

CALIFORNIA COASTAL COMMISSION

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W17b

A-5-LOB-21-0016 (City of Long Beach)

April 14, 2020

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Exhibit 1 - Map of Applicable Areas (green & yellow)

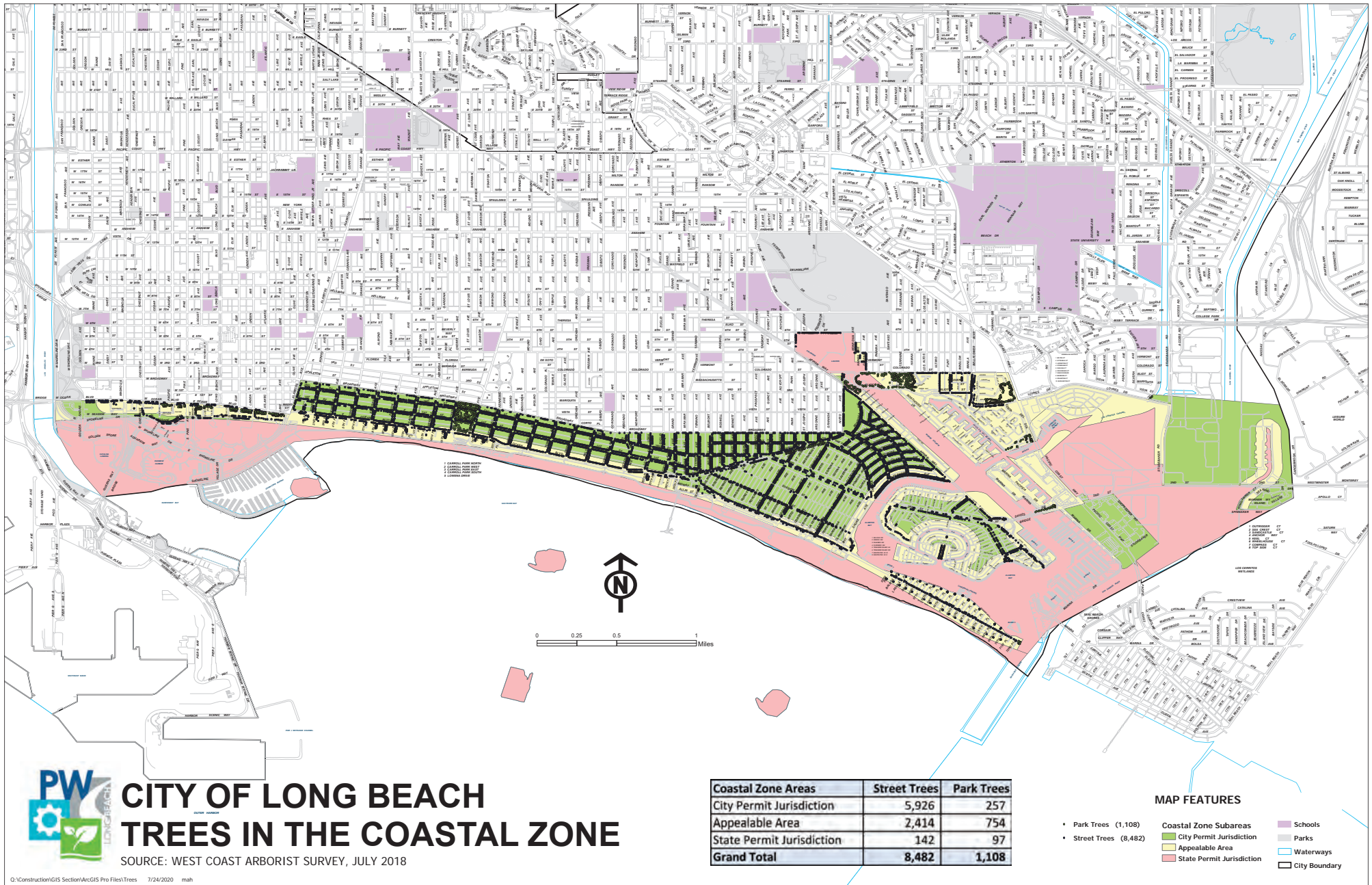


Exhibit 2 - Appellant's Letter



February 8, 2021

To: City of Long Beach, California Coastal Commission

From: The Los Cerritos Wetlands Task Force, Sierra Club

Re: Appeal of SITE PLAN REVIEW AND LOCAL COASTAL DEVELOPMENT PERMIT CONDITIONS OF APPROVAL Application No. 2009-01 (SPR20-025, LCDP20-033)

While we very much support and appreciate the City's efforts to expand and improve protections for both trees and coastal birds, the Los Cerritos Wetlands Task Force is appealing this Application due to the following:

- 1) *4a: This permit shall be formally amended upon Coastal Commission approval of changes to the defined nesting bird season.*

Concern: Unclear language - What exactly is being amended and when? Is the Commission actually planning to make changes to the definition of nesting bird season in the future or does the Commission need to approve the changes made orally to this document? There is no set time period in which all species of birds build nests, nor when their young no longer rely on them. A "nesting season" designed to accommodate tree maintenance operations is suspect, not scientific. We appreciate the proposed January - September dates as written.

- 2) *5: staff from each department shall be responsible for annual reporting, 8: the qualified biologist or ornithologist's survey report, 9: a plot plan showing any trees suspected to have active or unoccupied nests, 10: The database of survey reports should include a record of breeding, roosting, and nesting trees that is available as public information and to be used for future tree trimming and removal decisions, 14: An annual monitoring report for tree replacement.*

Concern: Policy must differentiate between surveys done immediately prior to tree trimming (during nesting or non-nesting season) and surveys done to identify *any trees suspected to have active or unoccupied nests* in order to compile a database and *annual monitoring reports*. Surveys must be done annually during nesting season to ensure that all trees suspected to have active or unoccupied nests are included and that an accurate database with a record of breeding, roosting, and nesting trees is compiled. Monitoring reports for tree replacement must also take into consideration data on the location of past and present nesting sites. The policy must be worded to state that annual surveys are to be completed during nesting season in addition to those done prior to tree trimming and/or removal.

- 3) *8 Steps shall be taken to ensure that tree trimming will be the minimum necessary to address the health and safety danger while avoiding or minimizing impacts to breeding and nesting birds and their habitat. 8d1. Tree trimming shall be on a rotating basis, as needed to address the health and*

safety danger, unless emergency tree trimming is required. The rotation for trimming trees shall be no shorter than a 2-year rotation.

Concern: To also ensure suitable nesting habitat for Black-crowned Night Herons, Snowy Egrets, Great Blue Herons, and other raptors and passerines, tree-trimming rotation should proscribe pruning 20% or less of the tree canopy in no more than 20% of the nesting trees every 2 years. The current policy of trimming all trees on a street or in a neighborhood at the same time must be discontinued. (See attached: 5-Year Alternative Pruning Policy Program In and Around Alamitos Bay).

- 4) *13. Any appeals filed under the adopted tree trimming policies for the Public Works Department shall be finalized prior to including the subject tree in a request for trimming/removal under the provisions of this LCDP.*

Concern: Unclear language. As written it seems that appeals opposing the trimming/removal of a tree must be filed before the *subject* tree is scheduled for removal (*included in a request for tree trimming/removal*). How will people know that a tree is to be trimmed/removed in order that they may appeal? Will trees not yet included *in a request for tree trimming/removal* be posted that they may possibly be trimmed and/or removed? Please clarify.

- 5) *14. An annual monitoring report for tree replacement shall be submitted for the review and approval of the Director of the Department of Public Works, Director of the Department of Parks, Recreation and Marine, a representative of the Audubon Society*

Concern: The annual monitoring report should also be reviewed by local Coastal Commission Staff to ensure compliance with this LCP. Having it *maintained with (?)* the Coastal Commission's Executive Director after the fact, does not provide for input or adequate review.

Concern: That Sierra Club be added to those reviewing the annual monitoring report. Although El Dorado Audubon Society has, in the past, conducted annual surveys of coastal birds in and around Alamitos Bay, it is now primarily focused on the Los Cerritos Wetlands and no other chapter conducts annual surveys of all coastal nesting sites in Long Beach. While Audubon focuses on birds and nests, the health of the trees themselves is also central. Protecting our urban forest in the Coastal Zone requires the engagement and oversight of organizations like Sierra Club with a history of promoting conservation.

- 6) *14. The removal of any breeding and nesting tree shall require mitigation at a 1:1 ratio.
14b. For replacement of trees that were known to have supported nesting, a replacement ratio of 2:1 shall be provided.*

Concern: Clarity/Inconsistency. A *breeding and nesting tree* is a tree known to have supported nesting. Ratio should be consistent, 2:1.

- 7) *16a. City staff shall post the tree and issue notices to property owners within 300 feet as well as the Council District office of the pending tree removal. Appeals shall be filed within 10 working days of the tree posting.*

Concern: How much in advance of the date of tree trimming/removal will the tree be posted and the notices issued? For how many days will the tree be posted? We ask that notices be received

and posting done 2 weeks (minimum) in advance of scheduled trimming/removal and that posting be redone if trimming/removal is scheduled more than two months after original posting.

Contacts for Los Cerritos Wetlands Task Force, Sierra Club

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Exhibit 3 - City-Approved Tree Trimming Policy

SITE PLAN REVIEW AND LOCAL COASTAL DEVELOPMENT PERMIT CONDITIONS OF APPROVAL

**All City-Maintained or -Owned Trees in the Coastal Zone (Appealable and Non-Appealable Areas of City Jurisdiction, excluding State Permit Jurisdiction) Application No. 2009-01 (SPR20-025, LCDP20-033)
January 11, 2021**

Special Conditions:

1. This approval is for Site Plan Review and a Local Coastal Development Permit for adoption of a policy allowing the City of Long Beach to provide annual and emergency tree trimming activities for the City-maintained trees within the local coastal permit areas (Appealable and Non-Appealable Areas of City Jurisdiction, excluding State Permit Jurisdiction). The City will utilize the same Tree Trimming and Removal Policy (CDP No. 5-08-187) (Exhibit A to these Conditions of Approval) that was issued by the California Coastal Commission to the City for the area under the state jurisdiction, unless amended or added to herein.
2. Conditions of approval specific to Coastal Development Permit No. CDP-5-08-187 for the Tree Trimming and Removal Policy in the Tidelands area remain in full force and effect. This LCDP does not modify the terms and conditions to the application of CDP-5-08-187 in the California Coastal Commission's Original Permit Jurisdiction.
3. All tree trimming and/or removal activities shall comply with the provisions of this permit, federal Migratory Bird Treaty Act - U.S. Code, Title 16, § 703 and California Fish and Game Code § 3513.
4. The applicable nesting bird season for tree trimming and/or removal for the purposes of implementing the conditions of this permit shall be January through September, in accordance with CDP No. 5-08-187.
 - a. As the best available science on bird nesting seasons evolves, the definition of nesting bird season may be subject to change. This permit shall be formally amended upon Coastal Commission approval of changes to the defined nesting bird season.
5. The following staff from each department shall be responsible for annual reporting subject to the conditions of approval for each respective department:
 - a. Beach Maintenance Superintendent (Marine Bureau) – Parks, Recreation, and Marine Department
 - b. Park Maintenance Superintendent (Upland Parks) - Parks, Recreation, and Marine Department
 - c. Street Maintenance Superintendent (Public Service Bureau) – Department of Public Works

6. This Tree Trimming Policy and its conditions herein (App. No. 2009-01) and Adopted Coastal Zone Map (by jurisdiction) shall be included in all City bids and contracts for services related to tree maintenance.
 - a. Within 14-days of final approval of this LCDP, the final approved policy conditions shall be provided to existing contractors and existing bids in progress.
7. A qualified biologist or ornithologist and arborist shall be employed by or under contract to the City at all times that an active tree trimming contract is issued.
 - a. Prior to commencement of any tree trimming and removal during bird nesting season and non-nesting season, the City shall submit the name and qualifications of the City's biologist or ornithologist and tree arborist, to the California Coastal Commission Executive Director and to South Coast District Office of the Coastal Commission. The information shall also be available to the public upon request.
8. Upon complying with procedures described in CDP No. 5-08-187, the survey report and tree trimming and/or removal plan shall be submitted to the required parties by e-mail within two (2) business days the qualified biologist or ornithologist's survey report. The email shall include a copy of the survey report and the tree pruning or removal plan prepared by the arborist or landscape contractor which shall incorporate the following:
 - a. A description of how work will occur.
 - b. Work must be performed using nonmechanized hand tools to the maximum extent feasible.
 - c. Limits of tree trimming and/or removal shall be established in the field with flagging and stakes or construction fencing.
 - d. Steps shall be taken to ensure that tree trimming will be the minimum necessary to address the health and safety danger while avoiding or minimizing impacts to breeding and nesting birds and their habitat.
 - 1) Tree trimming shall be on a rotating basis, as needed to address the health and safety danger, unless emergency tree trimming is required. The rotation for trimming trees shall be no shorter than a 2-year rotation.
9. The qualified biologist or ornithologist's survey report shall include a map with the respective status of all the trees scheduled for pruning or removal and a plot plan showing any trees suspected to have active or unoccupied nests.
10. Prior to tree removal allowed under the policy, the Applicant shall provide documentation to the Department of Development Services to demonstrate compliance with all Conditions of Approval for this coastal permit. All documentation shall remain on file with the Department of Development Services

and the applicable department completing the tree trimming/removal. The database of survey reports should include a record of breeding, roosting, and nesting trees that is available as public information and to be used for future tree trimming and removal decisions.

11. Replacement trees shall be from the City of Long Beach Public Works Department Approved Street Tree List.
 - a. A focus shall be placed on tree species that are appropriate for nesting activity.
12. The adopted tree trimming policies for the Public Works Department and Parks, Recreation, and Marine Department shall be amended to incorporate the applicable final documents approved under this project.
13. Any appeals filed under the adopted tree trimming policies for the Public Works Department shall be finalized prior to including the subject tree in a request for trimming/removal under the provisions of this LCDP.
14. The removal of any breeding and nesting tree shall require mitigation at a 1:1 ratio. Per CDP No. 5-08-187, a tree replacement planting plan for each tree replacement shall be developed to specify replacement tree location, tree type, tree size (no less than 36" box size), planting specifications, and a five-year monitoring program with specific performance standards. An annual monitoring report for tree replacement shall be submitted for the review and approval of the Director of the Department of Public Works, Director of the Department of Parks, Recreation and Marine, a representative of the Audubon Society, and maintained with the Executive Director of the Coastal Commission (CCC) on file as public information to determine baseline data for future tree trimming and removal decision making.
 - a. If a 36" box tree cannot be accommodated in the planting area due to the planting area width or related infrastructure/installation constraints the replacement tree shall be a size that would support nesting activities (as determined by a qualified arborist) and as follows:
 - 1) If a 36" box tree cannot be accommodated in the planting area, a 24" box tree shall be provided and the appropriate department will also pay for the equivalent of one (1) 15-gallon tree or larger to be planted elsewhere in the City. The additional replacement tree shall be planted in the vicinity of the tree to be replaced. Where feasible, replacement trees should be planted in groups/stands.
 - 2) If a 24" box tree cannot be accommodated in the planting area, a 15-gallon tree shall be provided and the appropriate department will also pay for the equivalent of two (2) 15-gallon trees or larger to be planted elsewhere in the City. The additional replacement trees shall be planted in the vicinity of the tree to be replaced.

Where feasible, replacement trees should be planted in groups/stands.

- 3) A minimum 15-gallon tree shall be provided for all replacement trees.
 - b. For replacement of trees that were known to have supported nesting, a replacement ratio of 2:1 shall be provided.
 - c. Replacement trees shall be at an appropriate height to support nesting birds, as determined by a biologist or ornithologist.
15. All trimmings must be removed from the site at the end of the business day and disposed of at an appropriate location.
16. The required posted notice prior and during the trimming of City-maintained trees shall include the contact information for a representative for the Department of Public Works or Department of Parks, Recreation, and Marine, as applicable.
 - a. City staff shall post the tree and issue notices to all property owners within 300 feet as well as the Council District office of the pending tree removal. Appeals shall be filed within 10 working days of the tree posting.
17. If a tree removal or trimming activities in the Local or Appealable Areas of the Coastal Zone do not adhere to the provisions of this LCDP for the tree trimming policy, a separate LCDP shall be processed for those tree modifications.
 - a. Public Safety, eminent danger of failure due to a diseased tree:
 - 1) The applicable department, in consultation with a certified arborist and qualified biologist or public health official, as necessary, shall determine if an immediate or imminent health and safety issue exists (tree or branch is dead, diseased, dying or injured and said tree or branch is in imminent danger of collapse or breaking away causing a danger to human health and safety). The applicable department shall be proactive in identifying any tree related health and safety issue as early as possible during the nonbreeding/non-nesting season in order to avoid habitat disturbances during the breeding/nesting season.
 - 2) If an immanent risk of disaster is present, the emergency tree trimming provisions in CDP-5-08-187 shall apply.
 - b. Public Safety, property damage (private and public) and safety concerns:
 - 1) Property damage and safety concerns include but are not limited to:
 - i. Damage to private property, including structures, piping, driveways, flatwork.

- ii. Damage to public property, sidewalks/driveways/trailways resulting in a trip hazard, public facilities, utility infrastructure.
 - 2) In the event complaints are filed for damage, the applicable department, in consultation with a certified arborist and qualified biologist or public health official, as necessary, shall determine if an immediate or imminent health and safety issue exists (tree or branch is dead, diseased, dying or injured and said tree or branch is in imminent danger of collapse or breaking away causing a danger to human health and safety). If the tree is in good health, the arborist shall provide a survey report and recommendations for tree modifications to address damage without impacting the integrity of the tree.
 - 3) If there is no viable remedy to the cause of property damage, the applicable department shall submit a special permit application, as soon as possible, to the USFWS (Special Purpose Permits - U.S Code of Federal Regulations, Title 50, § 21.27) and notify CDFG, and the Executive Director of the CCC, as soon as possible, while proceeding, as necessary, with nesting tree removal or other remedies. When possible, the applicable department shall submit a special permit application and notify above agencies prior to tree removal or other remedies.
 - 4) The Department shall photograph the health and/or safety issue site conditions before and after the remedy(s) and document the impacts to the nesting tree (i.e. number of nests, eggs, and/or chicks lost) and adjacent biological resources. The photographs and report shall be available for public agency inspection.
 - 5) Steps shall be taken to ensure that tree pruning or removal will be the minimum necessary, as determined by an arborist or qualified biologist, to address the health and safety issue while avoiding or minimizing impacts to nesting birds and their habitat. Steps taken shall include the use of nonmechanized, to the extent feasible, hand tools whenever the emergency occurs within 300 feet of a nesting tree.
 - 6) All trimmings must be removed from the site at the end of the business day and disposed of at an appropriate location.
 - 7) Removal of any tree shall require mitigation at a 1:1 ratio. Replacement in accordance with the replacement policy in CDP-5-08-187 and as amended herein.
18. In the event that a private property owner wishes to trim, modify, or remove a tree on an adjacent public right-of-way, all provisions of this LCDP shall apply.

19. Construction staging, equipment, and materials shall not impede public access to the coast at all locations for both vehicular and pedestrian traffic.

Standard Conditions – Plans, Permits, and Construction:

20. Prior to the issuance of a building permit, the applicant shall submit a revised set of plans reflecting all of the design changes set forth in the conditions of approval, to the satisfaction of the Director of Development Services.
21. All conditions of approval must be printed verbatim on all plans submitted for plan review to the Department of Development Services. These conditions must be printed on the site plan or a subsequent reference page.
22. The plans submitted for plan review must explicitly call out and describe all materials, textures, accents, colors, window, door, planter, and paving details that were approved by the Site Plan Review Committee or the Planning Commission. No substantial changes shall be made without prior written approval of the Site Plan Review Committee or the Planning Commission.
23. Prior to the issuance of a building permit, the applicant must depict all utility apparatus, such as, but not limited to, backflow devices and Edison transformers, on both the site plan and the landscape plan. These devices shall not be located in any front, side, or rear yard area that is adjacent to a public street. Furthermore, these devices shall be screened by landscaping or another screening method approved by the Director of Development Services.
24. The Director of Development Services is authorized to approve minor modifications to the approved design plans or to any of the conditions of approval if such modifications shall not significantly change or alter the approved project. Any major modifications shall be reviewed by the Zoning Administrator, Site Plan Review Committee, or Planning Commission, respectively.
25. All rooftop mechanical equipment shall be fully screened from public view and views from taller, adjacent rooftops. Said screening must be architecturally compatible with the building in terms of theme, materials, colors and textures. If the screening is not specifically designed into the building, a rooftop mechanical equipment screening plan must be submitted for approval by the Director of Development Services prior to the issuance of a building permit.
26. Upon plan approval and prior to issuance of a building permit, the applicant shall submit an 11"x17" size set of final construction plans for the project file.
27. A permit from the Department of Public Works shall be required for any work to be performed in or over the public right-of-way.
28. Any off-site improvements found to be damaged as a result of construction activities related to this project shall be replaced to the satisfaction of the Director of Public Works.

29. Separate building permits are required for fences, retaining walls, flagpoles, and pole-mounted yard lighting foundations.
30. The applicant shall file a separate plan check submittal to the Long Beach Fire Department for review and approval prior to the issuance of a building permit.
31. Prior to the issuance of a building permit, the applicant shall submit architectural, landscaping and lighting drawings for the review and approval of the Police Department for their determination of compliance with Police Department security recommendations.
32. All structures shall conform to the Long Beach Building Code requirements. Notwithstanding this subject permit, all other required permits from the Building Bureau must be secured.
33. Site development, including landscaping, shall conform to the approved plans on file with the Department of Development Services. At least one set of approved plans containing Planning, Building, Fire, and, if applicable, Redevelopment and Health Department stamps shall be maintained at the job site, at all times for reference purposes during construction and final inspection.
34. Prior to the issuance of a building permit, the applicant must submit complete landscape and irrigation plans for the approval of the Director of Development Services.
35. All landscaped areas shall comply with the State of California's model landscape ordinance. Landscaped areas shall be planted primarily with drought tolerant plant materials and shall be provided with water conserving automatic irrigation systems designed to provide complete and adequate coverage to sustain and promote healthy plant life. The irrigation system shall not cause water to spray or flow across a public sidewalk.
36. All landscaping irrigation systems shall use high efficiency sprinkler nozzles. The models used and flow rates shall be specified on the landscaping plan. For residential-type or small-scale sprinkler systems, sprinkler head flow rates shall not exceed 1.00 GPM and shall be of the rotating type. Where feasible, drip irrigation shall be used instead. If an in-ground irrigation system is to be installed, such system shall be controlled by an automatic self-adjusting weather-based irrigation controller.
37. Permeable pavement shall be utilized where feasible, to the satisfaction of the Director of Development Services. Public right-of-way improvements shall be exempt from this requirement. If the feasibility of using permeable pavement is uncertain, it shall be the developer's responsibility to demonstrate that a given application of permeable pavement is not feasible, to the satisfaction of the Director of Development Services.
38. All outdoor fountains or water features shall utilize water recycling or re-circulation systems. The plans submitted for review shall specifically identify such systems.

39. Energy conserving equipment, lighting, and construction features shall be utilized in this project.
40. Low-flow fixtures shall be used for all lavatory faucets, kitchen faucets, showerheads, toilets, and urinals. Toilets may be either low-flow or dual flush. Maximum flow rates for each fixture type shall be as follows: lavatory faucet – 2.75 GPM, kitchen faucet – 2.20 GPM, showerhead – 2.00 GPM, toilet – 1.3 GPF, dual flush toilet – 0.8/1.6 GPF, urinal – 1.0 GPF. Plans submitted for review shall specifically identify such fixtures and flow rates.
41. For commercial food service facilities, low-flow pre-rinse sprayers with average flow rates of no more than 2.0 GPM shall be used. Flow rates shall be specified on plans.
42. Demolition, site preparation, and construction activities are limited to the following (except for the pouring of concrete which may occur as needed):
 - a. Weekdays and federal holidays: 7:00 a.m. to 7:00 p.m.;
 - b. Saturday: 9:00 a.m. - 6:00 p.m.; and
 - c. Sundays: not allowed
43. This permit and all development rights hereunder shall terminate three years from the effective date of this permit approval unless construction is commenced or a time extension is granted, based on a written and approved request submitted prior to the expiration of the three year period as provided in Section 21.21.406 of the Long Beach Municipal Code.
44. This permit shall be invalid if the owner(s) and/or applicant(s) have failed to return written acknowledgment of their acceptance of the conditions of approval on the Conditions of Approval Acknowledgment Form supplied by the Planning Bureau. This acknowledgment must be submitted within 30 days from the effective date of approval (final action date or, if in the appealable area of the Coastal Zone, 21 days after the local final action date).
45. If, for any reason, there is a violation of any of the conditions of this permit or if the use/operation is found to be detrimental to the surrounding community, including public health, safety or general welfare, environmental quality or quality of life, such shall cause the City to initiate revocation and termination procedures of all rights granted herewith.
46. This approval is required to comply with these conditions of approval as long as the use is on the subject site. As such, the site shall allow periodic re-inspections, at the discretion of city officials, to verify compliance. The property owner shall reimburse the City for the inspection cost as per the special building inspection specifications established by City Council (Sec. 21.25.412, 21.25.212).
47. In the event of transfer of ownership of the property involved in this application, the new owner shall be fully informed of the permitted use and development of said

property as set forth by this permit together with all conditions that are a part thereof. These specific requirements must be recorded with all title conveyance documents at time of closing escrow.

48. Approval of this development project is expressly conditioned upon payment (prior to building permit issuance or prior to Certificate of Occupancy, as specified in the applicable Ordinance or Resolution for the specific fee) of impact fees, connection fees and other similar fees based upon additional facilities needed to accommodate new development at established City service level standards, including, but not limited to, sewer capacity charges, Park Fees and Transportation Impact Fees.
49. No publicly accessible telephones shall be maintained on the exterior of the premises. Any existing publicly accessible telephones shall be removed.
50. The property shall be developed and maintained in a neat, quiet, and orderly condition and operated in a manner so as not to be detrimental to adjacent properties and occupants.
51. The property owner shall prevent loitering in all parking and landscaping areas serving the use during and after hours of operation. The operator must clean the parking and landscaping areas of trash and debris on a daily basis. Failure to do so shall be grounds for permit revocation. If loitering problems develop, the Director of Development Services may require additional preventative measures such as but not limited to, additional lighting or private security guards.
52. Exterior security bars and roll-up doors applied to windows and pedestrian building entrances shall be prohibited.
53. Any graffiti found on site must be removed within 24 hours of its appearance.
54. All required utility easements shall be provided to the satisfaction of the concerned department, agency, or utility company.
55. All trash and refuse containers shall be fully screened from public view to the satisfaction of the Director of Development Services.
56. As a condition of any City approval, the applicant shall defend, indemnify, and hold harmless the City and its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, and employees to attack, set aside, void, or annul the approval of the City concerning the processing of the proposal/entitlement or any action relating to, or arising out of, such approval. At the discretion of the City and with the approval of the City Attorney, a deposit of funds by the applicant may be required in an amount sufficient to cover any anticipated litigation costs and staff time required as a result of litigation activity.