

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR/DE NOVO

Application No.: A-5-LOB-20-0006

Applicant: Panattoni Development Company, Inc., (Attn: Mark Payne)

Local Government: City of Long Beach

Local Decision: Approval with Conditions

Appellants: Citizens About Responsible Planning (CARP, c/o Joe Weinstein, represented by Ann Cantrell)

Project Location: 300 North Studebaker Road, Long Beach, Los Angeles County (APNs: 7237-018-001, 7237-017-007, 7237-017-008, 7237-017-009, 7237-019-008)

Project Description: Demolish 400 sq. ft. of concrete pipeline structures and asphalt paving and construct two, 35-ft. high industrial buildings (91,700 sq. ft. and 47,500 sq. ft.) with solar-ready building design and bird-safe glass with 211 on-site vehicular parking spaces and landscaping on 6.69 acres of land situated east of Studebaker Road; extend an off-site sewer line by roughly 1,000 linear ft., along the public right of way on Loynes Drive; weed 1.81 acres of Open Space west of Studebaker Road and implement a planting plan; lot line adjustment on development parcels on the project site; and an offer to dedicate 1.81 acres of usable Open Space on the

western project area to the Los Cerritos Wetlands Authority as native transitional habitat adjacent to the wetlands.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

This recommendation is for a De Novo hearing on an appeal of Local Coastal Development Permit (CDP) No. 18-034 approved by the City of Long Beach to demolish 400 sq. ft. of pipeline structures and construct two industrial buildings (91,700 sq. ft. and 47,500 sq. ft. at 35 ft. high) with 211 on-site parking spaces, 43 of which would be grasscrete parking spaces, and landscaping on a 6.69-acre site; a variance to allow 30% of required Open Space to be provided on adjacent parcels; and a lot line adjustment between vacant parcels on the project site.

On March 13, 2020, the Commission determined that the appeal raised a substantial issue as to the project's conformance with the City of Long Beach's certified local coastal program (LCP) and incorporated Southeast Area Development and Improvement Plan (SEADIP) policies. Specifically, the Commission found that: 1) the proposed project is not in conformity with SEADIP's policies of the certified LCP that establishes uses for Subarea 24 on the western portion of the project area; 2) the proposed project does not explicitly state who would be responsible for the remediation of any hazardous waste found on the western parcels of the project area which are proposed to be donated to the Los Cerritos Wetlands Authority; 3) the proposed project does not include adequate biological studies to determine if ESHA (environmentally sensitive habitat area) exists on or adjacent to the project site; and 4) further analysis is required by staff to determine if the City's conditions are adequate with regard to LED and truck headlights affecting potential neighboring wildlife on the western parcels of the project area.

The project site comprises a total of 8.5 acres, 6.69 acres on the eastern side of Studebaker Road (eastern project area) and 1.81 acres on the western side of Studebaker Road (western project area). Since the substantial issue hearing, the applicant has revised the project plans and provided additional information and studies from technical experts for development in the eastern project area and habitat enhancement in the western project area. Commission staff recommends approval of the revised project with conditions to ensure that the adjacent wetlands are not adversely impacted by the development and biological productivity is enhanced.

One of the contentions in the appeal is that native plants may not be planted and maintained as protected habitat in the western project area because the implementation of native transitional habitat west of Studebaker Road on the western project area is not in conformance with SEADIP. As a component of the certified LCP, SEADIP requires part of the western project area to be reserved for an interpretive center and park and playground purposes. On October 8, 2020, the Commission

approved Southeast Area Specific Plan (SEASP), which will replace SEADIP, with suggested modifications; however, the City of Long Beach has not formally adopted the modifications, but City staff have indicated that they intend to do so in the next few months. While SEADIP is still the standard of review, the proposed native transitional habitat for this area is consistent with SEASP's designation for these parcels (SEASP designates the western project area as Coastal Habitat/Wetlands/Recreation). Therefore, **Special Condition 1** requires that SEASP is certified prior to issuance of the coastal development permit so that the proposed native transitional habitat is consistent with SEASP.

With regard to the appellants' concerns and Commission findings about the possibility of hazardous waste on the western project area and remediation responsibility, since the substantial issue hearing, the applicant has submitted a report from an environmental consultant which concludes that there are no indications of waste buried beneath the western project area, and if any were encountered, it would not be hazardous nor adversely impact the subsurface environment. **Special Condition 8** requires the applicant to submit, in writing for the review and approval of the Executive Director, a commitment to be solely responsible for remediation of any land in the project area that may have hazardous waste or toxins present and that the remediation will take place prior to donating the land to the Los Cerritos Wetlands Authority at the applicant's expense.

After the Commission's substantial issue hearing on March 13, 2020, further biological surveys were conducted by the applicant to determine if ESHA is present at the project site. Based on the applicant's biological surveys and as confirmed by the Commission's senior ecologist, the proposed project site is not in or directly adjacent to ESHA and does not exhibit the criteria of a wetland. The eastern project area will be the site of the industrial buildings (with some minor landscaping) and the western project area will be native transitional habitat, adjacent to the Los Cerritos Wetlands, that will be donated to the Los Cerritos Wetlands Authority (LCWA). **Special Condition 4** requires the applicant to submit a final landscaping plan with a LCWA-approved planting plan and palette for the western project area and a commitment to weed the western project area for a three years. In addition, the presence of tall structures and glass surfaces in close proximity to the Los Cerritos Wetlands increases the risk of bird strikes and resulting impacts to avian populations, as the windows may reflect the sky or vegetation and create the appearance of open area. In order to reduce the chance of bird strikes, **Special Condition 5** requires the applicant to use bird-safe glazing for the building façade; and **Special Condition 7** requires measures to prevent impacts to bird nesting during construction.

There is a potential for vehicular and truck headlights to negatively impact wildlife; therefore, **Special Condition 6** requires the applicant to submit a final lighting plan which limits the amount of light trespass to 0.01 footcandles along property lines that are west of Studebaker Road, only use downward directed lights, and use best available dark-skies technology to minimize glare and spillover effects to the greatest extent feasible.

The proposed project includes the donation of the western project area to the LCWA; thus, to ensure that the western parcels remain Open Space, the Commission imposes **Special Condition 9** which requires the applicant to execute and record a document(s) in a form and content acceptable to the Executive Director, irrevocably offering to dedicate the western project area as open space. With regard to the eastern project area, **Special Condition 13** requires the applicant to record a deed restriction against the eastern project area, referencing all of the above Special Conditions of this permit. In addition, **Special Condition 2** requires the applicant to submit final project plans which identifies the lot line adjustments and resulting lots.

During construction and post construction, the proposed project has potential for adverse impacts to water quality and marine resources. Therefore, **Special Condition 11** requires the applicant to submit, for the written approval of the Executive Director, a final Stormwater Pollution Prevention Plan (SWPPP) with construction-related BMPs to provide for the safe storage of construction materials and the safe disposal of construction debris during construction; and **Special Condition 3** requires the applicant to implement general construction Best Management Practices (BMPs). In order to deal with these post construction water quality impacts, **Special Condition 12** requires the applicant to submit, for the review and written approval of the Executive Director, a Post Development Runoff Plan.

Given that the project site is located in an area that is potentially vulnerable to flooding impacts resulting from sea level rise, **Special Condition 14** requires the applicant to assume the inherent risk of developing in a flood-prone area, and to acknowledge the potential need for future adaptation; and **Special Condition 15** requires the applicant to waive rights to future shoreline protection of the development subject to this permit. In addition, **Special Condition 10** requires the applicant to be responsible for satisfying all terms and conditions of this coastal development permit in addition to any other requirements imposed by other resource agencies and the local government permit conditions.

As conditioned, the proposed project will conform with the City of Long Beach's certified Local Coastal Program and the public access and public recreation policies of the Coastal Act.

The motion to approve the coastal development permit application is on page 6. The special conditions begin on page 7.

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EXHIBITS

[Exhibit 1 –Vicinity Map and Project Site](#)

[Exhibit 2 – Project Plans](#)

[Exhibit 3 – Appealable Area for the Project](#)

[Exhibit 4 – Lot Line Adjustment](#)

[Exhibit 5 – Site Visit of Eastern Project Area from 10/22/2020](#)

[Exhibit 6 – Avian Species Observed on Site](#)

[Exhibit 7 – Preliminary Planting Plan and Palette for Western Project Area \(Open Space\)](#)

I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** Coastal Development Permit A-5-LOB-20-0006 subject to conditions set forth in the staff recommendation specified below.

Staff Recommendation of Approval:

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 the Commissioners present.

Resolution to Approve the Permit:

The Commission hereby approves Coastal Development Permit Application No. A-5-LOB-20-0006 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

- 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. **Certification of SEASP.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, certification of the City of Long Beach Local Coastal Program Amendment LCP-5-LOB-19-0008-1 (Southeast Area Specific Plan (SEASP)) by the California Coastal Commission must be final and effective in accordance with the procedures identified in California Code of Regulations, Title 14, Division 5.5, Section 13544.
2. **Final Site Plans.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval final site plans that are in substantial conformance with the preliminary plans submitted with this application, dated November 7, 2018, except the final site plans shall also include the following:
 - A. The draft lot line adjustment (**Special Condition 9** requires the Offer to Dedicate to be completed before the lot line adjustment);
 - B. A minimum of 11 Electric Vehicle Charging Stations and 53 Electric Vehicle Charging Spaces; and
 - C. A minimum of 28 bicycle parking spaces.

The permittee shall undertake the development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. **Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris.** The applicant shall comply with the following construction related requirements:
 - A. No demolition or construction materials, debris, equipment or waste shall be placed or stored in any location where it may enter or impact sensitive habitat areas, streams, wetlands, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
 - B. The permittee shall employ Best Management Practices (BMPs) to ensure that erosion is minimized and the sea is protected from sedimentation.

- C. 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.
 - D. 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.
 - E. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
 - F. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
 - G. 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.
 - H. 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.
 - I. 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.
 - J. The discharge of any hazardous materials into any receiving waters shall be prohibited.
 - K. 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.
 - L. 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
 - M. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.
4. **Final Landscaping Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and written approval by the Executive Director, two (2) full-size sets of final landscaping plans for the western project area and the eastern project area prepared by a licensed landscape architect or a qualified resource specialist. A landscape architect or other qualified landscape professional shall certify in writing that the final landscape plans

are in substantial conformance with the preliminary landscaping plans, dated February 24, 2021, except the final landscaping plans shall include the following:

- A. The Los Cerritos Wetlands Authority shall approve the final landscaping plans and plant palette, and such plan shall bear a note confirming the applicant's commitment to remove non-natives and implement three years of weeding for the western project area.
- B. Vegetated landscaped areas shall only consist of native plants 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>).

The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

5. **Bird-Safe Building Standards.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, project plans for the proposed development that are in compliance with bird-safe building standards for façade treatments, landscaping, lighting, and building interiors, as follows:

- A. Bird-safe glass shall be used for any glass used for the building façade.
- B. Acceptable glazing treatments include: fritting, netting, permanent stencils, frosted, non-reflective or angled glass, exterior screens, decorative latticework or grills, physical grids placed on the exterior of glazing, ultraviolet patterns visible to birds or similar treatments, as approved by the Executive Director.
 - 1. Where applicable, vertical elements within the treatment pattern should be at least 1/4" wide, at a maximum spacing of 4";
 - 2. Where applicable, horizontal elements within the treatment pattern should be at least 1/8" wide, at a maximum spacing of two inches 2"; and
 - 3. No glazing shall have a "Reflectivity Out" coefficient exceeding thirty percent 30%. That is, the fraction of radiant energy that is reflected from glass or glazed surfaces shall not exceed 30%.
 - 4. Equivalent treatments recommended by a qualified biologist may be used if approved by the Executive Director.

- C. Building edges of exterior courtyards and recessed areas shall be clearly defined, using opaque materials and non-reflective glass.
- D. Trees and other vegetation shall be sited so as to avoid or obscure reflection on building facades.
- E. Buildings shall be designed to minimize light spillage and maximize light shielding to the maximum feasible extent per the following standards:
 - 1. Nighttime lighting shall be minimized to levels necessary to provide pedestrian security.
 - 2. Building lighting shall be shielded and directed downward.
 - 3. Up-lighting and use of event “searchlights” or spotlights is prohibited.
 - 4. Landscape lighting shall be limited to low-intensity and low-wattage lights.
 - 5. Red lights shall be limited to only that necessary for security and safety warning purposes.
- F. Artificial night light from interior lighting shall be minimized through the utilization of automated on/off systems and motion detectors.
- G. Avoid the use of “bird traps” such as glass courtyards, interior atriums, windows installed opposite each other, clear glass walls, skywalks, and transparent building corners.

Within 60 days of the completion of the development authorized by coastal development permit CDP No. A-5-LOB-20-0006, the applicant shall submit evidence in the form of a narrative report, for the review and written approval of the Executive Director, showing that all project components were installed in compliance with bird-safe building standards as required by this condition.

- 6. Final Lighting Plan.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a final lighting plan for the review and approval of the Executive Director, which shall be consistent with the following requirements:
- A. All lighting, including temporary lighting installed during project construction on or near the project site, shall be downward directed, shielded away from the western project area, landscaping, and intertidal habitat area, and shall use best available dark-skies technology to minimize glare and spillover effects to the greatest extent feasible.
 - B. The average light intensity within the western project area shall be no greater than 0.01 foot candles at the property line that is adjacent to the west side of Studebaker Road. The applicant shall submit an exhibit or report documenting that the final lighting plan is consistent with this requirement.
 - C. Truck access shall be limited to Studebaker Road only (trucks would not be allowed to enter or exit the site via Loynes Drive).
 - D. The applicant shall undertake and maintain the approved development in compliance with the final plans approved by the Executive Director. Any

deviation from the approved plans must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is required.

The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations

7. Construction During Bird Nesting Season.

- A.** Tree trimming and removal during bird nesting season (February 15 to September 15) is prohibited unless a threat to public health and safety exists. If tree trimming and removal cannot feasibly avoid the nesting season because a health and safety danger exists or because construction cannot be completed in the timeframe outside of nesting season, the following guidelines must be followed:
 - 1.** A qualified biologist or ornithologist shall conduct surveys and submit a report at least one week prior to the trimming or removal of a tree to detect any breeding or nesting behavior in or within 500 feet of the work area. The survey report shall be submitted for the review and approval of the Executive Director of the Coastal Commission, the California Department of Fish and Wildlife, the U.S. Fish and Wildlife Service, and the City of Long Beach.
 - 2.** Trees or branches with an active nest shall not be trimmed until a biologist or ornithologist has confirmed there are no active nests present, which may require construction to pause until the end of the subject nesting season.
- B.** For any other construction activities, between February 15 and September 15, the applicant shall retain the services of a qualified biologist or ornithologist with experience in conducting bird behavior, nesting bird, and noise surveys to conduct said surveys in order to assess bird behavior, the presence nesting birds including, but not limited to, black-crowned night herons, great blue herons, great egrets, and snowy egrets, and to document ambient and project noise levels. The biologist or ornithologist shall also monitor project operations.
- C.** PRIOR TO CONSTRUCTION, the applicant shall submit the name and qualifications of biologist or ornithologist, for the review and approval of the Executive Director. All project construction and operations shall be carried out consistent with the following:
 - 1.** The applicant shall ensure that a qualified biologist shall conduct the surveys 15 calendar days prior to the construction activities to detect any active bird breeding behavior or active bird nests in all trees within 500 feet of the project and to document ambient and project noise levels. A follow-up survey must be conducted three (3) calendar days prior to the initiation of project activities and nest surveys must continue on a monthly basis throughout the nesting season or until the project is

completed, whichever comes first. All bird breeding behavior, nesting bird, and noise surveys shall be submitted to the Executive Director within two days of completion.

2. If an active nest(s) of any shore birds or wading birds is found within 300 ft. of the project, an active nest(s) for any raptor species is found within 500 ft. of the project, or bird nesting or courtship behavior is observed within the project site, the applicant's biologist shall monitor bird behavior and construction noise levels. The nest(s) and nesting bird(s) shall not be removed or disturbed. The biologist shall be present at all relevant construction meetings and during all significant construction activities (those with potential noise impacts) to ensure that nesting birds are not disturbed by construction related noise. The biologist shall monitor birds and noise every day at the beginning of the project and continuing throughout all periods of significant construction activities. Construction activities may occur only if construction noise levels are at or below the demonstrated ambient noise levels or a peak of 65 dB at the nest site(s). If construction noise exceeds the ambient noise levels or a peak level of 65 dB at the nest site(s), sound mitigation measures such as sound shields, blankets around smaller equipment, mixing concrete batches off-site, use of mufflers, and minimizing the use of back-up alarms shall be employed. If these sound mitigation measures do not reduce noise levels, construction shall cease and shall not recommence until either new sound mitigation can be employed or the birds have fledged.
3. If an active nest of a federally or state-listed threatened or endangered species or bird species of special concern is found within 300 ft. of the project, or an active nest for any species of raptor is found within 500 ft. of the project, the applicant will notify the appropriate State and Federal Agencies within 24 hours, and appropriate action specific to each incident will be developed. The applicant will notify the California Coastal Commission by e-mail within 24 hours and consult with the Commission regarding determinations of State and Federal agencies.
4. The applicant must cease work if informed by the biologist that proceeding with any development authorized by this permit would adversely affect breeding or nesting birds. The biologist shall immediately notify the Executive Director if activities outside of the scope of the subject Notice of Impending Development occur. If significant impacts or damage occur to sensitive habitats or to wildlife species, the applicant shall be required to submit a revised or supplemental program to adequately mitigate such impacts.

8. Remediation Responsibility. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, a written commitment to be fully responsible to remediate any land on the 1.81 acres of western project area if hazardous waste or toxins are encountered, prior to transferring the western project area to the Los Cerritos

Wetlands Authority. The applicant shall indicate in writing that they are solely responsible for all costs associated with the remediation.

9. Offer to Dedicate Western Project Area.

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT and prior to the lot line adjustment referenced in **Special Condition 2**, and in order to implement the applicant's proposal, the applicant shall execute and record a document(s) in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private entity, approved by the Executive Director, in accordance with the terms of the project description as proposed by the applicant. The open space area shall cover all parcels in the western project area and shall preserve 1.81 acres of open space west of the intersection of Studebaker Road and Loynes Drive in Long Beach as shown in [Exhibit 2](#). No development, as defined in Section 30106 of the Coastal Act, shall occur within the open space area except for the following development authorized by this coastal development permit:

1. Weeding, installation of a weed barrier, removal of non-native plants, implementation of a planting plan and plant palette to native transitional habitat, and temporary irrigation, in accordance with the final landscaping plans required for submittal in **Special Condition 4**.

The recorded document(s) shall include a legal description and corresponding graphic depiction of the legal parcel(s) subject to this permit and a metes and bounds legal description and a corresponding graphic depiction, drawn to scale, of the perimeter of the open space area prepared by a licensed surveyor based on an on-site inspection

The irrevocable offer to dedicate shall be recorded free of prior liens and any other encumbrances that the Executive Director determines may affect the interest being conveyed. The document shall provide that the offer of dedication shall not be used or construed to allow anyone to interfere with any rights of public access acquired through use which may exist on the property.

The offer to dedicate shall run with the land in favor of the People of the State of California, binding successors and assigns of the applicant or landowner in perpetuity, and shall be irrevocable for a period of 21 years, such period running from the date of recording, and indicate that the restrictions on the use of the land shall be in effect upon recording and remain as covenants, conditions and restrictions running with the land in perpetuity, notwithstanding any revocation of the offer.

10. Conformance with the Requirements of the Resource Agencies and Conditions Imposed by Local Government. The permittee shall comply with all requirements, requests and mitigation measures from requirements of other resource agencies. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine whether the proposed change shall require a permit amendment pursuant to the requirements of the certified LCP, Coastal Act and the California Code of Regulations.

This action has no effect on conditions imposed by the City of Long Beach pursuant to an authority other than the Coastal Act. The permittee shall be responsible for satisfying all terms and conditions of this coastal development permit in addition to any other requirements imposed by other local government permit conditions. In the event of conflict between terms and conditions imposed by the local government and those of this coastal development permit, the terms and conditions of this coastal development permit shall prevail.

11. Construction-Phase Stormwater Pollution Prevention Plan.

A. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the written approval of the Executive Director, a final construction-phase Stormwater Pollution Prevention Plan. To protect water quality during construction and demolition activities, the following additional requirements shall be included in this plan:

- 1.** Best Management Practices (BMPs) designed to minimize adverse impacts resulting from construction and demolition activities shall be implemented prior to the onset of such activity, including BMPs to minimize erosion and sedimentation, minimize the discharge of pollutants and non-stormwater runoff, and minimize land disturbance, as applicable. The description and location of all water quality BMPs to be implemented during construction and demolition shall be specified.
- 2.** The plan shall include a description and schedule of the management of all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and any staff training on BMPs).
- 3.** All BMPs shall be maintained in a functional condition throughout the duration of the construction and demolition activities, and shall be promptly removed when no longer required.
- 4.** The use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting, and silt fences) that incorporate plastic netting shall be prohibited, to minimize wildlife entanglement and plastic debris pollution. Only products with 100% biodegradable (not photodegradable) natural fiber netting shall be allowed.

The permittee shall undertake development in conformance with the approved final plan unless the Commission amends this permit or the Executive Director issues a written determination that no amendment is legally required for any proposed minor deviations

12. Post Development Runoff Plan (PDRP). PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and written approval of the Executive Director a Post Development Runoff Plan (PDRP) that includes a map, drawn to scale, showing the property boundaries, building, footprint,

runoff flow directions, relevant drainage and water quality features, impervious surfaces, permeable pavements, and landscaped areas. The PDRP shall demonstrate that the project:

- A.** Minimizes disturbance of coastal waters and natural drainage features; minimizes removal of native vegetation; and avoids, to the extent feasible, covering or compaction of highly permeable soils.
- B.** Uses Low Impact Development (LID) techniques to retain and disperse runoff on site.
- C.** Uses infiltration to the greatest extent feasible to retain runoff; minimize the addition of impervious surfaces; disconnect impervious surfaces from the storm drain system by interposing strategically-located pervious areas. Where infiltration is not appropriate or feasible, uses alternative BMPs to minimize changes in the runoff flow regime (e.g., direct roof runoff into rain barrels or cisterns for later use, evaporate roof runoff, employ a green roof, construct a rain garden, and/or plant trees).
- D.** Unless specifically prohibited by conditions as documented in a detailed site analysis certified by a licensed engineer, runoff from the development, up to and including the 85th percentile, 24-hour runoff event, shall be infiltrated on-site.
- E.** Minimizes pollutants associated with landscaping and building materials.
- F.** Directs drainage from all parking areas and driveways, roofs, walkways, patios, and other impervious surfaces to, in order of priority, a) landscaped areas or open spaces capable of infiltration, b) earthen-based infiltration BMPs, c) flow-through bio-filtration BMPs designed to treat, at a minimum, twice the 85th percentile one-hour storm event volume, accompanied by supporting calculations, d) proprietary filtration systems designed to treat, at a minimum, twice the 85th percentile one-hour storm event volume, accompanied by supporting calculations and product documentation.
- G.** Conveys excess runoff off-site in a non-erosive manner.
- H.** Where flow-through BMPs are used, includes supporting calculations and product documentation.
- I.** Includes all maintenance and operating procedures that will be conducted to keep the water quality provisions effective for the life of the development.

The permittee shall undertake development in conformance with the approved PDRP. No changes to the plan shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

13. Deed Restriction. PRIOR TO ISSUANCE OF THE 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 eastern project area 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 all 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

14. Assumption of Risk, Waiver of Liability and Indemnity. By acceptance of this permit, the permittee acknowledges and agrees (i) that the site may be subject to hazards including but not limited to waves, erosion, storm conditions, liquefaction, flooding, and sea level rise; (ii) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

15. No Future Shoreline Protective Device.

- A. By acceptance of this permit, the permittee acknowledges that this project constitutes new development under the Coastal Act and is therefore not entitled to a shoreline protective device under Section 30235. Thus, by acceptance of this permit, the permittee hereby waives any rights to construct such devices that may exist under applicable law.
- B. By acceptance of this Permit, the permittee further agrees, on behalf of themselves and all successors and assigns, that they are required to remove all or a portion of the development authorized by this permit and restore the site, if:
 - 1. The City or any government agency with jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or use due to damage or destruction from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, or other natural hazards related to coastal processes, and that there are no feasible measures that could make the structure suitable for habitation or use without the use of bluff or shoreline protective devices;

2. Essential services to the site (e.g. utilities, roads) can no longer feasibly be maintained due to the coastal hazards listed above;
3. Removal is required pursuant to LCP policies for sea level rise adaptation planning; or
4. The development requires new or augmented shoreline protective devices that conflict with applicable LCP or Coastal Act policies.

Approval of CDP No. A-5-LOB-20-0006 does not allow encroachment onto public trust lands. Any future encroachment onto public trust lands shall be removed unless authorized by the Coastal Commission. Additionally, encroachment onto public trust lands is subject to approval by the State Lands Commission or other designated trustee agency.

IV. FINDINGS AND DECLARATIONS

A. Project Location and Description

The project site is an 8.5-acre area located at the intersection of Studebaker Road and Loynes Drive, at 300 North Studebaker Road in Long Beach, Los Angeles County ([Exhibit 1](#)). The site straddles the appealable area and is made up of three legal lots (Assessor Parcel Numbers (APNs) 7237-017-007, 7237-017-008, 7237-017-009, 7237-018-001, and 7237-019-008). The southwestern lot (consisting of APNs 7237-017-007, 7237-017-008, and 7237-017-009) is 1.32 acres and is within the appealable area ([Exhibit 3](#)). The northwestern lot (APN 7237-018-001) is 0.49 acres. The eastern project area (APN 7237-019-008) accounts for 6.69 acres and is where development of the industrial facilities is proposed.¹

The site is immediately adjacent to a tidally-influenced portion of the Cerritos Channel, 200 ft. from Steamshovel Slough, the most pristine wetland within the larger Los Cerritos wetlands complex, approximately 0.2 mile west of the San Gabriel River, and 1.7 miles northeast of Alamitos Bay. The nearest residential uses to the project site are single-family residences located across the Cerritos Channel, approximately 400 ft. west of the western project area and approximately 630 ft. west of the eastern project area.

The applicant proposes to demolish 400 sq. ft. of concrete pipeline structures and asphalt paving and construct two 35-ft. high industrial buildings (91,700 sq. ft. and

¹ Given that this is the De Novo Hearing, Commission staff analyzes the whole project (appealable and non-appealable areas) to determine its consistency with the standard of review (City of Long Beach Local Coastal Program); therefore, the CDP is for both the appealable and non-appealable areas.

47,500 sq. ft.) with 211 on-site vehicular parking spaces, 12 bicycle parking spaces, and landscaping on the eastern project area consisting of drought-tolerant, non-invasive plants. Other work includes incorporating a solar-ready building design to facilitate and optimize the installation of solar photovoltaic systems in the future, using only downward directed lights in the project area and bird safe glass on the building façade. In addition, the applicant proposes to extend the sewer line off-site by roughly 1,000 linear feet to along the public right-of-way on Loynes Drive. The applicant also proposes to implement a planting plan and native plant palette on 1.81 acres of Open Space on the western project area and weed the area for three years. The applicant is also proposing to offer to dedicate the 1.81 acres of usable Open Space on the western project area to the Los Cerritos Wetlands Authority as native transitional habitat. If any soil remediation is required to make the Open Space usable on the western project area, it will be conducted at the sole expense of the applicant. Additionally, a lot line adjustment is also proposed between vacant parcels on the project site ([Exhibit 4](#)).

On January 28, 2020, the subject project was appealed to the Coastal Commission. At its March 13, 2020 hearing, the Commission found that substantial issues exist with respect to the grounds on which the appeal was filed. Since that time, the applicant has made revisions to the project and has provided additional information and studies from technical experts. The applicant has provided biological assessments that analyzed the potential for ESHA (including burrowing owl habitat or sensitive plant habitat) in the project area. Based on the applicant's biological surveys and confirmed by Commission's senior ecologist, the proposed development on the eastern project area is not in or adjacent to ESHA and does not exhibit the characteristics of a wetland. Additionally, the applicant has confirmed in writing that they are solely responsible for the remediation of any hazardous waste that might potentially be found on the western parcels and that the remediation will take place prior to donating the land to the Los Cerritos Wetlands Authority.

Standard of Review

In its "de novo" review of this application, the Commission's standard of review for the proposed development is whether it conforms to the policies and provisions of the City of Long Beach Local Coastal Program (LCP) and incorporated Southeast Area Development and Improvement Plan (SEADIP) Policies, certified by the Commission in July 1980, and the public access and recreation policies of the Coastal Act. While SEADIP is still the standard of review, the Commission recently approved a new specific plan that will replace SEADIP when it is effectively certified by the Commission. That plan is identified as the Southeast Area Specific Plan (SEASP) and was approved with suggested modifications at the October 8, 2020 hearing. The City of Long Beach has notified the Commission of its intent to adopt the suggested modifications in the next few months.

B. Biological Resources

Relevant LCP Policies:

Land Use Plan – Introduction, Coastal Resources:

The water resources of...Los Cerritos Wetlands are monitored, preserved, and enhanced by a formal set of policies promulgated by the Resources Management Plan. A balance between human use and ecological concerns is the principal theme of this Plan...

Program 1.1 of the Open Space and Recreation Element states:

Ensure compliance with all Federal and State laws which protect rare, threatened and endangered species.

Certified Implementation Plan Zoning Code. Chapter 21.42 Landscaping Standards. 21.42.035 Special Requirements – Water Saving Landscaping states:

The City of Long Beach enjoys a temperate climate in a semiarid region where water is recognized as a precious, natural resource. Landscapes that use water intelligently are strongly encouraged and may be reasonably required as a condition of approval of discretionary projects in appropriate cases. Guidelines for the design and care of drought resistant, water saving landscapes may be promulgated from time to time by resolution of the City Council.

Southeast Area Development and Improvement Plan – Land Use Policy #1:

All development shall ensure that marine resources are maintained, enhanced and where feasible, restored.

Southeast Area Development and Improvement Plan – Land Use Policy #6:

Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Environmentally Sensitive Habitat Area

The City of Long Beach LCP, certified in 1980, contains policies that prioritize the protection of biological resources, especially in areas adjacent to environmentally sensitive habitat areas (ESHA) and recreation areas. The project site is located in an urbanized area that is bounded by the Cerritos Channel on the west, the Los Cerritos Wetlands to the southwest and industrial/manufacturing properties to the east, north, and south.

The appeal raised substantial issue as to whether the applicant conducted adequate surveys to determine if any ESHA (especially with regard to the western burrowing owl) or other sensitive plant or animal species exist within the project site. Since the March 13, 2020 hearing, the applicant has conducted the necessary surveys to confirm that ESHA or other sensitive plant or animal species does not exist within the project site.

More specifically, the applicant submitted a western burrowing owl (BUOW) habitat assessment and protocol survey report from July 2020, which provides results from a burrowing owl survey that was conducted concurrent with the habitat assessment and focused burrow survey on March 4, 2020. Although the survey area contains marginally suitable elements of habitat for BUOW, including flat, open areas occupied by non-native herbs and grasses, manmade berms, and urban/developed areas, the habitat assessment confirmed that no potential burrows were identified within the project boundary or accessible areas within the 500-ft. buffer area. Two small mammal burrows were observed within the project boundary: one of the burrows appeared to have been enlarged by a coyote and was likely too large to be used by BUOW and the second burrow was of suitable size but had not been used in some time as evidenced by spider webs over the entrance and looked to be partially collapsed. The project site on the east side of Studebaker Road (eastern project area) has been disturbed due to grubbing and is mostly covered in a layer of gravel. The parcels on the west side of Studebaker Road within the project boundary (western project area) contain vegetation that is too dense and tall to be suitable for burrowing owls. Parcels on the west side of Studebaker Road within the survey area but outside of the project boundary also contain similar vegetation that is too tall and dense for burrowing owls. No burrows with BUOW sign (such as scat, pellets, and white wash) were observed during the habitat assessment, and the presence of burrowing owls was not detected. In addition, the focused burrowing owl survey that was conducted concurrent with the habitat assessment confirmed that no BUOWs, or evidence of BUOWs, were observed during the BUOW survey.

In addition to the first focused survey on March 4, 2020, three additional focused BUOW surveys were completed on May 29, 2020; June 19, 2020; and July 10, 2020. No burrows with BUOW signs were observed during the focused surveys, and the presence of burrowing owls was not detected. Further, four focused non-breeding season surveys (over-wintering surveys) were conducted on December 2, 2020; December 22, 2020; January 12, 2021; and January 27, 2021, and no BUOW signs or individuals were observed during these subsequent focused surveys. During the non-breeding season surveys, no fresh burrows were observed to have been created since the summer surveys. The report concludes that it is likely that BUOW are absent from the survey area due to the lack of habitat and absence of BUOW signs. After reviewing the submitted BUOW habitat assessment and focused surveys and conducting a site visit on October 22, 2020, the Commission's senior ecologist Dr. Jonna Engel concurred that there is no BUOW habitat or signs present on the project site ([Exhibit 5](#)). While no BUOWs or habitat were identified, the BUOW habitat assessments and focused surveys reported that 25 avian species were observed on site ([Exhibit 6](#)).

The Long Beach coastal zone is highly urbanized; thus, coastal wildlife, including wading birds, have adapted to using landscaping, especially stands of tall and/or mature trees, as habitat. Wading bird species play an important role in maintaining a balanced marine ecosystem and while these habitat areas and the wading birds known to nest in trees within the coastal zone may not qualify as environmentally sensitive habitat area or rare, threatened, or endangered species, respectively, one of the main goals of the Long Beach LCP is to balance human use and ecological concern. In addition, the LCP requires compliance with Federal and State laws (Program 1.1 of the Open Space and Recreation Element of the Certified LUP), like the Migratory Bird Treaty Act, which protect designated sensitive species. To protect avian species that might be present on or near the project site, **Special Condition 7** requires the applicant to avoid construction during bird nesting season, and if that is not feasible due to an identified public safety hazard or because it is not possible to complete all construction in the approximately five-month window outside of nesting season, the applicant shall conduct bird nesting surveys prior to construction and limit the amount of noise to 65 dB. In addition, the presence of tall structures and glass surfaces in close proximity to the Los Cerritos Wetlands increases the risk of bird strikes and resulting impacts to avian populations, as the windows may reflect the sky or vegetation and create the appearance of open area. As revised by the applicant, the bird-safe glass is consistent with the Introduction, Coastal Resources Policy found in the LUP to provide a balance between human use and ecological concerns because it will reduce the chance of bird strikes. **Special Condition 5** requires the applicant to use bird-safe glazing for all glass on the building façade.

The applicant also submitted a rare plant survey report from August 18, 2020, to document the results of a floristic survey to determine the presence of any rare plants within the approximately 8.5-acre Industrial Park Project property and a 100-ft. buffer area. The study concluded that native shrub mulefat has increased its cover within the portion of the project site east of Studebaker Road; however, the site is still dominated by non-native herbaceous species. The project site west of Studebaker Road remains dominated by non-native herbaceous species. Thus, no special status plant species were observed within any portion of the study area. After reviewing the submitted rare plant survey and conducting a site visit on October 22, 2020, the Commission's senior ecologist Dr. Engel also concurred that no special status plant species exist on the project site.

Formal Wetlands Delineation

In April 2019, the applicant's biologist conducted a delineation of jurisdictional waters and riparian habitats potentially subject to the jurisdiction of the U.S. Army Corps of Engineers (USACE) and the Los Angeles Regional Water Quality Control Board (RWQCB), streambed/banks and associated riparian vegetation potentially subject to the jurisdiction of California Department of Fish and Wildlife (CDFW), and coastal wetlands qualifying for protection under the California Coastal Act (CCA) and California Coastal Commission (CCC) regulations.

Based on the significant amount of mulefat (*Baccharis salicifolia*, a species that can be indicative of wetlands in the arid west) observed during the October 22, 2020 site visit and the site proximity to the Los Cerritos Wetlands, the Commission's senior ecologist Dr. Engel requested a formal wetland delineation that includes assessment of the following three parameters: hydrophytic vegetation (including a vegetation map), hydric soils, and hydrology.

A site visit was conducted by the applicant's biologist on January 12, 2021 in response to the Commission's request for a formal wetland delineation. Two soil pits were excavated within low-lying areas containing mulefat (*Baccharis salicifolia*) to verify mapped soil conditions. Wetland determination data forms were completed at two sample locations on January 12, 2021 within the proposed development area in these basins. The sample locations were selected based on the topography of the site and vegetation cover as areas likely to experience inundation or saturation for the longest period. The applicant's biologist conducted another follow-up site visit on January 27, 2021 to further photo document site conditions. Approximately 1.1 inches of rain had fallen in the two weeks prior to the January 12, 2021 site visit and 0.54 inches in the week prior to the January 27, 2021 site visit.

Hydric soils are not mapped within the proposed development area and were not detected within the proposed development area at either of the sample locations. Soils were completely dry (no saturation was observed to be present), and no groundwater or surface water was encountered. Soils observed in the field were a consistent yellowish-brown color throughout and did not contain any hydric indicators such as redox or pore-linings.

With regard to hydrophytic vegetation, while patches of mulefat are present within the proposed development area, the vegetation, as a whole, does not meet the Commission's one-parameter wetland definition because non-indicator species are also dominant. The project site is dominated by upland and non-native species such as stinkwort, five-hook bassia, tocalote, black mustard, and Russian thistle. These upland species are present within low-lying areas that also contain mulefat and in some places create a dense understory of non-native upland species within the mulefat patches. Based on a visual estimation of the project site, mulefat patches cover approximately 10 to 15 percent of the area within the earthen berms whereas upland species cover approximately 40 to 50 percent of the same area. While a visual estimation alone does not indicate the presence or absence of hydrophytic vegetation, the high estimated percent cover of upland species on the project site is indicative of upland area. Wetland determination data forms were completed within dense stands of mulefat in low-lying areas. Neither of these forms indicated the presence of hydrophytic vegetation when the entirety of the plant community was considered. The delineation report states that mulefat is a facultative species that occurs in both wetlands and non-wetlands and occurs on the site with many co-dominant upland species.

Lastly, wetland hydrology was not detected during either the 2019 delineation site visit or the 2021 site visit. In 2019, approximately 0.5 inches of rain had fallen in the week

prior to the delineation. In 2021, approximately 1.1 inches of rain had fallen in the two weeks prior to the January 12 site visit and 0.54 inches in the week prior to the January 27 site visit. In addition, no surface wetland hydrology indicators or ponded or flowing water were observed during any delineation or BUOW site visit between 2019 and 2021. Neither groundwater nor saturated soils were observed at either of the wetland determination sample locations. No evidence of soil cracking, water-stained leaves, sediment deposits, biotic crusts, or other wetland hydrology indicators were observed. Since this site is surrounded by earthen berms and was designed to contain runoff, indicators should have been readily visible if wetland hydrology was present since the delineation site visits were conducted during the rainy season.

After reviewing the formal wetlands delineation assessment and conducting a site visit on October 22, 2020, the Commission's senior ecologist Dr. Engel concurred that wetlands are not present at the eastern project site.

Landscaping and Planting Plan and Palette

The applicant proposes to incorporate drought-tolerant, non-invasive landscaping on the eastern project area. Landscaping on the eastern parcels would involve separate submeters or metering devices which would be installed for outdoor potable water use, and the irrigation system would have weather or soil moisture-based automatic controllers. On the western project area, the applicant will remove and properly discard all non-native plant species at an off-site location. The applicant will also weed the western project area for three years and will install a weed barrier, consistent with the preliminary landscaping plans proposed by the applicant. The applicant submitted a preliminary planting plan and native plant palette for the western project area, which was approved by the Los Cerritos Wetlands Authority and has been reviewed by the Commission's senior ecologist ([Exhibit 7](#)). To ensure that the final landscaping plans are in conformance with the preliminary plans and to be consistent with certified IP Policy 21.42.035 to use drought resistant, water saving landscape, **Special Condition 4** requires the applicant to submit and adhere to final landscaping plans for both the eastern project area and the western project area.

Light Emitting Diode (LED) Lighting

Given the project site's location adjacent to the Los Cerritos Channel and wetlands, the proposed development has the potential to adversely impact wildlife present there. LED lighting contains high blue light frequencies that have been shown to disrupt natural circadian rhythms in humans and wildlife, leading to disruption in sleep and wildlife behaviors (e.g., breeding, foraging). Lighting with lower color temperatures has less blue in its spectrum and is referred to as being "warm."

The applicant proposes to install light fixtures that are downward directed. All lights shall emit as little light as practicable to meet project objectives. In order to ensure that the proposed project is sited and designed to prevent adverse impacts to the adjacent sensitive biological resources and to be consistent Southeast Area Development and Improvement Plan – Land Use Policies #1 and #6, **Special Condition 6** requires the

applicant to submit a final lighting plan, which documents that all lighting is directed and shielded towards the ground and that the average light intensity is limited to .01 footcandles along the western project area adjacent to Studebaker Road. In addition, the applicant proposes to plant California Native Clumping Grass along the western project area perimeter for screening of vehicular headlights, in an attempt to reduce light trespass into this area ([Exhibit 7](#)). Landscaping or low walls would provide a barrier to lights from parked vehicles facing Studebaker Road, preventing any light spillage.

As conditioned, the proposed development would not adversely impact coastal resources, nesting shore birds, wading birds, or their habitat, consistent with the certified LCP.

C. Hazards

Relevant LCP Policies

Goal 3 of the Open Space and Recreation Element states:

Provide for and maintain sufficient open space for adequate protection of lives and property against natural and man-made safety hazards.

Public Health and Safety, Goal (b), of the open space policies states:

To utilize open space as one strategy by which the public can be protected from natural disasters.

Program 3.2 of the Open Space and Recreation Element states:

Continually monitor areas that are physically hazardous.

Sea Level Rise

The project site is located landward of the first public road, approximately one mile from a beach or ocean or bay. Given that the project site is located well inland, a coastal hazards survey was not prepared for the proposed project. Nevertheless, sea level rise and increasingly severe storms may cause bays and wetlands to migrate inland in the future, which could affect development in urban and industrial areas of Long Beach. Commission staff utilized the USGS Coastal Storm Modeling System (CoSMoS) and guidance from the Commission's Sea Level Rise policy document and the 2018 Ocean Protection Council (OPC)'s Sea-Level Rise document to analyze the project site's vulnerability to coastal hazards.

In order to analyze the project site for sea level rise impacts, staff followed the methodology outlined in both the OPC and Coastal Commission guidance documents to establish a projected sea level range for the new development. The 2018 OPC guidance uses NOAA tide gauges, a projected project lifespan, and risk aversion scenarios to estimate a sea level rise range. The sea level rise analysis assumed a 75-

year projected lifespan for the project, consistent with the Commission's Sea Level Rise Policy Guidance for commercial development. According to the 2018 OPC update, the projected sea level rise ranges for the Santa Monica NOAA Tide Gauge should be used as this is the nearest tide gauge to the project site. These projections range between 3.3 and 6.8 ft. of sea level rise by 2100, depending on the risk aversion scenario, and up to 10 ft. of sea level rise under an extreme scenario. Under a 75-year projected lifespan, a medium-high risk scenario, and the project's location near the Santa Monica NOAA tide gauge, staff evaluated 6.8 ft. of sea level rise within the project vicinity.

Using the sea level rise estimates listed above, staff used CoSMoS to analyze the project site's vulnerability to sea level rise impacts. Specifically, staff looked at a 6.6 ft. sea level rise scenario (the closest available option to the appropriate 6.8 ft. high emissions, medium-high risk aversion scenario) and a 100-year storm scenario to represent the worst-case scenario. Under an estimated 6.6 ft. sea level rise and 100-yr. storm scenario, the project site is vulnerable to inundation due to coastal flooding, despite being located one mile inland from any beach. Staff also used CoSMoS to evaluate lesser amounts of sea level rise (e.g., 2.5 ft. of sea level rise, consistent with the low risk aversion scenario), and the site does appear to be vulnerable starting with 2.5 ft. of sea level rise, with a 100-yr. storm scenario.

The project site is located well inland from the beach and is therefore not subject to wave uprush or coastal erosion hazards; however, adaptation options may be necessary given the site's vulnerability at 2.5 ft. of sea level rise, both to address specific hazards to the proposed project itself, as well as to address or respond to impacts to the surrounding developments, including flooding of access roadways. Thus, given that the project site is located in an area that is potentially vulnerable to flooding impacts resulting from sea level rise and to be consistent with the intent of Program 3.2 of the Open Space and Recreation Element, the Commission imposes **Special Condition 14**, requiring the applicant to assume the inherent risk of developing in a flood-prone area and to acknowledge the potential need for future adaptation. In addition, although the applicant is not proposing a shoreline protective device at this time, **Special Condition 15** requires the applicant to waive rights to future shoreline protection of the development subject to this permit.

Soil Remediation

With regard to the western project area, after the substantial issue hearing, the applicant submitted additional information prepared by the environmental consultant (Avocet Environmental, Inc.) in a report dated April 28, 2020. The report addresses the concern that the western project area that is proposed to be donated to the Los Cerritos Wetlands Authority (LCWA) for open space purposes may be part of a former hazardous waste dump. The report states that in 2019, Avocet conducted a Phase I Environmental Site Assessment (ESA) for the properties that the applicant planned to preserve as open space adjacent to the wetland, including the four vacant parcels on the western project area. Among other things, the Phase I ESA included a walkover survey of the vacant parcels and a search of environmental databases maintained by local, state, and federal government agencies. The database searches identified and

placed the former Studebaker/Loynes Disposal Site (S/LDS) on the west side of Studebaker Road but did not indicate its exact location, and while Avocet observed construction debris at the ground surface on the vacant lots south of Loynes Drive, nothing in the database searches or observed by Avocet in the field indicated the four vacant parcels are underlain by hazardous waste or are otherwise contaminated.

However, the report stated that it is possible that waste disposal operations may have encroached part way into one of the parcels in the western project area (southwestern parcel: APN 0737-017-007), prior to construction of the South Intake Channel (the channel southwest of APN 0737-017-007). In the photographs that Avocet obtained there is no indication of active waste disposal in the aerial photograph taken in 1972, and it seems highly improbable that waste disposal in the vacant parcels could have continued after Studebaker Road, Loynes Drive, and the South Intake Channel into the Alamitos Generating Station were constructed. Therefore, it is possible that S/LDS operations may have encroached into part of APN 7237-017-007, although the report states that this is by no means certain. If the encroachment did take place, then part of APN 7237-017-007 could be underlain by nonhazardous household waste and/or inert construction debris, although the volume would likely be a very small percentage of the total volume of waste reportedly buried at the S/LDS. Avocet also concludes that there are no indications that buried waste, if present, beneath APN 7237-017-007 is hazardous or is adversely impacting the subsurface environment.

Regarding the eastern project area, according to the Avocet Environmental, Inc. Phase I ESA for the project site, two large, aboveground storage tanks (ASTs) that held “Bunker C” or “No. 6 Fuel Oil” for the nearby Alamitos Energy Center previously occupied the eastern project area; however, these tanks have since been removed, and the project site is now vacant. The ESA also discusses the results of a study LSA Associates, Inc. conducted in a 2004 survey of the Alamitos Energy Center Fuel Oil Tank Farm and indicates that the oil tank farm was constructed in the 1950s and consists of a large capacity petroleum storage yard, or tank farm, with six large capacity petroleum fuel oil tanks with pipelines leading to the tanks. The 2004 LSA Associates, Inc. study identified these pipelines as asbestos-lined pipes leading to Tank 1 and Tank 2; however, even though the tanks longer exist, the pipelines leading to the now demolished tanks remain on the project site and would be removed as part of the proposed development. Asbestos abatement may be required as a result of the removal of the pipelines.

Therefore, to ensure that the applicant is responsible for the remediation of any soil that may have hazardous waste or toxins in it (on the western or eastern project area) and in order to be consistent with Goal 3 of the Open Space and Recreation Element to provide for and maintain sufficient open space for adequate protection of lives and property against natural and man-made safety hazards as well as Public Health and Safety Goal (b) to utilize open space as one strategy by which the public can be protected from natural disasters, the open space (especially on the western project area) must be developed and maintained as usable, open space. Thus, **Special Condition 8** requires the applicant to submit, in writing for the review and approval of the Executive Director, a commitment to be solely responsible, including the costs, for

remediation of any land in the project area that may have or is found to have hazardous waste or toxins on it, if applicable, prior to transferring the land to the LCWA through a donation of the land.

As conditioned, the proposed development conforms to the LCP policies regarding coastal hazards.

D. Development

Relevant LCP Policies:

SEADIP PD-1, Subarea 24:

- a. This designation actually applies to two distinct parcels of land, one at the southwest corner of Loynes Drive and Studebaker Road (called herein “24 South”), and the other across Loynes Drive at the northwest corner (called herein “24 North”).
- b. Area 24 South is to be developed as an overlook area and interpretive center for the bordering marsh. The developer of Subarea 11 (a) shall dedicate Parcel 24 South to the State of California or other agency responsible for management of Area 33.
- c. Area 24 North shall be dedicated to the City of Long Beach for park and playground purposes.”
- d. The owner of Area 24 shall dedicate area along Studebaker Road for the bicycle trail to be built along Studebaker Road.

SEADIP B. Provisions Applying to All Areas:

A minimum of thirty percent of the site shall be developed and maintained as usable open space (building footprint, streets, parking areas and sidewalks adjacent to streets shall not be considered usable open space) except in oil production areas where public safety and operational concerns require limiting access. Bicycle and pedestrian trails not included within the public right-of-way may be considered usable open space.

Under SEADIP, the southwestern parcels fall within Subarea 24 South of SEADIP PD-1 and are designated for an overlook area and interpretive center for the bordering marsh. The northwestern falls within Subarea 24 North of SEADIP PD-1, which is designated to be dedicated to the City of Long Beach for park and playground purposes. The proposed project would not support such uses and would instead designate the western project area as open space and native transitional habitat. However, and as previously

mentioned, SEASP² is expected to be adopted as part of the City of Long Beach's Certified LCP, and SEASP designates the southwestern and northwestern parcels as Coastal Habitat/Wetlands/Recreation. The applicant proposes to donate the western project area to the LCWA as native transitional habitat, consistent with SEASP's designation for this area. While the proposed project is inconsistent with one relevant SEADIP policy (SEADIP PD-1, Subarea 24 listed above), it is consistent with the corresponding designation for SEASP for this area. Therefore, **Special Condition 1** requires that this permit not be issued until SEASP is adopted by the City subject to the Commission's suggested modifications and effectively certified. In addition, **Special Condition 9** requires the applicant to execute and record a document(s) in a form and content acceptable to the Executive Director, irrevocably offering to dedicate the western project area as open space in order to effectuate the applicant's proposal.

As revised by the applicant, the development is consistent with the 30% requirement of SEADIP B. Provisions Applying to All Areas because it incorporates 1.81 acres of open space on the western project area and .84 acres of open space on the eastern project area, which slightly exceeds the 30% total open space requirement.³

In addition, to ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes **Special Condition 13**, requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property.

The applicant proposes a lot line adjustment (LLA) within the project area. Currently, the 8.5-acre site consists of three legal lots, according to the City, with five APNs: two legal lots (with four APNs) on the western project area and one legal lot on the eastern project area (with one APN). The LLA would result in one lot on the western project area while will be donated to the LCWA and two lots on the eastern project area, which will be the site of the industrial buildings ([Exhibit 4](#)). **Special Condition 2** requires the applicant to submit final project plans, for the review and approval of the Executive Director, which identifies the lot line adjustments and resulting lots.

² Until the City has adopted the suggested modifications for SEASP, SEADIP remains the standard of review. However, once SEASP is adopted and certified, it will become the standard of review for the project area; therefore, it is important to note SEASP's designations of the western project area and ensure that the proposed development is not inconsistent with SEASP.

³ 30% of 8.5 acres of Open Space is required, which is 2.55 acres. 1.81 acres is provided on the western project area and .84 acres is provided on the eastern project area for a total of 2.65 acres (slightly more than the required 2.55 acres). It should also be noted that the grasscrete parking (43 parking spaces) was not utilized in the calculation for the required total open space but is instead counted towards total parking counts for the proposed development.

As conditioned, the development is consistent with the certified LCP policies related to development.

E. Public Access and Recreation

Relevant LCP Policies:

Southeast Area Development and Improvement Plan – Provisions Applying to All Areas #6:

...Minimum parking for commercial and industrial uses shall be provided in accordance with parking standards as specified in the zoning regulations...

Southeast Area Development and Improvement Plan – Provisions Applying to All Areas #11:

Public access shall be provided to and along the boundaries of all public waterways as provided for in the wetlands restoration plan.

Mobility of People Policy 5-2 of the Mobility Element states:

Reduce vehicle miles traveled (VMT) and vehicle trips through the use of alternative modes of transportation and TDM.

Mobility of People Policy 5-3 of the Mobility Element states:

Encourage the use of low- or no-emission vehicles to reduce pollution.

Alternative Transportation, Policy 3, Scenic Routes Element states:

Encourage the use of bicycles as an inexpensive, energy conserving, and pleasant means for recreation and utilitarian transport.

Coastal Act Policies:

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

The existing site does not currently provide nor inhibit public coastal access. The nearest access to a public beach is available approximately a mile southwest of the project site at Mother's Beach ([Exhibit 1](#)). There is a sidewalk on the west side of Studebaker Road, adjacent to the project site which leads to Loynes Drive and wraps around the southwestern project area, consistent with Southeast Area Development and Improvement Plan – Provisions Applying to All Areas #11 to provide public access to and along the boundaries of public waterways. The applicant proposes to provide 211 vehicle parking spaces on-site (43 of which will be grasscrete parking spaces) for the proposed development. The provided parking exceeds the requirements of the City of Long Beach Municipal Code (LBMC), Chapter 21.33, Industrial District's parking requirements, which requires 1 parking space per 1,000 sq. ft. Since the two proposed buildings will total 139,200 sq. ft., a total of 140 parking spaces are required for this project, consistent with the minimum parking requirements of Southeast Area Development and Improvement Plan – Provisions Applying to All Areas #6.

In the past, the Commission has used the 2019 California Green Building Code as guidance for electric vehicle requirements in commercial, retail and other nonresidential locations.⁴ However, in recent actions, the Commission has required large commercial development projects to provide actual EVCS concurrent with the development, and capacity for additional EVCS infrastructure in the future, consistent with the certified LCP's Mobility of People Policy 5-3 of the Mobility Element which encourages the use of low- or no-emission vehicles to reduce pollution. SEASP, when effectively certified, will require electric vehicle charging facilities to comply with the applicable provisions of LBMC. The LBMC requires that 25% of the total parking spaces be Electric Vehicle Charging Spaces (EV Spaces) and that 5% of the total parking spaces be Electric Vehicle Charging Stations (EVCS). In this case, the applicant has proposed 42 EV Spaces and 3 EVCS. However, since there is a total of 211 parking spaces, the LBMC requires that there are 53 EV Spaces and 11 EVCS.⁵ The intent of the provision of EV Spaces enables the applicant to support the future installation of Electric Vehicle Supply Equipment (EVSE) and additional EVCS. In order to ensure that EVCS are installed, **Special Condition 2** requires the applicant to submit final site plans which depict a minimum of 53 EV Spaces (to support the future installation of EVSE and additional EVCS) and a minimum of 11 EVCS, to be constructed prior to the completion of construction. In addition, SEASP supports the placement of one bicycle parking space for every 5,000 sq. ft. of building area. In this case, there is a total of 139,200 sq. ft. of building area, therefore 28 bicycle parking spaces are required.⁶ In this case, the

⁴ The 2019 California Green Building Code does not require all EVCS to be constructed; it suggests that installation of electrical infrastructure and conduit to provide capacity for future EV Charging Stations may satisfy requirements.

⁵ 25% of 211 = 52.75 which rounds up to 53 Electric Vehicle Charging Spaces. 5% of 211 = 10.55 which rounds up to 11 Electric Vehicle Charging Stations.

⁶ 139,200 sq. ft./ 5,000 sq. ft. = 27.84 which rounds up to 28 bicycle parking spaces.

applicant is proposing to install 12 bicycle parking spaces. To ensure that bicycle parking is installed concurrent with the project development and is consistent with Alternative Transportation, Policy 3, Scenic Routes Element, to encourage the use of bicycles, and the Mobility of People Policy 5-2 of the Mobility Element, to reduce vehicle miles traveled, **Special Condition 2** also requires the applicant to submit final site plans which depict a minimum of 28 bicycle parking spaces.

The Commission finds that the proposed project is consistent with the public access protection policies of the City's LCP and is consistent with the public access and recreation policies, specifically Sections 30210 and 30211, of the Coastal Act.

F. Water Quality

Relevant LCP Policies:

Policy 1.1 of the Open Space and Recreation Element states:

Promote the creation of new and reestablished natural habitats and ecological preserves including wetlands, woodlands, native plant communities and artificial reefs.

Program 2.3 of the Open Space and Recreation Element states, in part:

Preserve and protect water resources available to the City of Long Beach...

The project site is located in an industrial area, adjacent to the Los Cerritos Channel. The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the impacts of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, reducing runoff through the use of permeable surfaces, the use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, and the use of post-construction best management practices to minimize the project's adverse impact on coastal waters.

The applicant submitted a Low Impact Development (LID) Plan that was prepared by Proactive Engineering Consultants, dated November 2018. The LID Plan was prepared to demonstrate compliance with the Los Angeles County Department of Public Works Low Impact Development Standards Manual (LID Standards Manual), dated February 2014, and the LID Plan follows the LID Standards Manual. As discussed in the LID Plan, stormwater runoff will sheet flow into gutters and be collected by grated inlets that release the flow into Corrugated Metal Pipe (CMP) Underground Water Quality Basins, preventing any drainage from flowing offsite to adjacent channels. The CMP Underground Water Quality Basins will convey water to a Modular Wetland System (MWS), a biotreatment type BMP. Runoff generated by the 0.75-inch storm would be captured and treated within the CMP Underground Water Quality Basins and MWS unit.

Stormwater runoff generated by storms, or rainfall that does not soak into the ground due to the presence of impervious surfaces (causing stream impairment in urban areas), greater than 0.75-inch storm would bypass the MWS unit and flow to a proposed pump. The proposed pump would convey runoff to the existing storm drain pipe located in the southeast corner of the project site. Prior to entering the CMP Underground Water Quality Basin, runoff would receive pretreatment through the implementation of filter insert in grate inlets. The LID Standards Manual requires treatment of the stormwater runoff volume of the greater: 0.75-inch, 24-hour event or the 85th percentile, 24-hour rain event. Table 17, Stormwater Runoff Volumes, summarizes the stormwater runoff volumes of each subarea. Since the 85th percentile storm (0.45 inch) is less than the 0.75-inch storm, the 0.75 inch storm is selected as the design storm size.

In addition, the applicant proposes to extend a sewer line adjacent to Loynes Drive for approximately 1,000 ft. The sewer line installation would occur concurrently with the project construction. Storm drain lines and surface swales would convey drainage to two existing facilities located at the southeast and southwest portion of the property. Domestic water and fire flow would be taken from an existing 12-inch line in Studebaker Road, and dry utilities would be accessed on Studebaker Road.

To ensure the protection of coastal water resources with the proposed development and consistent with Program 2.3 of the Open Space and Recreation Element of the Certified LCP to protect water resources in Long Beach and Policy 1.1 of the Open Space and Recreation Element, **Special Condition 11** requires the applicant to submit, for the written approval of the Executive Director, a final Stormwater Pollution Prevention Plan (SWPPP) with construction-related BMPs to provide for the safe storage of construction materials and the safe disposal of construction debris during construction. In order to address potential post-construction water quality impacts, **Special Condition 12** requires the applicant to submit a Post Development Runoff Plan (PDRP) that details the requirements for collecting runoff and maintaining the mechanisms for water quality protection.

Therefore, the Commission finds that the proposed development, as conditioned, conforms to the certified LCP policies regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

G. Local Coastal Program

Long Beach is a coastal city in southern Los Angeles County. In 1980, the Coastal Commission certified the City's LCP, which is comprised of a Land Use Plan (LUP) and Implementation Plan (IP) made up of several stand-alone documents. The City of Long Beach LCP has been amended nearly 100 times since its original certification. The subject site is located within the Certified LCP's Southeast Area Development and Improvement Plan (SEADIP) area; therefore, the standard of review is the City of Long Beach's certified local coastal program (LCP) and incorporated SEADIP policies.

H. California Environmental Quality Act

Section 13096 of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as modified 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 approval of a proposed development if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant impacts that the activity may have on the environment.

The City of Long Beach Department of Development Services is the lead agency for the purposes of CEQA review. In accordance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines, an Initial Study/ Mitigated Negative Declaration (IS/MND) was prepared for the proposed project. The IS/MND provided mitigation measures addressing Aesthetics, Biological Resources, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Noise, and Tribal Cultural Resources. The IS/MND determined that with mitigation measures in place, the proposed project would not result in any significant adverse environmental impacts. The IS/MND was distributed to public agencies and made available for public review and comment for a CEQA-required 30-day review period that started on September 6, 2019 and ended on October 7, 2019. The Notice of Intent (NOI) was filed with the Los Angeles County Clerk on September 5, 2019, mailed out to various local and State agencies on September 5, 2019, and published in the Press Telegram on September 6, 2019.

The City received seven letters during the IS/MND public comment period. None of the comments raised issues with the analysis contained in the IS/MND that warranted new impacts or mitigation not identified in the environmental document. The preparation and public availability of this MND has been carried out in compliance with the provisions of CEQA and the CEQA Guidelines. No public comments regarding potential significant adverse environmental effects of the project were received by the Commission prior to preparation of the staff report.

The preceding findings of this staff report, incorporated herein by reference, disclose the relevant coastal resource impacts of the proposed project. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and complies with the applicable requirements of the Coastal Act to conform to CEQA.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

City of Long Beach Certified Local Coastal Program, July 22, 1980.

Staff Report for Appeal No. A-5-LOB-20-0006 (Panattoni Development Company), dated February 28, 2020