on the project. During a phone consultation with the Gabrielino Tongva Indians of California Tribal Council, it was indicated that the project site is located within a few blocks of a site known to the Council to have contained cultural resources, therefore, the Council is requesting that a member of its tribe be present to monitor proposed excavation activities.

A second consultation is scheduled with the Kizh Nation, to occur after publication of this staff report, and additional findings and any changes to the project as a result of that consultation will be published in an addendum to the staff report prior to the Commission hearing.

In past consultation for projects in the vicinity of the subject site, the Kizh Nation has indicated that the area is a known culturally sensitive area located near the prehistoric Sa'angna Village, one of the known mainland trading villages in the region and its surrounding trade routes, and that Tribal Cultural Resources may be present in the soil layers from the thousands of years of human activity within that landscape. On past

projects in the vicinity, the Kizh Nation has requested Native American monitors be present during all grading operations.

In past permit actions, the Commission has required applicants to monitor all grading and construction activities and required appropriate recovery and mitigation measures, regarding excavation, reporting and curation. To ensure that the project is consistent with the protection of any found cultural deposits and past Commission action, the Commission imposes **Special Condition 7** requiring cultural and archaeological monitoring. To assure that the proposed project remains sensitive to the concerns of the affected Native American groups, Native American monitors shall be present along with an archaeological monitor at the site during excavation activities to monitor the work. The Native American monitor shall meet the qualifications set forth in the NAHC's guidelines.

Therefore, as conditioned, the proposed project is consistent with Section 30244 of the Coastal Act, which requires reasonable mitigation measures be provided to offset impacts to archaeological resources.

#### **D. DEVELOPMENT**

Section 30250 of the Coastal Act states:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels. (b) Where feasible, new hazardous industrial development shall be located away from existing developed areas. (c) Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

Section 30253 of the Coastal Act states:

New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.
- (c) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development.
- (d) Minimize energy consumption and vehicle miles traveled.

## 5-19-1064 (GRT Mixed-Use Project)

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

Policy 4 of the certified LUP states:

The City of Santa Monica LUP shall encourage the preservation of low and moderate income housing within the Coastal Zone consistent with the Coastal Act policies, contained herein.

The proposed project conforms with the Residential – Visitor Commercial designation of the City of Santa Monica certified Land Use Plan (LUP). In addition, the applicant has designed the proposed project in compliance City's building standards in order to obtain the required coastal development permit.

The Commission-certified Santa Monica LUP limits the number of stories to three stories and the maximum height to 45 feet for development that is 50 percent (or more) residential on the project site. The proposed three-story mixed-use development will have a maximum height of 36 feet and is consistent with the certified LUP. **Special Condition 9** requires that any changes to the final approved plans, which would include any increases in height, be submitted to the Executive Director to determine whether an amendment to this permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations.

The proposed development includes series of distinct building masses, articulation and elements, such as open guardrails on the balconies, to simplify the elevation and reduce any perceived building mass. As proposed, the development is located within an existing developed area and is compatible with the character and scale of the surrounding area. The proposed development will be located directly across from the Santa Monica Civic Auditorium. The proposed development will be bound by Pico Boulevard and the City of Santa Monica Civic Auditorium to the northwest; an alleyway, parking lot, liquor store and multi-story commercial buildings to the southwest (seaward of the project site); an alleyway and residential properties to the southeast; and Third Street and a pet supply store to the northeast.

### **Affordable Housing**

It is important to note that the Coastal Act does not authorize the Commission to require low-cost housing in the Coastal Zone. That authority was removed by the Legislature, and a separate statute, the Mello Act (Government Code Section 65590), establishes requirements for affordable housing in the Coastal Zone that apply to local governments, not the Commission. The Coastal Act makes clear that the Commission "is not authorized to review a local government's application" of the requirements of the Mello Act. (Pub. Resources Code § 30011). Instead, Sections 30604(f) and (g) of the Coastal Act direct the Commission to *encourage* housing opportunities for persons of low and moderate income in the Coastal Zone.

The project is, however, subject to the City's Affordable Housing Production Program which requires new housing projects to provide one of the following: 1) five percent of

the total units of the project for 30 percent income (very very low income) households, 2) 10 percent of the total units of the project for 50 percent income (very low income) households, or 3) 20 percent of the total units of the project for 80 percent income (low income) households. In this case, the applicant has elected to provide five percent of the total units of the project for 30 percent income households. The project proposes a total of 8 affordable units to meet Santa Monica's Affordable Housing Production requirements for low income households. Sections 30604(f) and (g) of the Coastal Act direct the Commission to *encourage* the protection of existing and the provision of new affordable housing "opportunities," but does not require it and does not dictate the form of affordable housing (e.g., rentals vs. for-sale). As the project includes construction of eight designated "affordable" units pursuant to the City's regulations, approval of the project appears to be consistent with Section 30604(f) and (g).

As discussed previously, the subject site is within an existing urban developed area and is adjacent to countless public transit options. The location of the proposed affordable housing project near transit and job centers helps reduce dependence on single occupancy vehicles and is consistent with the Section 30253 requirements to minimize energy consumption and vehicle miles traveled and Section 30250 to situate development where it can be accommodated.

### **Potential Cumulative Impact to Coastal Resources**

There are two other mixed-use Santa Monica projects (Application Nos. 5-19-0983 and 5-19-0984) on the Commission's July 2020 agenda in addition to the proposed mixed-use development. All three projects have parking analysis that recommend a reduced parking amount, when compared to past Commission action. The Commission can and should consider if there is a potential cumulative impact to public access in Santa Monica. Based on the parking studies provided by the applicants and based on data provided by the City of Santa Monica, the three projects will be adequately supported by parking resources available onsite and will include other measures and provisions to satisfy parking demand, including providing incentives for visitors and residents to rely on the existing unique robust public transit system already operating in the City of Santa Monica (including bus and rail) and the alternative transit options in which the City has invested over the years including the bike share program, the electric scooter stations, and the general walkability of the City's Coastal Zone complete with pedestrian-oriented uses on the ground floor, wide sidewalks, a complete segment of the Coastal Trail, and pedestrian overpasses leading from Ocean Blvd down to the shoreline. The proposed projects have been designed with this City-scape in mind and based on those factors which reduce overall demand, provide sufficient parking onsite to meet the expected demand. Overall, considering the cumulative impacts, the proposed projects are not anticipated to impair public access to the coast consistent with Section 30250.

### **Conclusion**

As proposed, the development is consistent with all relevant legal limits on size, height and land use, is on par with development in the area and, thus, preserves community character as required by the Coastal Act. In addition, the development conforms with Sections 30250, and 30253 of the Coastal Act.

On November 7, 2018, the City Planning Commission approved a Development Review Permit and a Vesting Tentative Tract Map to subdivide the proposed uses (retail, residential, and subterranean parking) into five vertical airspace components to allow separate leasing and/or financing. The Vesting Tentative Tract Map also provides flexibility for the residential units to be rental apartments or for-sale condominiums. Any subdivision and conversion of the proposed rental apartments into for-sale condominiums would require an amendment to this coastal development permit.

## **E. BIOLOGICAL RESOURCES & WATER QUALITY**

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

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.

Section 30232 of the Coastal Act states:

Oil and hazardous substance spills Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

Section 30230 of the Coastal Act requires that marine resources be maintained, enhanced, and where feasible, restored, and further requires that uses of the marine environment shall sustain the biological productivity of coastal waters. Section 30231 of the Coastal Act requires that the biological productivity and the quality of coastal waters be maintained, and where feasible, restored through measures aimed at reducing water resource impacts from proposed development. Section 30232 of the Coastal Act requires protection against the spillage of crude oil, gas, petroleum products, or hazardous materials in relation to any development.

### **Construction Impacts to Water Quality**

Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. Because the project site is located in close proximity to the coast and runoff from construction can impact the beach and ocean, the Commission imposes construction-related requirements and best management practices under **Special Condition 5** in order to minimize adverse construction-related impacts upon marine resources and for erosion control. This condition requires the applicant to remove any and all debris resulting from construction activities within 24 hours of completion of the project. In addition, all construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

### **Post-Construction Impacts to Water Quality**

Much of the pollutants entering the ocean come from land-based development. The Commission finds that it is necessary to minimize to the extent feasible within its jurisdiction the cumulative adverse impacts on water quality resulting from incremental increases in impervious surface associated with additional development. To ensure post-construction water quality impacts are avoided, the applicant is proposing to divert drainage from the roof drains, gutters, and downspouts into retention areas with subdrain pipes for onsite water infiltration. Additionally, the applicant is proposing to divert overflow stormwater runoff to a pretreatment device before it is directed to a 5,500-gallon storage tank for capture and use and/or the street's main storm drain system.

The applicant is also proposing landscaping. The Commission typically requires that all new landscaping comprise of only low water use, non-invasive plants (Low WUCOLS<sup>3</sup> Ranking) as identified by the California Department of Water Resources. Therefore, the Commission imposes **Special Condition 6**, which authorizes only the installation of non-invasive, drought-tolerant vegetation (low water use plants only) and water-conservative irrigation systems.

### **Conclusion**

Therefore, the Commission finds that, as conditioned to require construction-related requirements and best management practices and non-invasive drought tolerant landscaping the development will be consistent with Sections 30230, 30231 and 30232 of the Coastal Act.

## **F. 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

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<sup>3</sup> WUCOLS is the acronym for Water Use Classifications of Landscape Species.

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. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30251 of the Coastal Act requires that the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. The proposed development will be located approximately 0.20-mile inland of the beach and inland of numerous multi-story buildings. Consequently, the proposed development is not anticipated to adversely affect existing ocean views from public areas and is compatible with the character of the surrounding area. Therefore, the Commission finds the proposed development is consistent with Section 30251 of the Coastal Act.

### **G. 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:

(a) Prior to certification of the Local Coastal Program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). A denial of a coastal development permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

In August 1992, the Commission certified, with suggested modifications, the land use plan portion of the City of Santa Monica's Local Coastal Program, except for the areas of deferred certification. On September 15, 1992, the City of Santa Monica accepted the LUP with suggested modifications. Although the City of Santa Monica has a certified LUP, the project is located within one of the areas of deferred certification. As discussed above, the proposed development, as conditioned, is consistent with Chapter 3 of the Coastal Act. Therefore the Commission finds that approval of this project, as conditioned, will not prejudice the ability of the City of Santa Monica from preparing a total Local Coastal Program for the areas of deferred certification that conforms with and is adequate to carry out the Chapter 3 policies of the Coastal Act.

### **H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 13096(a) of the Commission's regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the

application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA).

Under Section 15251(c) of Title 14 of the California Code of Regulations, the Commission's CDP regulatory process has been certified as the functional equivalent to the CEQA process. As a certified regulatory program, Section 21080.5(d)(2)(A) of CEQA still applies to the Commission's CDP regulatory process and 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 Santa Monica is the lead agency for purposes of CEQA. In 2018, the City determined that the proposed development was categorically exempt from CEQA requirements pursuant to CEQA Guidelines Sections 21155.1, which exempts a special class of Transit Priority Project (TPP) determined to be a Sustainable Communities Project (SCP) by the local jurisdiction.

The development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Special Conditions imposed will mitigate adverse impacts to coastal resources and public access. The **Special Conditions** address the following issues: **1)** deed restriction; **2)** affordable units; **3)** transportation demand management program; **4)** parking restrictions; **5)** water quality; **6)** landscaping – drought-tolerant, non-invasive plants; **7)** cultural resource treatment and monitoring plan; **8)** construction staging; and **9)** permit compliance. Therefore, the Commission finds that, as conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect of the proposed project, there are no remaining significant environmental impacts within the meaning of CEQA, and the project is consistent with CEQA and the policies of the Coastal Act.

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## APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

1. City of Santa Monica certified Land Use Plan (certified 1992)
2. City of Santa Monica Planning Commission Statement of Official Action for Development Review Permit 18ENT-0005 and Vesting Tentative Tract Map 18ENT-0184.
3. Parking Demand Study for the Proposed Mixed-Use Project at 234 Pico Boulevard by Linscott, Law & Greenspan, Engineers, dated September 20, 2019.
4. Coastal Development Permit Nos. 5-12-047, 5-16-0066, 5-18-0380, and 5-19-0181
5. Archeological Resources Assessment for the 234 Pico Boulevard Mixed-Use Development Project, City of Santa Monica, California by SWCA Environmental Consultants dated May 2019.
6. Parking Zoning Ordinance Update prepared for the City of Santa Monica by Nelson Nygaard, dated January 2013.



## **APPENDIX B – CULTURAL RESOURCES SIGNIFICANCE TESTING PLAN PROCEDURES**

- A. An applicant seeking to recommence construction following discovery of the cultural deposits shall submit a Significance Testing Plan for the review and approval of the Executive Director. The Significance Testing Plan shall identify the testing measures that will be undertaken to determine whether the cultural deposits are significant. The Significance Testing Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), and the Most Likely Descendent (MLD) when State Law mandates identification of a MLD. The Executive Director shall make a determination regarding the adequacy of the Significance Testing Plan within 10 working days of receipt. If the Executive Director does not make such a determination within the prescribed time, the plan shall be deemed approved and implementation may proceed.
1. If the Executive Director approves the Significance Testing Plan and determines that the Significance Testing Plan's recommended testing measures are de minimis in nature and scope, the significance testing may commence after the Executive Director informs the permittee of that determination.
  2. If the Executive Director approves the Significance Testing Plan but determines that the changes therein are not de minimis, significance testing may not recommence until after an amendment to this permit is approved by the Commission.
  3. Once the measures identified in the significance testing plan are undertaken, the permittee shall submit the results of the testing to the Executive Director for review and approval. The results shall be accompanied by the project archeologist's recommendation as to whether the findings are significant. The project archeologist's recommendation shall be made in consultation with the Native American monitors and the MLD when State Law mandates identification of a MLD. The Executive Director shall make the determination as to whether the deposits are significant based on the information available to the Executive Director. If the deposits are found to be significant, the permittee shall prepare and submit to the Executive Director a supplementary Archeological Plan in accordance with subsection B of this appendix and all other relevant subsections. If the deposits are found to be not significant, then the permittee may recommence grading in accordance with any measures outlined in the significance testing program.
- B. An applicant seeking to recommence construction following a determination by the Executive Director that the cultural deposits discovered are significant shall submit a supplementary Archeological Plan for the review and approval of the Executive Director. The supplementary Archeological Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), the Most Likely Descendent (MLD) when State Law mandates identification of a MLD, as well as others identified in the special condition. The supplementary Archeological Plan shall identify proposed investigation and mitigation measures. The range of investigation and mitigation measures considered shall not be constrained by the approved development plan. Mitigation measures considered may range from in-situ

preservation to recovery and/or relocation. A good faith effort shall be made to avoid impacts to cultural resources through methods such as, but not limited to, project redesign, capping, and placing cultural resource areas in open space. In order to protect cultural resources, any further development may only be undertaken consistent with the provisions of the Supplementary Archaeological Plan.

1. If the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after the Executive Director informs the permittee of that determination.
  2. If the Executive Director approves the Supplementary Archaeological Plan but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission.
- C. Prior to submittal to the Executive Director, all plans required to be submitted pursuant to this special condition, except the Significance Testing Plan, shall have received review and written comment by a peer review committee convened in accordance with current professional practice that shall include qualified archeologists and representatives of Native American groups with documented ancestral ties to the area. Names and qualifications of selected peer reviewers shall be submitted for review and approval by the Executive Director. The plans submitted to the Executive Director shall incorporate the recommendations of the peer review committee. Furthermore, upon completion of the peer review process, all plans shall be submitted to the California Office of Historic Preservation (OHP) and the NAHC for their review and an opportunity to comment. The plans submitted to the Executive Director shall incorporate the recommendations of the OHP and NAHC. If the OHP and/or NAHC do not respond within 30 days of their receipt of the plan, the requirement under this permit for that entities' review and comment shall expire, unless the Executive Director extends said deadline for good cause. All plans shall be submitted for the review and approval of the Executive Director.