

CALIFORNIA COASTAL COMMISSION

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W16b

Filed 1/28/20
SI Found: 3/13/20
Staff: CP – LB
Staff Report: 8/20/21
Hearing Date: 9/8/21

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 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 is adjacent to the project site; and 4) further analysis is required 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 previously certified LCP, SEADIP required 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 the LCP Amendment for Southeast Area Specific Plan (SEASP) with suggested modifications, which replaces SEADIP. On July 20, 2021, the Long

Beach City Council unanimously adopted Ordinance No. ORD-21-0024 and passed Resolutions Nos. RES-21-0075, -76, -77, -78, and -79 incorporating the modifications suggested by the Commission pursuant to its approval. On July 29, 2021, the City submitted the resolutions and ordinance adopted by the City Council to the Executive Director for a determination that the City's action is consistent with the Commission's October 8, 2020 action, and the Executive Director has determined that the City's action is legally adequate. Therefore, the certified LCP and incorporated SEASP policies are now the standard of review for this project, and the land use priorities for the western project area has changed from an interpretive center, park, and playground purposes to coastal habitat. 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).

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 7** 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, which was previously graded and developed as an industrial site, 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 3** 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 4** requires the applicant to use bird-safe glazing for the building façade; and **Special Condition 6** 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 5** requires the applicant to submit a final lighting plan which limits the amount of light trespass to 0.01 foot-candles 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 8** 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 12** 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 1** 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 10** 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 2** requires the applicant to implement general construction Best Management Practices (BMPs). In order to deal with these post construction water quality impacts, **Special Condition 11** 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 13** 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 14** requires the applicant to waive rights to future shoreline protection of the development subject to this permit. In addition, **Special Condition 9** 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 previously mentioned, the certified LCP and incorporated SEASP policies are the standard of review for the subject application. In particular, Goal 3.b. of the Open Space and Recreation Element requires identification and preservation of sites with outstanding scenic, historic, and cultural significance or recreational potential and SEASP, Chapter 6, 6.7 General Development Standards, p. Tribal, Cultural, Archaeological, and Paleontological Resources states that to protect archeological and paleontological resources that have been found in the SEASP area and have the potential to occur throughout the area, reasonable mitigation measures shall be required where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer. In addition, the Commission may consider environmental justice concerns in the subject application.

This project site has specific environmental justice concerns related to coastal access for Californian Native American Tribes with ancestral ties to the project location as well as the potential to adversely affect paleontological, archeological, tribal and other cultural resources, which have been disclosed through the Commission's Tribal Consultation process. Through Tribal Consultation, staff learned that the Gabrieleno/Tongva San Gabriel Band of Mission Indians in 2019 nominated a large portion of this area (between Long Beach and Seal Beach) as Sacred Lands related to the prehistoric village of Puvungna. This project site falls entirely within the Sacred Lands boundary and the tribal government is opposed to the proposed development and believes that both the western and eastern project areas should be completely preserved as open space. The Commission acknowledges that the site is sacred land (which has been confirmed by the NAHC) regardless of its current disturbed condition or the ability of the site to yield cultural artifacts and understands that the project on the eastern project area will have significant impacts to the status of the land as sacred; however, the applicant has proposed mitigation for these impacts in the form of preservation of the western project area and has proposed to submit a Tribal Access Plan, to ensure that the affected tribal governments with ancestral ties to the land are given equitable access to the western project area in order to continue religious and cultural practices in the future. **Special Condition 15** requires the applicant to protect cultural resources by submitting an Archeological Research Plan and an Archeological Monitoring and Mitigation Plan and understands that preservation in-situ is the preferred treatment method if any resources are found on the eastern project area. Additionally, **Special Condition 16** requires the applicant to work with the Los Cerritos Wetlands Authority to submit a Tribal Access Plan for the affected Tribes to have access to the area for religious and ceremonial gatherings, resource and material gathering, and other tribal uses. As conditioned, the project is consistent with the LCP policies that require reasonable mitigation measures for impacts to tribal cultural resources, including mitigation for the impact to a Sacred Landscape. Even with these conditions, the Gabrieleno/Tongva San Gabriel Band of Mission Indians continues to oppose the project and opposes the staff recommendation and argues that impacts to sacred land cannot be adequately mitigated.

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 7**. The special conditions begin on **Page 8**.

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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. **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 8** requires the Offer to Dedicate to be completed before the lot line adjustment);
 - B. A minimum of 53 Electric Vehicle Spaces, including 11 Electric Vehicle Charging Stations;
 - C. A minimum of 28 bicycle parking spaces; and
 - D. Final signage plan for development on the western project area, consistent with SEASP, Chapter 5, Section 5.5, Policy 5.18: Standards Applicable to All Areas Adjacent to Jurisdictional Waters, ESHA, and Wetlands (listed on page 30 of this staff report).

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.

2. **Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris.** The permittee 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 permittee 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.
- 3. 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. In addition, the plan shall show irrigation on the western project area and shall clearly state that the applicant will be responsible for irrigating this area, until it is donated to the Los Cerritos Wetlands Authority (LCWA) when irrigation becomes the responsibility of the LCWA.
 - i. The final planting plan and palette for the western project area shall be submitted for the review and written approval of the Executive Director, and shall be in substantial conformance with the draft plan and palette, except for changes which may be required to implement the Tribal Access Plan as required by **Special Condition 16.**
- 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.

- 4. **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.

5. 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

6. 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 permittee 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 permittee 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 permittee 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.

- 7. 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. The permittee or any future owners of the eastern project area shall be responsible for the remediation of the western project area. Any actual remediation requires a coastal development permit or a coastal development amendment, in addition to approval of plans by the Executive Director, the affected Tribes, and the Los Cerritos Wetlands Authority.
- 8. 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 1**, 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 fee title 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, preserving 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**.
 2. Public access and/or a future trail system may be allowed pursuant to a future coastal development permit or a coastal development permit amendment
 3. Tribal access and associated development required to be provided consistent with the Tribal Access Plan, as required pursuant to **Special Condition 16**.

The recorded document(s) shall include a legal description and corresponding graphic depiction of the legal parcel(s) subject to this permit and a legal description and a corresponding graphic depiction, drawn to scale, of the perimeter of the area subject to this condition (i.e. the entirety of the western project area).

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.

- 9. 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.

10. 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

11. 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, where feasible:

- 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) volume-based bioretention/bio-filtration BMPs designed to treat, at a minimum, 150% the 85th percentile 24-hour storm event, accompanied by supporting calculations, d) flow-through bio-filtration BMPs designed to treat, at a minimum twice the 85th percentile one-hour storm event volume, accompanied by supporting calculations, e) proprietary filtration systems

designed to treat, at a minimum, twice the 85th percentile one-hour storm event, 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.

12. 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.

13. 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.

14. 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.

15. Protection of Cultural Resources.

- A.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and written approval of the Executive Director an Archeological Research Plan (ARP), prepared consistent with subsections b, c and d of this condition. The ARP shall:
 - i.** Include a detailed plan for archeological research and testing to better characterize the potential for archeological resources on the site (both the eastern and western project areas) and to identify and accurately delineate (to the maximum extent practicable and in accordance with current professional archeological practices) any resources that may be discovered during the investigations.

- ii. Addresses the larger cultural and tribal setting of the project area and describe how the project sites fit into this setting. The ARP shall address potential connections between the project site(s) and the broader network of prehistoric villages and resources of tribal people in the Long Beach area. The ARP shall address the value of living resources and the cultural significance for the surrounding sites to tribal communities.
- iii. Address the nature of archeological resources that could be found around the mudflats, beach lines, and wetlands in and around the project sites.
- iv. Addresses the likelihood of archeological resources (including burials) being present and what impacts the project may have on unknown archeological resources under the artificial fill. Additional site testing may also include excavation of test pits and other soil testing methodologies if recommended by the peer review committee.
- v. Expand upon the existing records search investigation by conducting a new search that increases the search radius from within 0.5 miles to within 1.5 miles of the project sites.
- vi. If, during archeological testing, any cultural deposits, including but not limited to skeletal remains and grave-related artifacts, traditional cultural, religious or spiritual sites, midden and lithic material or artifacts, are discovered, they shall not be exposed and the testing shall be immediately halted in this location. Additional testing shall be conducted further from the center of the discovery until sterile conditions are encountered.
- vii. The ARP shall not authorize the excavation of any cultural deposits nor data recovery nor prejudice the ability to comply with applicable State and Federal laws if human remains are encountered. A separate coastal development permit is required for the ARP to be carried out, prior to any site grading or construction or other development or disturbance to the site. This CDP does not authorize the implementation of the ARP.
- viii. If resources are discovered, significance testing of these resources may be conducted in accordance with best management practices, if the affected Native American Tribes agree to significance testing. The ARP shall be revised as appropriate. The range of investigation and mitigation measures considered shall not be constrained by the approved development. Treatment methods considered shall range from in-situ preservation to recovery and/or relocation, with appropriate mitigation. Every effort shall be made to avoid impacts to cultural resources through methods such as, but not limited to, project redesign, capping, and creating an open space area around the cultural resource areas.
- ix. The ARP shall be reviewed by an archaeological peer review committee convened in accordance with current professional

practice. Representatives of Native American groups with documented ancestral ties to the area, as determined by the NAHC, shall also be invited to review and comment on the ARP.

- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the Applicant shall submit for the review and written approval of the Executive Director an Archaeological Monitoring and Mitigation Plan for the protection of archaeological/paleontological resources during project grading and construction activities, prepared by a qualified professional, consistent with **Subsections c, d, e, f and g** of this condition, which shall incorporate the following measures and procedures:
- i.** The Archeological Monitoring and Mitigation Plan shall incorporate all measures and changes in the proposed development included by the approved revised ARP, if required, as described in Subsection a.
 - ii.** During all digging, ground disturbance, and subsurface activity on the site, archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards and the Native American MLDs from each Tribe when State Law mandates identification of MLDs, shall be present on the site.
 - iii.** Also present during all digging, ground disturbance, and subsurface activity on the site shall be a minimum of 1 set of Native American monitors for every location of ground disturbance; 1 set shall include 2 individual monitors representing the affected Tribes identified on the Native American Heritage Commission's list (NAHC list). Both Native American monitors in the set shall be present at the same time and monitoring the same location.
 - iv.** More than 1 set of monitors on the site may be necessary during times with multiple grading and soil disturbance locations.
 - v.** Tribal representatives selected for the monitoring set shall be rotated equally and fairly among affected Native American Tribes, such that every Tribal Nation has an equal opportunity to monitor on the site and shall submit the monitoring rotation schedule to the Executive Director prior to the commencement of monitoring.
 - vi.** During all digging, ground disturbance, and subsurface activity on the site, any Native American representatives from Tribes on the NAHC list are welcome to be present on the site and monitor, even if they are not the assigned set of monitors within the rotation for that day.
 - vii.** The Permittee shall provide sufficient archeological and Native American monitors to assure that all project grading or other development that has any potential to uncover or otherwise disturb cultural deposits is monitored at all times. All archaeological monitors, Native American monitors and Native American most likely descendants (MLD) shall be provided with a copy of the final revised archaeological monitoring and mitigation plan required by this permit. Prior to commencement of grading, the Permittee shall convene an on-site pre-grading meeting with the all archaeological monitors,

Native American monitors and Native American MLDs along with the grading contractor, the Permittee and the applicant's archaeological consultant in order to ensure that all parties understand the procedures to be followed pursuant to the subject permit condition and the approved archaeological monitoring and mitigation plan, including the procedures for dispute resolution. At the conclusion of the meeting all attendees shall be required to sign a declaration, which has been prepared by the applicant, subject to the review and written approval of the Executive Director, stating that they have received, read, discussed and fully understand the procedures and requirements of the approved Archaeological Monitoring and Mitigation Plan and agree to abide by the terms thereof. The declaration shall include contact phone numbers for all parties and shall also contain the following procedures to be followed if disputes arise in the field regarding the procedures and/or terms and conditions of the approved Archaeological Monitoring and Mitigation Plan. Prior to commencement of grading, a copy of the signed declaration shall be given to each signatory and to the Executive Director.

- a. Any disputes in the field arising among the archaeologist, archaeological monitors, Native American monitors, Native American MLD, the grading and construction contractors or the applicant regarding compliance with the procedures and requirements of the approved archaeological monitoring and mitigation plan shall be promptly reported to the Executive Director via e-mail and telephone.
 - b. All work shall be halted in the area(s) of dispute. Work may continue in area(s) not subject to dispute, in accordance with all provisions of this special condition.
 - c. Disputes shall be resolved by the Executive Director, in consultation with the archaeological peer reviewers, Native American monitors, Native American MLD, the archaeologist and the Permittee.
 - d. If the dispute cannot be resolved by the Executive Director in a timely fashion, said dispute shall be reported to the Commission for resolution at the next regularly scheduled Commission meeting or as soon as practicable after the dispute is referred to the Executive Director
- viii. If any cultural deposits are discovered during project grading or construction, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or other artifacts, the Permittee shall carry out significance testing of said deposits only if acceptable to the Native American affected Tribes and, if cultural deposits are found by the Executive Director to be significant pursuant to **Subsection d** of this condition and any other relevant provisions, additional investigation and

mitigation in accordance with all subsections of this special condition;

- ix. If any cultural deposits are discovered, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or other artifacts, all development shall cease in accordance with Subsection c of this special condition;
- x. In-situ preservation and avoidance of cultural deposits shall be the preferred treatment option, to be determined in accordance with the process outlined in this condition, including all subsections. A setback shall be established between the boundary of cultural deposits preserved in-situ and/or reburied on-site and any proposed development; the setback shall be no less than 50 feet and may be larger if necessary to protect the cultural deposits;
- xi. If human remains are encountered, the Permittee shall comply with applicable State and Federal laws. Procedures outlined in the monitoring and mitigation plan shall not prejudice the ability to comply with applicable State and Federal laws. The range of investigation and mitigation measures considered shall not be constrained by the approved development plan. Where appropriate and consistent with State and Federal laws, the treatment of remains shall be decided as a component of the process outlined in the other subsections of this condition.

C. Discovery of Cultural Deposits. If an area of cultural deposits, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or other artifacts, is discovered during the course of the project, all grading and construction activities in the area of the discovery that have any potential to uncover or otherwise disturb cultural deposits in the area of the discovery and all construction that may foreclose mitigation options or the ability to implement the requirements of this condition shall cease and shall not recommence except as provided in **Subsections e and f** and other subsections of this special condition. In general, the area where construction activities must cease shall be 1) no less than a 200-foot wide buffer around the cultural deposit; and 2) no more than the residential enclave area within which the discovery is made.

D. Significance Testing Plan Required Following the Discovery of Cultural Deposits. PRIOR TO RECOMMENCING CONSTRUCTION, the permittee, following a discovery of cultural deposits, shall submit a Significance Testing Plan for the review and written approval of the Executive Director, if acceptable to the affected Native American Tribes. If no significance testing is acceptable to the Tribes, the applicant shall not recommence construction without an amendment to this CDP to preserve the resource in-situ and to revise the development plan to avoid impacts to the resources through methods such as, but not limited to, project

redesign, capping, and creating an open space area around the cultural resource areas.

The Significance Testing Plan shall identify the testing measures that will be undertaken to determine whether the cultural deposits are significant. The Significance Testing Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), and the Most Likely Descendent (MLD) when State Law mandates identification of a MLD. Once a plan is deemed adequate, the Executive Director will make a determination regarding the significance of the cultural deposits discovered.

- i. If the Executive Director approves the Significance Testing Plan and determines that the Significance Testing Plan's recommended testing measures are de minimis in nature and scope, the significance testing may commence after the Executive Director informs the permittee of that determination.
- ii. If the Executive Director approves the Significance Testing Plan but determines that the measures therein are not de minimis, significance testing may not commence until after the Commission approves an amendment to this permit.
- iii. Once the measures identified in the Significance Testing Plan are undertaken, the permittee shall submit the results of the testing to the Executive Director for review and written approval. The results shall be accompanied by the project archeologist's recommendation as to whether the findings should be considered significant. The project archeologist's recommendation shall be made in consultation with the Native American monitors and the MLD when State Law mandates identification of a MLD. If there is disagreement between the project archeologist and the Native American monitors and/or the MLD, both perspectives shall be presented to the Executive Director. The Executive Director shall make the determination as to whether the deposits are significant based on the information available to the Executive Director. If the deposits are found to be significant, the permittee shall prepare and submit to the Executive Director a supplementary Archeological Plan in accordance with **Subsection E** of this condition and all other relevant subsections. If the deposits are found to be not significant by the Executive Director, then the Permittee may recommence grading in accordance with any measures outlined in the Significance Testing Plan.

E. Supplementary Archaeological Plan Required Following an Executive Director Determination that Cultural Deposits are Significant. PRIOR TO RECOMMENCING CONSTRUCTION, the permittee, following a determination by the Executive Director that the cultural deposits discovered are significant, shall submit a Supplementary Archeological Plan for the review and written approval of the Executive Director. The Supplementary Archeological Plan shall be prepared by the

project archaeologist(s), in consultation with the Native American monitor(s), the MLD when State Law mandates identification of a MLD, as well as others identified in **Subsection F** of this condition. The supplementary Archeological Plan shall identify proposed investigation and mitigation measures. If there is disagreement between the project archeologist and the Native American monitors and/or the MLD, both perspectives shall be presented to the Executive Director. The range of investigation and mitigation measures considered shall not be constrained by the approved development plan. Treatment methods considered shall range from in-situ preservation to recovery and/or relocation with appropriate mitigation. Every effort shall be made to avoid impacts to cultural resources through methods such as, but not limited to, project redesign, capping, and creating an open space area around the cultural resource areas. In order to protect cultural deposits, any further development may only be undertaken consistent with the provisions of the final, approved, Supplementary Archaeological Plan.

- i. If the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after the Executive Director informs the Permittee of that determination.
- ii. If the Executive Director approves the Supplementary Archaeological Plan but determines that the changes therein are not de minimis, construction may not recommence until after the Commission approves an amendment to this permit

F. Review of Plans Required by Archaeological Peer Review

Committee, Native American Groups and Agencies. Prior to submittal to the Executive Director, all plans required to be submitted pursuant to this special condition, including the revised ARP and the monitoring and mitigation plan during project grading, excepting any Significance Testing Plan, shall have received review and written comment by a peer review committee convened in accordance with current professional practice. The Committee shall consist of 3 professional archeologists with experience in Los Angeles and/or Orange Counties. Names and qualifications of selected peer reviewers shall be submitted for review and written approval by the Executive Director. Representatives of Native American Tribes with documented ancestral ties to the area, as determined by the NAHC, shall also be invited to review and comment on the above required plans. The plans submitted to the Executive Director shall incorporate the recommendations of the peer review committee and the Native American groups or an explanation provided as to why the recommendations were rejected. Furthermore, upon completion of the peer review and Native American review process, and prior to submittal to the Executive Director, all plans shall be submitted to the California Office of Historic Preservation

(OHP) and the NAHC for their review and an opportunity to comment. The plans submitted to the Executive Director shall incorporate the recommendations of the OHP and NAHC. If any of the entities contacted for review and comment do not respond within 30 days of their receipt of the plan, the requirement under this permit for those entities' review and comment shall expire, unless the Executive Director extends said deadline for good cause. All plans shall be submitted for the review and written approval of the Executive Director

- G. Final Report.** At the completion of the revised ARP and the Archaeological Monitoring and Mitigation Plan, the Permittee shall prepare a report, subject to the review and written approval of the Executive Director, which shall include but not be limited to, detailed information concerning the quantity, types, location, and detailed description of any cultural resources discovered on the project site, analysis performed and results and the treatment and disposition of any cultural resources that were excavated. The report shall be prepared consistent with the State of California Office of Historic Preservation Planning Bulletin #4, "Archaeological Resource Management Reports (ARMR): Recommended Contents and Format". The final report shall be disseminated to the Executive Director and the South Central Coastal Information Center at California State University at Fullerton.
- H.** The Permittee shall undertake development in conformance with the approved plans unless the Commission amends this permit or the Executive Director determines that no amendment is legally required.

16. Tribal Access Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a Tribal Access Plan for the western project area written in collaboration with the Los Cerritos Wetlands Authority and the affected tribal governments (as described on the NAHC contact list), for the review and written approval of the Executive Director. Said plan shall lay out the key components of the Tribal Access Plan, including but not limited to, the names of Tribes that will have access to the area for religious and ceremonial gatherings, resource and material gathering, and other tribal gatherings, a description of the type and frequency of activities permitted on the site and a discussion of how these activities will be carried out in a manner that is protective of the native habitat and species, and a description of whether and how the area will be closed off to the public while Tribes are accessing the area for the described activities.

The successors and assigns of the western project area shall maintain access in conformance with the approved Tribal Access Plan unless the Commission amends this permit or the Executive Director determines that no amendment is legally required.

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 area² 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 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 ([Exhibit 2](#)). 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,

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.

² SEASP designates this western project area as the “Studebaker Straddle Site”

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 Specific Plan (SEASP) policies, and the public access and recreation policies of the Coastal Act. While SEADIP was the standard of review at the substantial issue hearing stage, the Commission approved Southeast Area Specific Plan (SEASP) with suggested modifications at the October 8, 2020 hearing. SEASP has been effectively certified by the Commission prior to its action on the subject permit at the September 8, 2021 meeting.

B. Biological Resources

Relevant LCP Policies:

Introduction, LUP, Coastal Resources states: The water resources of Alamitos Bay, Marine Stadium, Sims Pond, Colorado Lagoon, and 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. The beaches are preserved in perpetuity by the dedication policy, and enhanced by limited development programs which will encourage sensible public use.

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.

SEASP, Chapter 5, Section 5.1, Definitions, Environmentally Sensitive Habitat Areas, Policy 5.1 states: Identification of ESHA is made on a case-by-case basis,

based upon sites specific evidence, and in consultation with a qualified professional. When sensitive biological resources are suspected on or near a project site and a project has the potential to impact those resources, biological evaluations are required. In addition to surveying the project site, the following lists and designations of rare species and habitats, among other information sources, are consulted to assist in the determination of whether habitats onsite are ESHA:

- a) Federal and State listed Rare, Threatened, and Endangered Species
- b) Plants, animals, and natural communities ranked as global or state G1 or S1 (critically imperiled), G2 or S2 (imperiled), or G3 or S3 (vulnerable to extirpation or extinction) by the California Department of Fish and Wildlife's Natural Diversity Database (CNDDDB) and NatureServe
- c) California Fully Protected Species, California Species of Special Concern, and their habitats.
- d) Listed critical habitat occupied by the respective rare species
- e) California Native Plant Society (CNPS) plant species designated 1B (rare or endangered in California and elsewhere) and 2 (rare, threatened, or endangered in California but more common elsewhere)
- f) Federal and State plants, animals, and natural communities that are candidates for listing or delisting may be considered

SEASP, Chapter 5, Section 5.1, Definitions, Sensitive Coastal Habitat Areas states: Sensitive Coastal Habitat Areas are specific areas of the City that may contain wetlands, marine resources, or ESHA. These areas are defined geographically and are largely undeveloped areas that may contain wetlands, ESHA, or marine resources, but do not represent solely wetlands, ESHA, or marine resources, and do not represent the only potential for wetlands, ESHA, and marine resources in the coastal zone.

For example, the Coastal Habitat/Wetlands/Recreation (CHWR) land use designation district is a sensitive coastal habitat area.

SEASP, Chapter 5, Section 5.1, Definitions, Wetlands, Policy 5.2 states: Wetland delineations in the SEASP area must be conducted consistent with the provisions of this chapter. At the time of local Coastal Development Permit application submittal, new projects located on a property where any portion of that property is located within 100 feet of any designated wetland, or within 100 feet of a potential wetland based on site specific characteristics or nearby wetland delineations, or within 100 feet of a Coastal Habitats/Wetlands/Recreation land use designation area where no nearby wetland delineations exist, or within 100 feet of a documented sensitive coastal habitat area require the preparation of a biological study to determine the location and extent of wetlands resources, on a site, if any.

When a wetland delineation is required by the City for a new development application or permit, one of two options may be provided by the applicant:

1. A preliminary wetland delineation, as defined by the Coastal Act and California Code of Regulations, using the 1987 U.S. Army Corps of Engineers Wetland Delineation Manual and Arid West Regional Supplement instructions, showing the location and extent of wetlands, or
2. A survey conducted by a qualified biologist based on a site visit demonstrating that no wetlands, ESHA, marine resources, or sensitive species are located within 100 feet of the property boundaries

SEASP, Chapter 5, Section 5.1 Definitions, Wetlands, Policy 5.3 states: Wetland delineations must be conducted during the middle or end of the rainy season, which may occur during winter or spring depending on the local annual rain pattern.

SEASP, Chapter 5, Section 5.2 Local Context and Resources, Local Sensitive Coastal Habitat Areas, 4. Open Space Areas West of Studebaker Road and North of the Synergy Oil Fields (Studebaker Straddle Site) states: The two sites bounded by the Los Cerritos Channel and Studebaker Road and bisected by Loynes Drive, are intended to be transferred to the Los Cerritos Wetlands Authority (LCWA), a joint powers governmental entity consisting of the State Coastal Conservancy, Rivers and Mountains Conservancy, and cities of Long Beach and Seal Beach, and restored to wetlands. Pursuant to research conducted in 2019, 32 special status plant and 24 special status animal species have the potential to occur at these sites.

SEASP, Chapter 5, Section 5.4 Allowable Uses in Sensitive Coastal Habitat Areas, Policy 5.5 states: Development within the CHWR land use designation is only allowed when sited, designed, and conditioned to avoid impacts to wetlands, ESHA, and coastal wildlife and minimize impacts to coastal views.

For areas designated CHWR that are not within ESHA, wetlands, or their respective buffers, allowable uses are:

- Private special events facilities (only on privately owned parcels)
- Oil and gas extraction (ongoing and existing facilities)
- Retail or rental boats, paddle boards, kayaks, and the like
- Outdoor flower, plant, fruit, vegetable sales, or wetland nurseries
- Camping facilities
- Boat storage facilities
- Construction trailer
- Interpretive or education center
- Park, community gardens, parklets
- Restoration

This land use designation includes areas that are known or have the potential to contain wetlands and ESHA.

SEASP, Chapter 5, Section 5.5 SEASP Policies, Policy 5.18: Standards Applicable to All Areas Adjacent to Jurisdictional Waters, ESHA, and

Wetlands states: Development projects within 100 feet of Coastal Act wetlands or environmentally sensitive habitat (ESHA), and all land within the Coastal Habitat, Wetlands, and Recreation land use shall comply with the following:

»Prior to approval of a trails/access plan within or adjacent to wetlands or ESHA, the location, design, and text for urban-open space interface signage shall be developed. The signage shall be located at all pedestrian access points. The signage shall educate users on the responsibilities associated with the open space interface and shall address relevant issues, including the role of natural predators in the wildlands and how to minimize impacts of human and domestic pets on native communities and their inhabitants.

»Prior to approval of any development adjacent to the Coastal Habitat, Wetlands, and Recreation land use, the project applicant shall submit a photometric plan demonstrating that the project will be designed and shielded so that the nighttime lighting shall be no greater than 0.10 foot-candles at the edge of the habitat. This limits spill light (light trespass) to levels that do not greatly exceed the intensity of moonlight (approximately 0.1 foot-candles).

SEASP, Chapter 5, Section 5.5 SEASP Policies, Other-Habitat Related

Policies, Policy 5.29 states: The trimming and/or removal of any trees that have been used for breeding, roosting, and nesting within the past five (5) years, as determined by a qualified biologist or ornithologist shall be undertaken in compliance with all applicable codes and regulations of the California Department of Fish and Wildlife, the U.S. Fish and Wildlife Service and the U.S. Migratory Bird Treaty Act, and shall be conducted under the parameters of a Tree Maintenance Program which shall be prepared and included as part of the LCP's Implementation Plan.

SEASP, Chapter 5, Section 5.5 SEASP Policies, Construction Near Nesting Habitat, Policy 5.30 states:

If an active nest of any species listed pursuant to the federal or California Endangered Species Act, California bird species of special concern, or a wading bird (herons or egrets) as well as owls or raptors is found, construction activities shall avoid breeding/nesting season (January through September). If construction is determined to be necessary during the breeding/nesting season, construction activities within 300 feet (500 feet from any owl or raptor nests) shall not exceed noise levels of 65 dB peak until the nest(s) is naturally vacated and juveniles have fledged and there is no evidence of a second attempt at nesting. The 65 dB peak noise levels may only be increased if a noise study demonstrates the ambient noise level is above 65 dB at the subject site, and

shall not be allowed to exceed the ambient level. When construction is determined to be necessary during the breeding/nesting season, breeding/nesting bird surveys shall be conducted by a qualified biologist at least 30 days prior to commencement of construction with a follow-up survey conducted 3 days prior to commencement of construction on sites where there is probable cause to believe that nesting birds may exist.

SEASP, Chapter 5, Section 5.6 Development Standards, Proximity to Sensitive Coastal Habitat Areas, Policy 5.32 states: In addition to the standards above, new development located on properties that contain or are located within 100 feet of wetlands, ESHA, or sensitive coastal habitat areas (including open water), as defined in this chapter, shall also comply with the following:

- A. Lighting shall be designed to achieve the minimum degree of illumination necessary for public safety, minimize light trespass into adjacent non-target areas, and limit the illumination of open space and sensitive coastal habitat areas to the maximum extent feasible. Lighting shall be downward directed, shielded, energy efficient, dark sky-compatible, and shall incorporate state-of-the-art improvements in lighting technology when replaced thereafter. Replacement bulbs or fixtures shall be upgraded to incorporate best available technology over the life of the installation. Programmable timing devices shall be utilized to turn off unnecessary lights where feasible. Illuminated signs shall not be allowed.

SEASP, Chapter 6, Section 6.7, General Development Standards, e. Landscape states: [...] Landscaping shall be drought-tolerant and feature native, non-invasive, adaptive plants (per CALGreen standards and Cal-IPC species) to create a more seamless transition between the natural wetlands and development...

The eastern project area is designated for “Industrial” uses in SEASP, and the site has been vacant for, at a minimum, the past decade. There are concerns from members of the public that the proposed development will have adverse cumulative impacts in the area, especially since the site is adjacent to the Los Cerritos Wetlands. While the site is adjacent to the wetlands, neither the eastern nor the western project areas are considered wetlands; however, it is crucial that protective measures are in place to safeguard the wetlands and surrounding wildlife and habitat. As such, the applicant is proposing to donate the western project area to the LCWA as native transitional habitat, consistent with SEASP, Chapter 5, Section 5.4 Allowable Uses in Sensitive Coastal Habitat Areas, Policy 5.5. The restoration of these parcels will serve as a buffer to the wetlands adjacent to the site. The adjacent wetlands and wildlife must be protected. Thus, in addition to donating the western project area as native transitional habitat, and as described in more detail below, since the project site is within the pathway of the

Pacific Flyway³ and is approximately 200 ft. from the Steamshovel Slough (the most pristine wetland within the larger Los Cerritos wetlands complex), special conditions are imposed to avoid adverse impacts to the adjacent sensitive coastal habitat areas (including open water), and maintain the western project area as a buffer from sensitive habitat 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, consistent with SEASP, Chapter 5, Section 5.1 Definitions, Policy 5.1.

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

³ The “Pacific Flyway” is a descriptor for a phenomenon that encompasses the entire coast of California and beyond. Depending on the types of migrating birds, certain pathways (e.g. bordering the ocean, near creeks, rivers, and wetlands, along valleys, etc.) will be more frequented, and certain habitats (riparian areas, wetlands, etc.) will be more important stopovers, than others. Birds migrating along this route are heading to the Canadian Arctic, Canadian plains, and Canadian boreal forest in the spring, and to Mexico, South America, and Pacific Islands in the fall. Over 60 species of waterfowl, raptors, shorebirds, and songbirds are known to regularly migrate through Los Angeles county; traveling at night and stopping for a time by coastal creeks, wetlands, woods, and neighborhoods.

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. Additionally, although not considered ESHA, the western project area is designated as sensitive coastal habitat area, consistent with SEASP, Chapter 5, Section 5.1 Definitions, Sensitive Coastal Habitat Areas which designates the western project area as Coastal Habitat/Wetlands/Recreation (CHWR).

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 6** 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, consistent with SEASP, Chapter 5, Section 5.5 SEASP Policies, Other-Habitat Related Policies, Policy 5.29 and Construction Near Nesting Habitat, Policy 5.30. 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 4** requires the applicant to use bird-safe glazing for all glass on the building façade.

On April 1, 2019, Rincon Consultants conducted a biological resources assessment (BRA - a one day reconnaissance level biological survey) at the project site that included a 100-foot buffer around the site, to document the existing site conditions and to evaluate the potential for the presence of sensitive biological resources. In preparation for the BRA Rincon conducted a California Diversity Database (CNDDDB) query to assess which sensitive plant and animal species had the potential to occur on the site. The query resulted in a list of 32 special status plants and 24 special status animals, consistent with the SEASP, Chapter 5, Section 5.2 Local Context and Resources, Local Sensitive Coastal Habitat Areas, 4. Open Space Areas West of Studebaker Road and North of the Synergy Oil Fields (Studebaker Straddle Site). However, Rincon did not observe any of the sensitive plants or animals from the CNDDDB generated list on the site on April 1, 2019. In addition, 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 Coastal Act and the Commission's regulations, consistent with SEASP, Chapter 5, Section 5.1 Definitions, Wetlands, Policy 5.2.

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, consistent with SEASP, Chapter 5, Section 5.1 Definitions, Wetlands, Policy 5.3 to conduct wetlands delineations during the middle or end of the rainy season.

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](#)).⁴ To ensure that the final landscaping plans are in conformance with the preliminary plans and to be consistent with SEASP, Chapter 6, 6.7 General Development Standards, e. Landscape to use drought resistant, water saving landscape, **Special Condition 3** 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

⁴ Note: The Final Planting Plan and Palette for the Western Project Area shall be submitted for the review and written approval of the Executive Director, and shall be in substantial conformance with the draft plan and palette, except for changes which may be required to implement the Tribal Access Plan as required by **Special Condition 16**.

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, **Special Condition 5** 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 foot-candles along the western project area adjacent to Studebaker Road, consistent with SEASP, Chapter 5, Section 5.6 Development Standards, Proximity to Sensitive Coastal Habitat Areas, Policy 5.32 and more protective than the requirements of SEASP, Chapter 5, Section 5.5 SEASP Policies, Wetland and ESHA Policies, Policy 5.18: Standards Applicable to All Areas Adjacent to Jurisdictional Waters, ESHA, and Wetlands. In this case, Commission staff’s senior ecologist Dr. Engel recommended .01 (a slightly more conservative standard) than what is required in the certified LCP due to the proximity to sensitive coastal habitat areas. 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.

SEASP, Chapter 6, 6.7 General Development Standards, o. Coastal Hazards states:

Adaptive Siting and Design

1. New development at elevations subject to flood risk and new projects where a site-specific study indicates vulnerability to sea level rise, is required to be safe from hazards for the life of the development without reliance on shoreline protection (unless required pursuant to 30235 and the policies of the LCP). If the development can be safely sited on the property, it shall be designed to minimize risks from flooding and inundation over the anticipated life of the development, including, but not limited to, risks to water quality from potential mobilization of contaminants on-site or in soil, in a manner that may not require

future shoreline protective devices. These projects shall evaluate and incorporate appropriate siting and adaptive design strategies, which are consistent with SEASP goals, to minimize risks to life and property, such as constructing raised foundations, incorporating wet/dry first floors, elevating mechanical and utility installations, and limiting underground spaces to non-habitable uses. Projects containing basements, or similar structures, shall be screened for potential function as shoreline protective devices. At a minimum, new development in flood risk areas shall be designed such that design modifications can be implemented in the future if necessary.

2. New development that is not coastal-dependent (including additions to existing structures) is not permitted to rely on shoreline protective devices and must be designed and sited to independently be considered safe from hazards for the economic life of the development.

SEASP, Chapter 9, 9.4 Sea Level Rise, Coastal Hazard Policy 3 states: When new development that is not coastal dependent or otherwise entitled to shoreline protection under Section 30235 of the Coastal Act is vulnerable to coastal hazards during its expected life, the City shall require as a condition of approval that:

- 1) the applicant acknowledge and agree that it does not have any rights to shoreline protection and waive any such rights that may exist under applicable law, and
- 2) that the approved development shall be removed when
 - a) the City or other government agency with legal jurisdiction 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, flooding, erosion, bluff retreat, landslides, or other hazards related to coastal processes, and that there are no feasible measures that could make the structures suitable for habitation or use without the use of bluff or shoreline protective devices;
 - b) essential services to the site (i.e. utilities, roads) can no longer be feasibly maintained due to coastal hazards; or
 - c) removal is required pursuant to certified LCP policies for sea level rise adaptation planning. In addition, the condition shall state that the permit does not authorize encroachment onto public trust lands, and any future encroachment must be removed unless the encroachment is both:
 - 1) consistent with the certified LCP and
 - 2) approved by the State Lands Commission.

[...]

SEASP, Chapter 9, 9.4 Sea Level Rise, Coastal Hazard Policy 12 states:

Coastal development permits for new development located in areas vulnerable to flooding and sea level rise shall be conditioned to require real estate disclosures, waivers of any rights to shoreline protection, if applicable, and assumption of risk by applicants and/or property owners that will be recorded as restrictions on the deed for the property. The real estate disclosure shall acknowledge potential migration of the public trust boundary line as sea levels rise.

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 SEASP, Chapter 9, 9.4 Sea Level Rise, Coastal Hazard Policy 12, the Commission imposes **Special Condition 13**, 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 14** requires the applicant to waive rights to future shoreline protection of the development subject to this permit, consistent with SEASP, Chapter 9, 9.4 Sea Level Rise, Coastal Hazard Policy 3.

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, the open space (especially on the western project area) must be treated and maintained as usable, open space. Thus, **Special Condition 7** 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:

SEASP, Chapter 1, 1.1 Creating a Feasible Plan states: To create a sustainable, feasible and effective plan, three primary planning "pillars" must be equally considered:

- Physical Benefits (amenities, design, placemaking)
- Environmental Benefits (conservation of coastal resources)
- Economic Benefits (can the proposed mix of uses be built under existing circumstances)

These three components are like three legs of a stool; they must all be in place for the stool to function effectively. A plan heavily focused on physical change or the

environment while excluding economic feasibility will not foster sustainable development. Alternatively, a plan that only takes into consideration economic benefits without regard for community aspirations or environmental assets of the area also does not benefit the Long Beach community.

Aligning the three pillars of sustainability often requires compromise and identifying ways to fulfill today's needs while conserving for future generations.

SEASP, Chapter 4, 4.4 Land Use Designations, 4.4.7 Industrial states: The Industrial designation is intended to regulate the predominantly energy-related uses that are located in the eastern half of the SEASP area. This designation allows for industrial uses including utilities and oil extraction operations. Industrial uses within the entire SEASP area must comply with LBMC Chapter 21.33, Industrial Districts...

SEASP, Chapter 6, 6.5 Industrial states: Provisions of Zoning Code Chapter 21.33, Industrial Districts (IG–General Industrial) shall apply with the following exception:

» The minimum front yard setback along Studebaker Road shall be 20 feet (of which at least 10 feet must be landscaped).

SEASP, Chapter 5, Section 5.4 Allowable Uses in Sensitive Coastal Habitat Areas, Industrial states: This designation allows for industrial uses including utilities and oil extraction operations. Industrial uses within the entire SEASP area must comply with certified zoning code Chapter 21.33, Industrial Districts. Industrial uses and oil operations may be limited or conditionally approved pursuant to the wetland and ESHA protection policies.

SEASP, Chapter 8, 8.1 Introduction and Purpose, 8.1.4 Sustainability states: Sustainability is also a core tenet in Long Beach and important to residents and stakeholders in the SEASP area. The community values sustainable site planning and buildings that are resource-efficient. New development should reflect these values and be designed to adapt to environmental changes and changes in global weather patterns (e.g., sea level rise) that are anticipated to occur during a development's lifespan.

The eastern project area is designated "Industrial" under SEASP and the proposed development is consistent with SEASP, Chapter 4, 4.4 Land Use Designations, 4.4.7 Industrial to allow for energy-related uses that are located in the eastern half of the SEASP area. In addition, the applicant proposes to have a 20 ft. minimum front yard setback, consistent with SEASP, Chapter 6, 6.5 Industrial. Furthermore, an industrial use of the eastern project area is consistent with SEASP, Chapter 5, Section 5.4 Allowable Uses in Sensitive Coastal Habitat Areas, Industrial to comply with Chapter 21.33, Industrial Districts of Long Beach Municipal Code.

Under SEADIP, the southwestern parcels were within Subarea 24 South of SEADIP PD-1 and were designated for an overlook area and interpretive center for the bordering marsh. The northwestern parcel was within Subarea 24 North of SEADIP PD-1, which was 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, which is consistent with SEASP, which 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. The proposed development for both the eastern and western project areas is consistent with SEASP, Chapter 1, 1.1 Creating a Feasible Plan which states that three primary planning "pillars" must be equally considered for project planning— physical benefits and economic benefits (existing conditions of the eastern project area allow for industrial buildings) and environmental benefits (restoration of the western project area). In addition, the applicant's proposal to use a solar-ready building design to facilitate and optimize the installation of solar photovoltaic systems in the future will help mitigate any developmental effects related to constructing and operating new industrial buildings, to a certain extent, and will provide environmental benefits (potential reduction of greenhouse gas emissions compared to not installing solar-ready building design), consistent with SEASP, Chapter 8, 8.1 Introduction and Purpose , 8.1.4 Sustainability.

The applicant is proposing to provide open space (approximately 30% of the entire project site) by incorporating 1.81 acres of open space on the western project area and .84 acres of open space on the eastern project area. **Special Condition 8** requires the applicant to execute and record a document, irrevocably offering to dedicate the western project area as open space in order to effectuate the applicant's proposal. 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 12**, 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, which 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 1** 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.

There are concerns from members of the public that the City of Long Beach's preparation of a Mitigated Negative Declaration (MND) for the proposed project was in error because the project site is across the street from the Los Cerritos Wetlands, which is an environmentally sensitive habitat area, and an Environmental Impact Report (EIR)

should have been prepared for the project instead. However, in this case, the City is the lead agency for purposes of the California Environmental Quality Act (CEQA), and the Commission does not have authority over a lead agency's compliance with CEQA. The Commission does and should however, review the project for consistency with the relevant certified LCP policies.

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

E. Public Access and Recreation

Relevant LCP Policies:

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.

SEASP, Chapter 6, 6.7 General Development Standards, i. Public Access states: Public access shall be provided to and along the boundaries of all public waterways and wetland areas

SEASP, Chapter 6, 6.7 General Development Standards, i. Public Access, Policy 12 states: The owner of two sites bounded by the Los Cerritos Channel and Studebaker Road and bisected by Loynes Drive shall dedicate area along Studebaker Road for the bicycle trail to be built along Studebaker Road.

SEASP, Chapter 7, 7.3 Parking, 7.3.1, Standard Parking states: Parking within SEASP will be provided by a number of private surface parking lots, potential future parking structures, and on-street parking spaces. The City of Long Beach Municipal Code shall guide required parking for land uses in the SEASP area. For mixed use sites, shared parking strategies (described below) shall guide parking requirements for the SEASP area.

All parking in the SEASP area located within the Coastal Zone must also be consistent with the parking and accessibilities policies of the Coastal Act, including public accessibility to the coastal area.

SEASP, Chapter 7, 7.2 Creating a Complete Streets Network, 7.2.1 Pedestrian and Bicycle Circulation and Access, Class IV Separated Bikeways (Cycle Track) states: Provides delineated right-of-way assigned to bicyclists that have a physical separation between them and a vehicle. This separation can include parked vehicles, bollards, curbs, or any other physical device that provides separation. The most significant change to the bike and roadway network proposed for the SEASP area is the inclusion of two cycle tracks—one along PCH and the other along Studebaker Road. In general, implementing these improvements will have minimal impact on roadway capacity as the total number of turn lanes at each intersection is expected to remain...

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.

Section 30253 of the Coastal Act states, in relevant part:

New development shall do all of the following:

...

(d) Minimize energy consumption and vehicle miles traveled.

....

The existing site does not currently provide 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](#)), however the site is located between the first public road and the sea (the sea being the channels immediately adjacent to the site). The site is currently gated and does not provide public access to the channels or the adjacent wetlands and uplands. 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 SEASP, Chapter 6, 6.7 General Development Standards, i. Public Access to provide public access to and along the boundaries of public waterways.

The applicant proposes to provide 211 vehicle parking spaces on-site 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 SEASP, Chapter 7, 7.3 Parking, 7.3.1, Standard Parking. In addition, the applicant will also dedicate the area along Studebaker Road for the bicycle trail to be built along Studebaker Road, consistent with SEASP, Chapter 6, 6.7 General Development Standards, i. Public Access, Policy 12 and SEASP, Chapter 7, 7.2 Creating a Complete Streets Network, 7.2.1 Pedestrian and Bicycle Circulation and Access, Class IV Separated Bikeways (Cycle Track).

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.⁵ 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 and Coastal Act Section 30253. SEASP requires 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, including 11 EVCS.⁶ 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 1** 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), including 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.⁷ In this case, the 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

⁵ 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.

⁶ 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.

⁷ 139,200 sq. ft./ 5,000 sq. ft. = 27.84 which rounds up to 28 bicycle parking spaces.

of bicycles, and the Mobility of People Policy 5-2 of the Mobility Element, to reduce vehicle miles traveled, **Special Condition 1** also requires the applicant to submit final site plans which depict a minimum of 28 bicycle parking spaces.

Therefore, 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. Tribal and Cultural Resources

Relevant LCP Policies:

Goal 3.b. of the Open Space and Recreation Element states:

To identify and preserve sites of outstanding scenic, historic, and cultural significance or recreational potential.

SEASP, Chapter 6, 6.7 General Development Standards, p. Tribal, Cultural, Archaeological, and Paleontological Resources states: The SEASP area is rich in tribal and cultural resources. For example, the inland extent of the SEASP boundary is adjacent to Cal State Long Beach, which occupies land that is the village site, Puvungna, of the Tongva people who would also become known as the Gabrieliño people after the Spanish colonization of California. That site is significant to many native peoples as the place where Chungichnish, a lawgiver and deity, provided instruction to the Tongva. Other native peoples have ties to the land within the SEASP boundaries including the Gabrieleño Band of Mission Indians - Kizh Nation and Juaneño Band of Mission Indians Acjachemen Nation. There is extensive evidence that the entire SEASP area is sensitive for paleontological, archeological, and tribal resources, potentially including Sacred Lands, Tribal Cultural Landscapes, and Traditional Cultural Property, designated as Native American resources by the Native American Heritage Commission (NAHC). Archeological and paleontological resources have been found in the SEASP area and have the potential to occur throughout the area.

To protect these resources:

1. [LUP Policy] Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required (Coastal Act Section 30244).

2. New Development shall implement the mitigation measures below (as identified in the certified EIR as Appendix E, and herein modified) as conditions of project approval:

a) Any development project that involves disturbance of soils, including native soils that may have been previously disturbed and/or compacted,

shall be required to prepare an Archaeological Monitoring and Mitigation Plan for the protection of archaeological/paleontological resources during project grading and construction activities, prepared by a qualified professional, which shall incorporate the following measures and procedures:

- i. During all digging, ground disturbance, and subsurface activity on the site, archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards and Native American Most Likely Descendants (MLDs) from each tribe when State Law mandates identification of MLDs, shall be present on the site.
- ii. Also present during all digging, ground disturbance, and subsurface activity on the site shall be a minimum of one (1) Native American monitor for every location of ground disturbance; on shared ancestral territories, a minimum of one (1) individual monitor representing each Tribe is required. Monitors must be selected according to the Native American Heritage Commission's contact list. On shared ancestral lands, Native American monitors from different tribes shall be present at the same time and monitoring the same location. More than 1 set of monitors on the site may be necessary during times with multiple grading and soil disturbance locations. Tribal representatives selected for the monitoring shall be rotated equally and fairly among all tribal groups affected, such that every tribal group has an equal opportunity to monitor on the site. During all digging, ground disturbance, and subsurface activity on the site, any Native American representatives from Tribes on the NAHC list are welcome to be present on the site and monitor, even if they are not the assigned set of monitors within the rotation for that day.
- iii. If any tribal cultural deposits are discovered, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or other artifacts, all development and ground disturbance shall cease until a treatment method is determined. On shared ancestral lands, each affected tribe must have input on the treatment method.
- iv. In-situ preservation and avoidance of cultural deposits shall be considered the preferred mitigation option. For in-situ preservation and or re-burial, the boundaries of the resource shall be determined and a setback shall be established between the boundary of cultural deposits and

any proposed development; the setback shall be no less than 20 feet and may be larger if necessary to protect the cultural deposits.

- v. If human remains are encountered, compliance with applicable State and Federal laws shall be required. Where appropriate and consistent with State and Federal laws, the treatment of remains shall be decided upon consultation with the MLDs and/or Native American monitors.
- vi. Representatives of Native American groups with documented ancestral ties to the area, as determined by the NAHC, shall also be invited to review and comment on the Archaeological Monitoring and Mitigation Plan.

b) Prior to issuance of any coastal development permits, new development projects located within areas designated Coastal Habitat/Wetlands/Recreation or on other vacant lots shall prepare an Archaeological Research Plan (ARP) that:

- i. Includes a detailed plan for archeological research and testing to characterize the potential for archeological resources on the site and to identify and accurately delineate (to the maximum extent practicable and in accordance with current professional archeological practices) any resources that may be discovered during the investigations.
- ii. Addresses the larger cultural and tribal setting of the project area and describe how the project sites fit into this setting. The ARP shall address potential connections between the project site(s) and the broader network of prehistoric villages and resources of tribal people in the Long Beach area. The ARP shall address the value of living resources and the cultural significance for the surrounding sites to tribal communities.
- iii. Addresses the likelihood of archeological resources (including burials) being present and what impacts the project may have on unknown archeological resources under the artificial fill. Additional site testing may also include excavation of test pits and other soil testing methodologies if recommended by the peer review committee.
- iv. If, during archeological testing, any cultural deposits, including but not limited to skeletal remains and grave-related artifacts, traditional cultural, religious or spiritual sites, midden and lithic material or artifacts, are discovered, they shall not be exposed and the testing

- shall be immediately halted in this location. Additional testing shall be conducted further from the center of the discovery until sterile conditions are encountered.
- v. The ARP shall not authorize the excavation of any cultural deposits nor data recovery nor prejudice the ability to comply with applicable State and Federal laws if human remains are encountered. A coastal development permit is required for the ARP to be carried out, prior to any site grading or construction or other development or disturbance to the site.
 - vi. If resources are discovered, significance testing of these resources may be conducted in accordance with best management practices, if the affected Native American tribes agree to significance testing. The ARP shall be revised as appropriate. The range of investigation and mitigation measures considered shall not be constrained by the approved development. Mitigation measures considered shall range from in-situ preservation to recovery and/or relocation. A good faith effort shall be made to avoid impacts to cultural resources through methods such as, but not limited to, project redesign, capping, and creating an open space area around the cultural resource areas.
 - vii. The ARP shall be reviewed by an archaeological peer review committee convened in accordance with current professional practice. Representatives of Native American groups with documented ancestral ties to the area, as determined by the NAHC, shall also be invited to review and comment on the ARP.

c) If more specific requirements for a project exist pursuant to an approved coastal development permit, then the conditions of that permit shall supersede the provisions of this section.

The project site is in SEASP, which is an area that is rich in tribal and cultural resources. For example, the inland extent of the SEASP boundary is adjacent to Cal State Long Beach, which occupies land that is the village site, Puvungna, of the Tongva people who would also become known as the Gabrieliño people after the Spanish colonization of California. That site is significant to many native peoples as the place where Chungichnish, a lawgiver and deity, provided instruction to the Tongva. There is extensive evidence that the entire SEASP area is sensitive for paleontological, archeological, and tribal resources, including Sacred Lands as designated by the Native American Heritage Commission (NAHC). Archeological and paleontological resources have been found in the SEASP area and have the potential to occur throughout the area.

Environmental Justice

Throughout our State’s history, low-income communities, communities of color, California Native American Tribes, and other historically marginalized populations have faced disproportionate burdens in accessing the California coastline due to geographic, economic, social, and cultural barriers. Several Tribes have suffered direct loss of access to ancestral lands along the California Coast. This project site has specific environmental justice concerns related to coastal access for Californian Native American Tribes with ancestral ties to the project location.

Ensuring maximum and equitable public access to the California coastline (as required by Coastal Act Sections 30210 and 30213) is consistent with environmental justice principles reflected in the Coastal Act. Section 30604(h) states: “when acting on a coastal development permit, the issuing agency, or the commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state.” The Commission adopted an environmental justice policy in March 2019, committing to consider environmental justice principles, consistent with Coastal Act policies, in the agency’s decision-making process and ensuring coastal protection benefits are accessible to everyone. In approving the policy, the Commission recognized that equitable coastal access is encompassed in, and protected by, the public access policies of Chapter 3 of the Coastal Act. The Commission also recognizes the injustices that have been experienced by California Native American Tribes and committed to the following in its EJ Policy:

As stated in the Commission’s Environmental Justice Policy, the Commission respectfully acknowledges the painful history of genocide against Native American Tribes and honors the efforts of California’s coastal tribes to rebuild thriving, living cultures based on traditional knowledge, languages, and practices. The Commission commits to regular and meaningful partnership to ensure that tribes are valued and respected contributors to the management of California’s coast. In addition to the requirements of the Commission’s formal Tribal Notification and Consultation Policy, the Commission will work collaboratively with tribes to better understand the significance of local and regional cultural concerns.⁸ This includes the application of traditional ecological knowledge, *as well as access to and protection of areas of cultural significance*, ethnobotanical resources, traditional fishing and gathering areas, *and sacred sites*.

Thus, in this case, the Commission must consider environmental justice within the lens of Chapter 3 access policies. In particular, at this site, addressing the environmental injustices and loss of access experienced by California Native American Tribes with ancestral ties to the site.

⁸ <https://documents.coastal.ca.gov/assets/env-justice/tribal-consultation/Adopted-Tribal-Consultation-Policy.pdf>

As described later in the staff report, the project site is within registered Sacred Lands, according to the Native American Heritage Commission (NAHC). Cultural resources are not confined to the boundaries of archaeological sites, but instead can encompass landscapes that are significant to Native American tribal groups because of prehistoric habitation or use for current cultural practices. Sacred Lands as designated by the NAHC are registered for their significance and are usually nominated by a local tribal Government. Through the Commission's Tribal Consultation process, the tribal government that nominated the area as sacred land expressed opposition to the project because the development will have an impact on the sacred land. The site, adjacent to a wetland complex, formerly supported industrial uses and was closed to public access and also closed to tribal access. As proposed, a portion of the project will be developed (eastern project area) and a portion of the site will be maintained as open space (western project area). In this case, the Commission must consider the project's impact to the Sacred Lands and consider reasonable mitigation measures for those impacts. Consistent with Section 30210 and 30211, and the Environmental Justice Policy, the Commission imposes **Special Condition 16** requiring the applicant to prepare a Tribal Access Plan, developed in coordination with the future landowner (Los Cerritos Wetlands Authority) and all affected Native American Tribes, in order to ensure that all the affected Tribes have direct access to and use of the sacred site for religious, ceremonial purposes, resource and material gathering, and other tribal gatherings.

Tribal Consultation

On March 15, 2019, the City of Long Beach's consultant, Rincon, contacted the Native American Heritage Commission (NAHC) to request a Sacred Lands File (SLF) search of the project area and a 0.5-mile buffer surrounding it. The NAHC responded on March 27, 2019 stating negative results with regard to the search and provided a list of Native American contacts that are traditionally and culturally affiliated with the geographic area of the project. After the request, a significant portion of the SEASP area within the City of Long Beach was registered with the NAHC as Sacred Land in November of 2019.

The City initiated consultation with those California Native American Tribes affiliated with the geographic area of the proposed project on February 26, 2019. According to the City of Long Beach, the Gabrieleno Band of Mission Indians – Kizh Nation (Chairperson Anthony Salas) requested consultation and the City met with the Tribe on May 30, 2019 to answer questions about the project and to hear requests and recommendations for mitigation. The City received recommended mitigation measures from the Tribe and those measures were incorporated into the project's Final Initial Study – Mitigated Negative Declaration (MND). Those mitigation measures include retention of a Native American Monitor/Consult; ceasing construction activities upon discovery of any archeological, tribal or cultural resources; reporting any discoveries of human skeletal materials to the County Coroner and halting excavation until the coroner has determined the nature of the remains; resource assessment and continuation of work protocol; adhering to Kizh-Gabrieleno procedures for burials and funerary remains; and adhering to treatment measures prior to the continuation of ground disturbing activities for the respectful reburial of the human remains. In the

MND, the City found that with the implementation of these mitigation measures, impacts would be less than significant.

Since the substantial issue hearing for the proposed project, it was brought to the Commission's attention that the Gabrieleno/Tongva San Gabriel Band of Mission Indians (Chairperson Anthony Morales) is concerned about the proposed development as the project site is very close to many coastal sites in Los Angeles and Orange County surrounded by wetlands where many tribal resources including burials have been found. This de novo application was initially scheduled for the Commission's May 2021 meeting; however, after the tribal concerns, Commission staff postponed the item to further tribal consultation and consider additional special conditions to protect tribal cultural resources.

Through Tribal Consultation, Chairperson Anthony Morales stated that they believe the site should be completely preserved and is opposed to the proposed development, and in consultation, staff learned that the Gabrieleno/Tongva San Gabriel Band of Mission Indians nominated a large portion of this area (between Long Beach and Seal Beach) in 2019 as Sacred Lands related to the prehistoric village of Puvungna. The site was listed within the boundaries of the sacred site by the NAHC and is currently listed in the Sacred Lands File (SLF) inventory. The Commission acknowledges that the site is Sacred Land (which has been confirmed by the NAHC) regardless of its current disturbed condition or the ability of the site to yield cultural artifacts and understands that the project on the eastern project area will have significant impacts to the status of the land as sacred. Like other types of historic properties, a property that once had traditional cultural significance and is considered a sacred site is significantly impacted by physical alteration of its location, setting, design, or materials. In some cases, alterations adjacent to a sacred site can also have significant impacts.

The Native American Tribe that nominated the site with the NAHC believes that the introduction of commercial development, with the introduction of noise, lights, impacts to the surrounding wildlife, etc. would destroy the natural character of the landscape and would threaten the cultural and religious significance of the property and is opposed to the project. The site currently supports a landscape of primarily a vacant former industrial site adjacent to a wetland complex on the east side of Studebaker Road, and an open space area on the west side of Studebaker Road. However, the opposition has argued that the former industrial site should not be further developed, and there should be no increase in intensity of development on the site. The proposed project includes grading, and the opposition argues there should not be any new grading in a sacred area, especially since they believe the site has a strong potential to uncover buried cultural resources. Additionally, the opposition has stated that in the past, when the site was developed with the industrial uses, there was no regulation on grading and often developers removed human burials or cultural objects from the site and threw them away, or simply reburied them on another area of the site without any documentation, so there is still a high potential of uncovering cultural resources here despite past development.

The City's coastal development permit did not require any preliminary archeological investigations or analysis. A consultant conducted a record search and a site walk, but there was no test pits or archeological investigation conducted. The report submitted did not comment on the likelihood of finding cultural resources according to site topography, pre-historic use patterns, connections to nearby documented pre-historic villages, or ethnographic references. As such, in order to be consistent with the LCP policy, the Commission imposes the special conditions described below.

This coastal development permit requires the applicant to adhere to **Special Condition 10**, which includes conformance to all conditions imposed by the local government, including the mitigation measures for tribal and cultural resources. However, to ensure that the applicant is clear on mitigation measures for tribal and cultural resources, the following special conditions outlined below have been added to this coastal development permit.

The applicant has proposed mitigation for these impacts in the form of preservation of the western site and has proposed to submit a Tribal Access Plan, to ensure that the affected tribal governments with ancestral ties to the land are given equitable access to the western site in order to continue religious and cultural practices in the future. **Special Condition 15** requires the applicant to protect cultural resources during project grading and construction activities by submitting an Archeological Research Plan and an Archeological Monitoring and Mitigation Plan which includes a detailed plan for additional archeological research and testing to better characterize the potential for archeological resources on the site (both the eastern and western project areas) and to identify and accurately delineate any resources that may be discovered during the investigations. In addition, as conditioned, if significant resources are found during grading, the applicant is required to leave the resources in-situ and apply for a new permit or a permit amendment to avoid them. Therefore, **Special Condition 15** requires mitigation for the proposed project's direct impact to the Sacred Land and the indirect impacts to the remaining area of the site listed as Sacred Land and its use of the open space for ceremonial purposes, consistent with SEASP, Chapter 6, 6.7 General Development Standards, p. Tribal, Cultural, Archaeological, and Paleontological Resources.

The intensity of development of the eastern project area does lead to a direct impact (since it is currently vacant) on Sacred Land and the required grading could have a direct impact on tribal cultural resources which may be present underground. Additionally, the development of the eastern project area may have an indirect impact on the special nature of the Sacred Land being preserved on the western project area for tribal access. There must be mitigation for these developments and their potential impacts to tribal cultural resources. Therefore, the applicant will be donating the western project area to the Los Cerritos Wetlands Authority (LCWA) as native transitional habitat, pursuant to **Special Condition 16** which requires the applicant to work with the Los Cerritos Wetlands Authority to submit a Tribal Access Plan for the affected Tribes to have access to the area for religious and ceremonial gatherings, resource and material gathering, and other tribal uses. There should be equitable

access to the site for all affected Tribes. The LCWA has indicated that they currently run stewardship programming in coordination with several non-profit groups through a Memorandum of Agreement. There are locks on access gates and the stewardship partners let the LCWA know in advance when they will plan their activities to ensure that it does not conflict with another group's programming. While the Tribal Access Plan for this permit has not been drafted yet, this could serve as a model for the western project area. In addition, the LCWA has indicated that it is working to assemble a Tribal Advisory Group to provide input on its restoration planning process and to plan for tribal access in other areas of the Los Cerritos wetlands. As a condition of this permit, the Tribal Access Plan must be developed in coordination with all affected tribes as described on the NAHC contact list, and shall not be limited to the tribes participating in the Tribal Advisory Group.

Conditions of approval require development of an ARP, a monitoring plan, and that if any cultural resources are found, regardless of its eligibility for listing, the resources must be protected in place (in consultation with Native American tribes) and a revised development plan must be submitted. Nothing in this permit or approved plans approves data recovery or excavation of tribal cultural resources. The conditions also require tribal access to the areas that will remain open space, and requires mitigation for the impacts the development has on the sacred land. Thus, as conditioned, the project is consistent with the LCP policies that require reasonable mitigation measures for impacts to tribal cultural resources, including mitigation for the impact to a Sacred Landscape, consistent with SEASP, Chapter 6, 6.7 General Development Standards, p. Tribal, Cultural, Archaeological, and Paleontological Resources and Goal 3.b. of the Open Space and Recreation Element. Even with these conditions, the Gabrieleno/Tongva San Gabriel Band of Mission Indians continues to oppose the project and opposes the staff recommendation and argues that impacts to Sacred Land cannot be adequately mitigated.

G. 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...

SEASP, Chapter 5, Section 5.5 SEASP Policies, Water Quality, Policy 5.21 states: Development shall include specific measures to help reduce potential pollutants and water quality impairment, including controlling the disposal of

chemicals and hazardous materials, controlling the use of pesticides and herbicides, maintaining existing storm water capture programs, applying low impact development designs and requiring on-site retention and/or reuse of runoff.

SEASP, Chapter 5, Section 5.5 SEASP Policies, Water Quality, Policy 5.24 states: Drainage plans and erosion, sediment and pollution control measures shall be required as conditions of approval of every application for new development that has the potential to impair water quality.

SEASP, Chapter 5, Section 5.5 SEASP Policies, Water Quality, Policy 5.25 states: Development that has the potential for water quality impairment shall, at a minimum, be designed to meet National Pollutant Discharge Elimination System stormwater runoff requirements.

SEASP, Chapter 5, Section 5.5 SEASP Policies, Water Quality, Policy 5.26 states: Construction phase storm water pollutant controls shall be required for development that has the potential for water quality impairment, including erosion controls, sediment traps and filtering of off-site storm water flows.

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, Policy 1.1 of the Open Space and Recreation Element, and SEASP, Chapter 5, Section 5.5 SEASP Policies, Water Quality, Policies 5.21, 5.24, 5.25, and 5.26, **Special Condition 10** 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. Additionally, in order to address potential post-construction water quality impacts, **Special Condition 11** 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 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.

H. 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. At the time of the local coastal development permit (City of Long Beach) and the substantial issue hearing (California Coastal Commission), the subject site was located within the certified LCP's Southeast Area Development and Improvement Plan (SEADIP) area; however, the Commission subsequently approved with modifications the City's LCP Amendment to make SEASP the standard of review, and the City's acceptance of those modifications was effectively certified at the Commission's September 8, 2021 hearing; therefore, the standard of review is the City of Long Beach's certified LCP and incorporated SEASP policies.

I. 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 and concluded that 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 City stated that the preparation and public availability of this MND has been carried out in compliance with the provisions of CEQA and the CEQA Guidelines.

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, individual or cumulative, 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.

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Appeal – De Novo

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

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