

**CALIFORNIA COASTAL COMMISSION**

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# F18a

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## STAFF REPORT: PERMIT AMENDMENT

**Application No.:** 5-94-172-A1  
**Applicant:** 1522 2<sup>nd</sup> Street, LLC  
**Agent:** Harding Larmore Kutcher & Kozal, LLP  
**Location:** 1522 2<sup>nd</sup> Street, Santa Monica, Los Angeles County  
(APN: 4291-028-003)

**Description of Original Project Approved Pursuant to Permit No. 5-94-172:**  
Construction of a 6,585 sq. ft., 45-foot high, three-story office, retail and residential addition to an existing one-story, 5,350 sq. ft. retail/office/storage building for a total of 4,615 sq. ft. of retail/office on the ground floor, 1,960 sq. ft. of general office on the second floor, and a 5,360 sq. ft. residential unit. A total of 15 on-site parking spaces are included, 4 of which are provided by means of a mechanical lift device.

**Description of Pending Permit Amendment No. 5-94-172-A1:** Request to amend permit for conversion of 5,360 sq. ft. of residential space to office space (2,102 sq. ft. of which occurred without a permit and would be approved after-the fact), construction of a 1,163 sq. ft. roof deck, lease of 18 offsite parking spaces, and request for after-the-fact approval of addition of 940 sq. ft. mezzanine, and elimination of 2 onsite parking spaces.

## **SUMMARY OF STAFF RECOMMENDATION**

The project site consists of a 7,500 sq. ft. lot on Second Street in Santa Monica that is developed with a 3-story, approximately 13,610 sq. ft. mixed-use building (office and one residential unit) with ground floor parking in the rear of the building. The building was originally constructed in 1940 and, in 1994, the Commission approved an addition to the building, which included one approximately 5,000 sq. ft. residential unit (Ref: CDP 5-94-172). The current CDP amendment request is to amend the underlying permit to authorize the conversion of the residential unit (5,360 sq. ft.) to office space, the construction of a 1,163 sq. ft. roof deck in center of property (no increase in existing height), lease 18 offsite parking spaces, implementation of a transportation demand management (TDM) program, and provision of onsite bicycle parking.

Violations of the Coastal Act have occurred on the property, including the addition of a 940 sq. ft. mezzanine, the conversion of 2,102 sq. ft. of deed-restricted residential space to office space, and the removal of 2 parking spaces, without the benefit of the necessary coastal development permit. The applicant also requests after-the-fact approval of the development undertaken without a permit. Approval of this application pursuant to the staff recommendation, issuance of the permit, and the applicant's subsequent compliance with all terms and conditions of the permit will result in resolution of the above described violations going forward.

The underlying CDP approved the development of one residential unit and required that the property owner record a deed restriction to maintain the residential unit. At that time, the applicant was unable to provide sufficient parking to meet the demand for an entirely commercial project, as residential uses typically require less parking than commercial and/or office uses.

The Commission finds that the proposed conversion of the residential unit to office space is consistent with Chapter 3 of the Coastal Act. The conversion of the residential unit to office space is consistent with the prevailing commercial character of the surrounding area. With respect to public access, the applicant has undertaken a site-specific parking study for the project which establishes that the existing onsite parking is adequate to support the proposed change in use to office space for the entire building. Furthermore, any increase in demand for parking resulting from the change in use is mitigated by the transit-oriented nature of the Downtown area and the applicant's proposal to lease offsite parking, incorporate a TDM program, and provide onsite bicycle parking, shower and lockers. Since issuing the original CDP, circumstances, including but not limited to, the increase in public transit options, ridesharing, and bike infrastructure reduce the need for onsite parking for the project site.

Despite the associated deed restriction tied to the residential unit, a portion of the residential unit has been converted to office space in non-compliance with CDP No. 5-94-172. The applicant seeks after-the-fact approval for the addition of the mezzanine, conversion of the residential unit to office space, and the removal of two parking spaces.

Commission Staff recommends approval of the amendment request with revisions to Standard Conditions 1 (Notice of Receipt and Acknowledgement) and 3 (Compliance);

and Special Condition 1 (Limitations on Use), Special Condition 2 (Revised Plans) and Special Condition 3 (Parking Management Plan). The conditions of the underlying permit, as revised, continue to apply. Commission Staff recommends Special Condition 4 (Onsite Parking), Special Condition 5 (Final TDM Program), Special Condition 6 (Future Development) and Special Condition 7 (Permit Compliance).

Commission staff recommends approval of coastal development permit application 5-94-172-A1 as conditioned.

**PROCEDURAL NOTES:** The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change, or
- 2) Objection is made to the Executive Director's determination of immateriality, and at least three Commissioners object to the executive directors' designation of immateriality at the next Commission meeting, or the Executive Director determines that the objection raises an issue of conformity with the Coastal Act or certified Local Coastal Program.

The Executive Director has determined that the proposed amendment is a material change that affects conditions required for the purpose of protecting coastal access.

PLEASE NOTE THAT THIS WILL BE A VIRTUAL MEETING. As a result of the COVID-19 emergency and the Governor's Executive Orders N-29-20 and N-33-20, this Coastal Commission meeting will occur virtually through video and teleconference. Please see the Coastal Commission's Virtual Hearing Procedures posted on the Coastal Commission's webpage at [www.coastal.ca.gov](http://www.coastal.ca.gov) for details on the procedures of this hearing. If you would like to receive a paper copy of the Coastal Commission's Virtual Hearing Procedures, please call 415-904- 5202.

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## APPENDICES

Appendix A – Substantive File Documents

Appendix B - Standard and Special Conditions pursuant to CDP No. 5-94-172 through CDP Amendment No. 5-94-172-A1

## EXHIBITS

[Exhibit 1 – Project Location](#)

[Exhibit 2 – Project Plans](#)

[Exhibit 3 – Transportation Demand Management Program](#)

[Exhibit 4 – Onsite Parking](#)

[Exhibit 5 – Deck](#)

[Exhibit 6 – Mezzanine](#)

## I. MOTION AND RESOLUTION

### Motion:

I move that the Commission **approve** Coastal Development Permit Amendment No. 5-94-172-A1, pursuant to the staff recommendation.

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in conditional approval of the permit amendment 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 Amendment No. 5-94-172-A1 on the grounds that the development as amended and subject to conditions, 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 amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

## II. CHANGES TO CONDITIONS

Unless specifically altered by this amendment, all regular and special conditions attached to Coastal Development Permit 5-94-172, as amended up through amendment number 5-94-172, remain in effect. Language to be deleted is shown in ~~strike-out~~ and new language is shown in **bold, underlined**.

### A. Standard Conditions

**1. Notice of Receipt and Acknowledgment.** The permit **amendment 5-94-172-A1** is not valid and development **authorized by permit amendment 5-94-172-A1** shall not commence until a copy of the permit **amendment**, 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.

**3. Compliance.** All development must occur in strict compliance with the proposal as set forth in the application for the permit, **as modified by the application for the permit amendment**, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.

## B. Special Conditions

### 1. Replacement of Special Condition No. 1 of Underlying Permit

Special Condition No. 1 shall be replaced with the new condition provided below. Language to be deleted is show in ~~strike-out~~ and new language is shown in **bold, underlined.**

~~Limitations on Use. Prior to issuance of the coastal development permit, applicant shall record a deed restriction, free of prior and encumbrances except for tax liens. The deed restriction shall be subject to the review and approval of the Executive Director, and shall run with the land, binding successors and assigns of the applicant and landowner, for the life of the project approved in this permit. The deed restriction shall provide that the second and third floor at the rear of the building shall be used and occupied as a single residential unit and shall not be leased or rented separately or for commercial office or retail uses.~~

**Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner(s) have 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.**

**This deed restriction shall supersede and replace the deed restriction recorded pursuant to Special Condition No. 1 of Coastal Development Permit 5-94-172, approved on December 15, 1994, which deed restriction is recorded as Instrument No. 95-330916 in the official records of Los Angeles County.**

2. **Revised Plans.** ~~Prior to issuance of the coastal development,~~ **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit for the review and approval of the Executive Director, revised plans showing four onsite bicycle parking spaces, one unisex shower and four onsite lockers. The revised plans shall also depict the locations of onsite transportation information signage.** ~~a setback of the third floor of 8 feet on the southwest wall for a distance of 12 feet on the southeast side, (ii) internal~~

floor plans for the second and third floors in the rear showing the improvement of that area as a single residential unit, and (iii) the installation of four (4) mechanical parking lifts in the rear parking area.

3. **Parking Management Plan.** ~~Prior to issuance of the coastal development permit,~~ **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT,** the applicant shall submit for the review and approval of the Executive Director an updated parking management plan. **The updated parking management plan shall** setting forth how the operation of the parking area shall be managed to assure efficient use of all spaces including the mechanical parking lifts. ~~The parking management plan shall be in substantial conformance with the draft plan attached as exhibit 10 to this report.~~
4. **Onsite Parking. The landowner shall maintain a total of 13 onsite parking spaces (8 tandem, 4 mechanical lifts, and 1 ADA) which shall remain available to serve the employees and visitors of the building for the life of the development. The onsite parking described above is depicted on the site plan attached to this staff report as Exhibit 4. Any future changes to the proposed parking must be submitted to the Executive Director to determine if an amendment to the permit is legally required.**
5. **Final Transportation Demand Management Program. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit for the review and approval of the Executive Director a revised final transportation demand management plan that substantially conforms with the written plan submitted to the Commission, titled Transportation Demand Management Plan received on April 23, 2020 (attached as Exhibit 3). The plan shall apply to the permittee and any future successor or assigns.**
  - A) **The proposed project shall implement the 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:**
    - i. **The applicant and its successors and assigns shall actively encourage employee participation in a Transportation Ride Sharing program.**
    - ii. **A public transit fare reimbursement program shall be implemented by the applicant or its successors and assigns. All tenants shall offer full reimbursement to one hundred percent of the employees of the development for public transit fare to and from work.**
    - iii. **The applicant and its successors and assigns shall provide a minimum of four secure bicycle parking spaces, free of charge, on the property. All bicycle parking spaces shall be shared among and equally available to all of the employees of the**

building. Shower facilities shall also be provided for employees of the office uses.

- iv. 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 for new tenants and shall be distributed to employees annually thereafter for the life of the development.
- v. Employees that do not utilize a parking space and demonstrate the use of public transportation shall be offered a full reimbursement for the cost of the public transportation.
- vi. Provide incentives for employees that live within 1/2 mile of the workplace.

B) Any proposed changes to the approved program shall be reported to the Executive Director. No changes to the program shall occur without a Coastal Commission approved amendment to this coastal development permit amendment unless the Executive Director determines that no amendment is required.

- 6. FUTURE DEVELOPMENT. This permit is only for the development described in Coastal Development Permit No. 5-94-172-A1, consisting of the development request in the applicant's proposal to convert the residential unit to office, provide 13 onsite parking spaces and 18 offsite parking spaces, as modified by the conditions of this permit. Pursuant to Title 14 California Code of Regulations (CCR) Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code (PRC) Section 30610(b) shall not apply to the development governed by the CDP 5-94-172-A1. Accordingly, any future improvements to this structure authorized by this permit, including offsite parking, shall require an amendment to CDP 5-94-172-A1 from the Commission or shall require an additional CDP from the Commission or from the applicable certified local government. In addition thereto, an amendment to CDP 5-94-172-A1 from the Commission or an additional CDP from the Commission or from the applicable certified local government shall be required for any repair or maintenance identified as requiring a permit in PRC Section 30610(d) and Title 14 CCR Sections 13252(a)-(b).
- 7. Permit Compliance. The permitted use of the approved development is office use. All development must occur in strict compliance with the proposal as set forth in the application for this permit amendment (including the proposed office use and on and off-site parking) subject to the conditions of this permit. Any deviation from the approved plans, any

**change in use, or changes to the approved parking, must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is required.**

### III. FINDINGS AND DECLARATIONS

#### A. Project Description and Background

The project site consists of a mixed-use building on a 7,500 sq. ft. lot located at 1522 2<sup>nd</sup> Street in Santa Monica bounded by Broadway to the north and Colorado Ave. to the south ([Exhibit 1](#)). The Santa Monica Land Use Plan (LUP) designates this project site as being located within the Downtown Commercial land use district. The existing structure was originally built in 1940, prior to the Legislature's adoption of the Coastal Act. In 1994, the Commission approved CDP No. 5-94-172, which authorized a 6,585 sq. ft. addition to an existing 5,350 sq. ft. retail/office/storage building, resulting in 4,615 sq. ft. retail/office on the ground floor, 1,960 sq. ft. general office on the 2nd floor, a 5,360 sq. ft. residential unit on the 2nd and 3rd floors at the rear of the building, and 1,675 sq. ft. of parking (15 onsite parking spaces).

CDP No. 5-94-172 required that the project provide parking for not only the addition but also for the intensified use of the existing building. The Commission determined that the proposed structure would require a total of 31 parking spaces, based on a parking ratio of 1 space per 225 sq. ft. of retail, 1 space per 250 sq. ft. of office, and 2 spaces for the residential unit. However, the Commission approved the project with only 15 spaces to account for the change in use and the new floor area. The Commission did not require that the project include parking for the existing 5,250 sq. ft. building.

Subsequent to the Commission's 1994 CDP approval, the prior owner of the building converted 2,102 sq. ft. of the residential unit to office space and constructed a 940 sq. ft. mezzanine without obtaining a Coastal Development Permits. In addition, in 2012, the City required that an expanded onsite trash/recycling area be established in the garage. As a result, the owner removed two parking spaces, but failed to obtain an amendment to CDP No. 5-94-172 at the time. At that time, the parking area was reduced from 1,675 sq. ft. to 1,568 sq. ft. Prior to the unpermitted parking reduction, the site included one ADA parking space in front of the building and 14 spaces in the parking garage (10 tandem parking spaces and four additional parking spaces on mechanical lifts). In order to install the expanded onsite trash/recycling area, the prior owner of the property removed 2 of the tandem parking spaces in the garage.

The applicant proposes to amend CDP No. 5-94-172-A1 to authorize some new development and some development that occurred without a coastal development permit. The proposal requests approval to convert the entire 5,360 sq. ft. residential unit to office space (2,102 sq. ft. of which was previously converted to office space without a CDP), to construct a 1,163 sq. ft. roof deck on the second floor in the center of the property where the building is only one story (no increase in existing building height), to consolidate existing mezzanine into a common rectilinear mezzanine, and retain the existing 1,568 sq. ft. of parking for 13 onsite parking spaces and to lease 18 offsite parking spaces ([Exhibits 2, 5, and 6](#)). The proposed use includes 12,042 sq. ft. of office

space and 1,568 sq. ft. of parking. In addition, the applicant requests the Commission approve after-the-fact some development that occurred on-site without a CDP, including: the addition of a 940 sq. ft. mezzanine and the removal of two onsite parking spaces.

## **B. Public Access**

Coastal Act Section 30252 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.

LUP Policy 19 states:

Additional parking shall be provided to support land use intensification when an existing structure is converted to a use which has a greater parking requirement.

LUP Policy 20 states:

New development shall provide adequate parking to meet all demands created by the development. With the exception of development within 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. In commercial or industrial districts, off-street parking may be located off of the parcel or building site if each of the following conditions are satisfied: 1) the property is located within 1,000 feet of the perimeter of the parcel or building site and commences within 300 feet of the perimeter. This distance shall be computed from the nearest point of the parking area; 2) the property on which the parking spaces are provided is zoned for parking uses and owned in fee by the owner of the parcel or building site which is subject to the parking space requirements; and 3) additional documents, covenants, deed restrictions, or other agreements deemed necessary by the Zoning Administrator are executed to assure that the required parking spaces are maintained off site for the life of the project. The Zoning Administrator will determine, on a case by case basis, the appropriate document to be executed.

The Commission has consistently found that a direct relationship exists between the provision of adequate parking and the availability of public access to the coast. Section 30252 of the Coastal Act requires that new development should maintain and enhance public access to the coast by providing adequate parking facilities or providing substitute means of serving the development with public transportation. The Coastal Act prioritizes

the protection of public access to the coast and, in Section 30252, specifically identifies adequate parking as an important component of new development.

Therefore, in order to conform to the requirements of the Coastal Act, the proposed project must provide adequate parking or alternative modes of transportation to avoid negatively impacting coastal access. Providing adequate on-site parking with proposed development is necessary in order to protect public beach parking for members of the public who wish to access the coast.

The City's certified LUP does not include required minimum parking ratios for office use. However, the Commission has in the past required the provision of one parking space per 250 sq. ft. of office use in Santa Monica (Ref: CDP Nos. 5-04-291 and 5-12-047). Here, the applicant proposes to convert an existing 5,360 sq. ft. residential unit to office space and make other improvements to the structure. The change of use from residential to office is expected to increase the demand for parking. Based on prior Commission actions, while two parking spaces would be sufficient for the residential unit, 5,360 sq. ft. of office space typically requires approximately 21 parking spaces to meet the demand for parking and avoid impacting public access.

Here, the applicant has proposed to provide 13 onsite parking spaces and provide an additional 18 parking spaces offsite. The proposal includes removal of two parking spaces previously approved pursuant to CDP No. 5-94-172. For this particular property, recovering the two spaces that were removed is not feasible. Per the City's requirements, the onsite trash area must be adjacent to an alley. Thus, the trash area must be located within the existing garage, which takes up the entire alley frontage of the site.

The applicant has provided a parking study by Linscott, Law & Greenspan, Engineers (LLG) which concludes that the project "will provide sufficient parking to meet the forecast parking demand [and that] ... the recommended on-site parking supply is consistent with the parking rate recommended by the Nelson Nygaard parking study." The Nelson Nygaard report recommends a minimum parking rate for general office development projects in Transit Orientated Development (TOD) areas of one space per 1,000 sq. ft. Supporting this parking ratio, the Nelson Nygaard report states, "there is a large and growing body of work showing that parking demand is significantly lower near transit of all kinds. The effect is reinforced in dense, high quality, mixed use environments that attract people and entice them to walk." LLG provided in-depth detail about the abundance of public transit options and bike infrastructure available in the Downtown area. Therefore, in consideration of these studies, the 13 onsite parking spaces provided is sufficient parking to meet the demand of the entire 12,042 sq. ft. office development because one parking space per 1,000 sq. ft. would be provided on-site.

Although the applicant's parking study did not recommend providing offsite parking to meet parking demand for the expanded office space, the applicant has also proposed to provide a total of 18 offsite parking spaces at the Shore Hotel, a nearby hotel located west of the property. The parking at the Shore Hotel would be accessible from 1<sup>st</sup> Court, a small alley street, between the project site and the Shore Hotel ([Exhibit 1](#)). The

applicant has provided a detailed plan for the off-site parking supply to ensure that it will effectively serve the proposed development and reduce demand for street parking in the vicinity of the proposed development. The proposed offsite parking plan includes the following provisions:

- A. The proposed office space is not permitted to operate without a valid lease agreement for 18 offsite parking spaces in effect. The offsite parking lease shall be in effect during all points in time the building is occupied.
- B. Eighteen (18) offsite parking spaces will be provided within 1,000 feet (or consistent with any future revisions to the distance limitations for offsite parking as per the City of Santa Monica's LUP as and when amended) of 1522 2nd Street. The applicant shall submit a plan that identifies the specific location of the eighteen required parking spaces.
- C. The applicant will submit an annual lease agreement and any subsequent changes to the submitted lease for the review and approval of the Executive Director, that secures the applicant's (and the building's employees and visitors) legal ability to access and utilize the proposed offsite parking supply during hours of operation.
- D. In addition, the applicant shall submit an inventory of all other parking spaces in the offsite parking lot which are leased or rented and shall demonstrate that the eighteen required parking spaces are not encumbered by a prior action or leased by any other person or party. In the event that any of this information changes, the applicant shall provide detailed information of the changes to the Executive Director within 10 working days, at which point the parking program may be reevaluated to determine if a permit amendment is required.
- E. No public parking spaces (e.g., beach parking lots or on public streets) shall be used to satisfy the parking requirements.
- F. Signs shall be posted on each of the eighteen leased parking spaces which clearly state that the parking spaces are reserved and available for the exclusive use of the employees and visitors of 1522 2nd Street.
- G. In the event that the lease with the offsite parking location is terminated, the applicant shall, within 10 working days, provide evidence that the 18 required offsite parking spaces are maintained at an alternate location in a manner acceptable to the Executive Director within 1,000 feet (or consistent with any future revisions to the distance limitations for offsite parking as per the City of Santa Monica's LUP as and when amended) of 1522 2nd Street to meet the demands of the approved conversion of residential to office space.

Based on the applicant's study, the additional offsite parking is not necessary for the project to meet the demand for parking associated with the proposed expanded office development; however, these additional parking spaces would likely help to minimize any potential impacts to public access.

Nevertheless, in those cases where off-site parking is required to meet parking demand, in general, the Commission has approved projects that rely on parking at offsite locations (Ref: 5-16-0478/10 Washington Boulevard, Venice), consistent with the requirements of Section 30252 of the Coastal Act, where:

1. The proposed offsite parking provides an adequate capacity to meet the demands of the project;
2. The proposed offsite parking supply is near the proposed project and be accessible for convenient use by the target group that the offsite parking serves;
3. The proposed offsite parking supply is available for convenient use during the hours that the parking is needed to meet the demands of the project; and
4. The proposed offsite parking supply is available to meet the demands of the project on a permanent or long-term basis.

Without these minimum protections in place, offsite parking provided as part of a proposed development may not offset the increased parking demand created by the proposed development, which could affect public access to the coast because patrons of the development would be more likely to park at other off-site locations that are more convenient, thereby impeding the public's ability to use street parking to access the coast. Policy 20 of the certified LUP for Santa Monica,<sup>1</sup> which provides guidance for assessing a project's consistency with Chapter 3 policies but is not the standard of review, imposes additional requirements on projects that propose to meet parking demand through off-site parking, including a requirement that offsite parking be located within 1,000 ft. of the project site and that the off-site parking location is "...owned in fee by the owner of the parcel of building site which is subject to the parking space requirements." This project does not satisfy LUP Policy 20 because the off-site location is not owned by the owner of the site for the proposed development.

Nevertheless, in light of evidence that the parking provided on-site is sufficient to meet the demand of the proposed expanded office use, the additional off-site parking proposed by the applicant is not required for the project to comply with the public access policies of the Coastal Act; therefore, the Commission may approve the project even though the off-site parking does not meet all of the requirements of LUP Policy 20. While not a necessary component of the project, the off-site parking proposed by the applicant may be approved as part of the project proposal because it will benefit public access to the coast by minimizing the impacts of the expanded office space on the demand for street parking in the area.<sup>2</sup>

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<sup>1</sup> The City of Santa Monica has approved an update to the certified LUP. Though not yet certified by the Commission, the updated LUP eliminates both the 1,000 ft. distance and ownership requirements for offsite parking.

<sup>2</sup> Furthermore, the City of Santa Monica is in the practice of allowing tenants to make parking arrangements with the City and with private suppliers in the area. For example, in 2012, the previous owner of the project site entered into a parking arrangement for 16 offsite spaces at the Shore Hotel, which was approved by the City of Santa Monica Planning Director (or designee) under a shared parking determination. Given these considerations, and the fact that onsite expansion of parking is not feasible, the proposed retention of the existing onsite parking and leasing of offsite parking is sufficient to support the parking demand generated by the applicant's proposed use changes.

Other measures proposed by the applicant will further mitigate potential impacts to public access. For example, the applicant proposes to implement a Transportation Demand Management (TDM) Program, which will include onsite transportation information, a Project Transportation Coordinator, and other programmatic elements. The onsite transportation information is proposed to be provided in physical locations and through digital means. Such information will include, but is not limited to maps, routes and schedules for public transit routes; bicycle route and facility information; and ridesharing promotions material supplied by commuter-oriented organizations. The TDM Plan will include, but is not limited to, a new employee orientation; parking cash out program; and a transportation allowance. However, to ensure that the development will continue to incorporate the TDM plan to reduce parking and traffic so that parking generated by the development will not adversely impact public parking in the surrounding area, **Special Condition 6**, requiring the implementation of the TDM program, is necessary, and **Special Condition 2**, requiring that onsite transportation information remains visible and accessible to employees and visitors of the project site is also necessary.

The proposed project will also provide four bike parking spaces, a unisex shower and four lockers for employees of the building. **Special Condition 2** requires that final revised plans include the proposed bicycle parking, bicycle lockers and onsite shower facility.

To maintain adequate parking and ensure that public parking would not be adversely impacted, the Commission imposes several conditions that all together ensure adequate parking supply for the project site. Therefore, the Commission imposes **Special Condition 6 and 7** to ensure permit compliance and prevent future improvements to parking without approval, **Special Condition 4** to preserve the availability of onsite parking, as well as **Special Condition 5** to maintain lower parking demand levels by offering transportation alternatives. **Special Condition 3** requires that the applicant submit an updated parking management plan to ensure efficient operation of the mechanical lifts. **Special Condition 1** requires that, prior to issuance of the CDP, the applicant must execute and record a deed restriction to memorialize and independently impose the requirements of this permit. This deed restriction shall supersede and replace the deed restriction recorded pursuant to Special Condition No. 1 of Coastal Development Permit 5-94-172, approved on December 15, 1994, which deed restriction is recorded as Instrument No. 95-330916 in the official records of Los Angeles County.

Therefore, the project as conditioned, would not adversely impact public access, and the Commission finds that the proposed development is consistent with the public access sections of the Coastal Act and the certified LUP.

### **C. Development**

Coastal Act Section 30250(a) states, in part:

- (a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such

areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources...

The project site is located in the Downtown Commercial land use district designated by the certified Santa Monica LUP. The LUP classifies the project site area under the “Downtown Frame” (a part of Subarea 5) from the Santa Monica Freeway to the north side of Wilshire Blvd, and along the west side of Second Street. The description, in part, for the Downtown Frame subarea (LUP Policy 72) is as follows: “Allowable uses shall include retail, visitor-serving commercial, parking uses and other typical downtown commercial uses.” For this particular site, office use is generally consistent with “other typical downtown commercial uses.” Furthermore, although not a standard of review for the CDP, the approval of office use is consistent with the C3- Downtown Commercial zoning for the subject site which allows general retail, office, residential, hotel and visitor-serving uses. Also, as stated on page 79 of the LUP, “intensification of existing office, retail, residential, entertainment and other visitor-serving uses is expected to occur in this area...” Furthermore, the subject structure is surrounded primarily by retail, restaurants, hotels and other office establishments.

The Commission’s previous action at the subject site required that the property owner record a deed restriction to retain the proposed residential unit as part of the building (Ref: Special Condition 1 of 5-94-172). At the time, no offsite parking was proposed, and the applicant proposed the ~5,000 sq. ft. residential unit to ensure parking demand could be accommodated on the subject site. As discussed in the Public Access section of this report, the applicant has undertaken a site-specific parking study for the project which found that the existing onsite parking is adequate to support the proposed change in use. Furthermore, the additional parking demand resulting from the current proposal to convert the residential unit to commercial use is offset by the transit-oriented nature of the Downtown area and the applicant’s proposal to lease offsite parking, incorporate a TDM program, and provide onsite bicycle parking, shower and lockers. Since issuing the original CDP, circumstances, including but not limited to, the increase in public transit options, ridesharing, and bike infrastructure reduce the need for onsite parking for the project site.

Section 30250 of the Coastal Act requires new development to be concentrated in existing developed areas where it can be accommodated without adverse effects either individually or cumulatively to coastal resources. An important consideration is whether the impacts of one housing unit loss would cumulatively harm coastal resources. To that end, Commission staff consulted with the City to explore whether there are any broader trends regarding housing density in Santa Monica’s Coastal Zone. The City provided Commission staff housing data from between 2009 and 2018, which demonstrates that, during the past roughly ten years, 182 units were constructed in the Coastal Zone and 145 units were removed from the Coastal Zone, resulting in a net gain of 37 units in the 10-year period. This trend of increasing housing stock within the Coastal Zone has been sustained over at least the past decade and, due to policies at the local level, seems likely to continue in the future. In fact, three mixed-use projects that propose to provide over 200 housing units in the Santa Monica area are on the same agenda as the subject application (Ref: CDP Application Nos. 5-19-0983, 5-19-0984, and 5-19-1064).

Thus, the loss of a single, approximately 5,000 sq. ft., residential unit at this location is not part of a broader trend in the Santa Monica Coastal Zone and, therefore, approval of the project is not likely to significantly impact coastal resources elsewhere in the Coastal Zone. Furthermore, as discussed below in Section D of the staff report, the proposed conversion of the building entirely to a commercial use is consistent with the community character of this area of Santa Monica. Thus, as conditioned, the proposed project is consistent with Coastal Act section 30250.

## **D. Visual Resources**

Section 30251 of the Coastal Act states, in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of the surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

LUP Policy 46 states, in part:

... Permitted development including public works of art shall be sited and designed to:

- a. protect views to and along the ocean and scenic coastal areas;
- b. minimize the alteration of natural landforms; and
- c. be visually compatible with the character of surrounding areas and restore and enhance visual quality in visually degraded areas.

Section 30251 of the Coastal Act requires development to be sited and designed to protect views to and along the ocean and in scenic coastal areas. The proposed site is located on the west side of 2nd Street and west of Santa Monica Place. Santa Monica Place is a three-level, enclosed downtown shopping center, which along with the Third Street Promenade, forms the City's downtown retail core. The LUP's Scenic and Visual Resources Map designates the area west of the Santa Monica Place shopping center as a Scenic Corridor. The proposed project is located within the view corridor of Santa Monica Place. The project proposes a non-roofed 1,163 sq. ft. deck in the center of the property, where the building is only one story, connecting the second floor of the West building to the 3<sup>rd</sup> floor of the East building. The project's west building will remain 4-stories (including the original residential loft) and 60 feet high which is within allowable development standards. The subject building is also situated by an adjacent building to the south with a height of 45 feet. To the north of the subject building is another building at a height of 20 feet. As such, the deck will be wedged between the East and West buildings on the site but below the current building height ([Exhibit 5](#)). Due to the height of the proposed deck situated below the current building height, and the proximity of the presiding adjacent south building, the proposed deck does not impact the Santa Monica Place view corridor, nor will public views be impacted by the proposed development.

In addition, the proposed conversion of the residential unit to commercial use (office space) is consistent with the character of this area of Santa Monica, which contains very little residential development and is instead characterized primarily by hotels and large commercial development buildings.

Therefore, the proposed development is consistent with the visual resource policies of the Coastal Act.

### **E. Coastal Act Violations**

Violations of the Coastal Act have occurred on the property, including the addition of a 940 square foot mezzanine, the conversion of 2,102 square feet of deed-restricted residential unit to office space, and the removal of two parking spaces, without the benefit of the necessary coastal development permit. The applicant is seeking after-the-fact approval for the unpermitted development that has occurred on the site.

Any non-exempt development activity conducted in the Coastal Zone without a valid coastal development permit, or which does not substantially conform to a previously issued permit, constitutes a violation of the Coastal Act.

Consideration of the permit application by the Commission has been based solely on consistency of the proposed development with the policies of Chapter 3 of the Coastal Act. Approval of this application pursuant to the staff recommendation, issuance of the permit, and the applicant's subsequent compliance with all terms and conditions of the permit will result in resolution of the above described violations going forward. Approval of this permit is possible only because of the conditions included herein, and the applicant's presumed subsequent compliance with said conditions, and failure to comply with these conditions in conjunction with the exercise of this permit would also constitute a violation of this permit and of the Coastal Act. Accordingly, the applicant remains subject to enforcement action just as it was prior to this permit approval for engaging in unpermitted development.

### **F. Local Coastal Program**

The Coastal Act requires that the Commission consider the effect on a local coastal program when it approves a project. Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program (LCP) which conforms with Chapter 3 policies of the Coastal Act:

Section 30604 (a) of the Coastal Act states:

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).

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). The City of Santa Monica has a certified Land Use Plan (LUP). The City of Santa Monica Land Use Plan was effectively certified in August 1992. The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The certified Santa Monica LUP is advisory in nature and may provide guidance.

### **G. California Environmental Quality Act**

Section 13096 of the California Code of Regulations requires Commission approval of a coastal development permit application 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). 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.

In this case, the City of Santa Monica is the lead agency and the Commission is the responsible agency for the purposes of CEQA. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate potential impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

## **Appendix A: Substantive File Documents**

- Findings for CDP Application No. 5-94-172
- Linscott, Law & Greenspan, Engineers (LLG), May 18, 2020. Parking Demand Study for the Proposed Office Project at 1522-1524 Second Street. LLG Ref: 5-20-0509-1
- Certified Santa Monica Land Use Plan (August 1992)

## **APPENDIX B – Standard and Special Conditions pursuant to CDP No. 5-94-172 through CDP Amendment No. 5-94-172-A1**

**NOTE:** Appendix B includes all standard and special conditions that apply to this permit, as approved by the Commission in its original action and modified and/or supplemented by CDP Amendment No. 5-94-172-A1. This will result in one set of adopted special conditions.

### **STANDARD CONDITIONS**

- 1. Notice of Receipt and Acknowledgment.** The permit amendment 5-94-172-A1 is not valid and development authorized by permit amendment 5-94-172-A1 shall not commence until a copy of the permit amendment, 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 this permit is reported to the Commission. 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. Compliance.** All development must occur in strict compliance with the proposal as set forth in the application for the permit, as modified by the application for the permit amendment, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
- 4. Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
- 5. Inspections.** The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
- 6. 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.
- 7. 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.

### **SPECIAL CONDITIONS**

- ~~1. Limitations on Use. Prior to issuance of the coastal development permit, applicant shall record a deed restriction, free of prior and encumbrances except for tax liens. The deed restriction shall be subject to the review and approval of the Executive Director, and shall run with the land, binding successors and assigns of the applicant and landowner, for the life of the project approved in this permit. The deed restriction~~

~~shall provide that the second and third floor at the rear of the building shall be used and occupied as a single residential unit and shall not be leased or rented separately or for commercial office or retail uses.~~

**1. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner(s) have 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.**

**This deed restriction shall supersede and replace the deed restriction recorded pursuant to Special Condition No. 1 of Coastal Development Permit 5-94-172, approved on December 15, 1994, which deed restriction is recorded as Instrument No. 95-330916 in the official records of Los Angeles County.**

**2. Revised Plans.** ~~Prior to issuance of the coastal development,~~ **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the** applicant shall submit for the review and approval of the Executive Director, revised plans showing **four onsite bicycle parking spaces, one unisex shower and four onsite lockers. The revised plans shall also depict the locations of onsite transportation information signage.** ~~a setback of the third floor of 8 feet on the southwest wall for a distance of 12 feet on the southeast side, (ii) internal floor plans for the second and third floors in the rear showing the improvement of that area as a single residential unit, and (iii) the installation of four (4) mechanical parking lifts in the rear parking area.~~

**3. Parking Management Plan.** ~~Prior to issuance of the coastal development permit,~~ **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT,** the applicant shall submit for the review and approval of the Executive Director an updated parking management plan. **The updated parking management plan shall** setting forth how the operation of the parking area shall be managed to assure efficient use of all spaces including the mechanical parking lifts. ~~The parking management plan shall be in substantial conformance with the draft plan attached as exhibit 10 to this report.~~

**4. Onsite Parking. The landowner shall maintain a total of 13 onsite parking spaces (8 tandem, 4 mechanical lifts, and 1 ADA) which shall remain available to serve the employees and visitors of the building for the life of the development. The onsite parking described above is depicted on the site plan attached to this staff report as Exhibit 4. Any future changes to the proposed parking must be submitted to the Executive Director to determine if an amendment to the permit is legally required.**

**5. Final Transportation Demand Management Program. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit for the review and approval of the Executive Director a revised final transportation demand management plan that substantially conforms with the written plan submitted to the Commission, titled Transportation Demand Management Plan received on April 23, 2020 (attached as Exhibit 3). The plan shall apply to the permittee and any future successor or assigns.**

- A) The proposed project shall implement the 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:**
- i. The applicant and its successors and assigns shall actively encourage employee participation in a Transportation Ride Sharing program.**
  - ii. A public transit fare reimbursement program shall be implemented by the applicant or its successors and assigns. All tenants shall offer full reimbursement to one hundred percent of the employees of the development for public transit fare to and from work.**
  - iii. The applicant and its successors and assigns shall provide a minimum of four secure bicycle parking spaces, free of charge, on the property. All bicycle parking spaces shall be shared among and equally available to all of the employees of the building. Shower facilities shall also be provided for employees of the office uses.**
  - iv. 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 for new tenants and shall be distributed to employees annually thereafter for the life of the development.**
  - v. Employees that do not utilize a parking space and demonstrate the use of public transportation shall be offered a full reimbursement for the cost of the public transportation.**

vi. Provide incentives for employees that live within 1/2 mile of the workplace.

B) Any proposed changes to the approved program shall be reported to the Executive Director. No changes to the program shall occur without a Coastal Commission approved amendment to this coastal development permit amendment unless the Executive Director determines that no amendment is required.

6. FUTURE DEVELOPMENT. This permit is only for the development described in Coastal Development Permit No. 5-94-172-A1, consisting of the development request in the applicant's proposal to convert the residential unit to office, provide 13 onsite parking spaces and 18 offsite parking spaces, as modified by the conditions of this permit. Pursuant to Title 14 California Code of Regulations (CCR) Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code (PRC) Section 30610(b) shall not apply to the development governed by the CDP 5-94-172-A1.

Accordingly, any future improvements to this structure authorized by this permit, including offsite parking, shall require an amendment to CDP 5-94-172-A1 from the Commission or shall require an additional CDP from the Commission or from the applicable certified local government. In addition thereto, an amendment to CDP 5-94-172-A1 from the Commission or an additional CDP from the Commission or from the applicable certified local government shall be required for any repair or maintenance identified as requiring a permit in PRC Section 30610(d) and Title 14 CCR Sections 13252(a)-(b).

7. Permit Compliance. The permitted use of the approved development is office use. All development must occur in strict compliance with the proposal as set forth in the application for this permit amendment (including the proposed office use and on and off-site parking) subject to the conditions of this permit. Any deviation from the approved plans, any change in use, or changes to the approved parking, must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is required.