

**CALIFORNIA COASTAL COMMISSION**

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# W20b

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## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 5-22-0799

**Applicant:** Ocean Avenue Partners, LLC and Belle Vue Plaza

**Agents:** Worthe Real Estate Group (Attn: Janna Boelke); Harding, Larmore, Kutcher and Kozal, LLP (Attn: Ken Kutcher, Paula Larmore); Gaines and Stacey LLP (Attn: Sherman Stacey); and McCabe & Co. (Attn: Susan McCabe and Anne Blemker)

**Project Location:** 101 and 129 Santa Monica Blvd; 1327, 1333, and 1337 Ocean Ave, Santa Monica, Los Angeles County (APNs: 4291-014-016, 4291-014-017, 4291-014-018, 4291-014-024, 4291-014-025)

**Project Description:** Demolition of four existing mixed-use structures and two private parking lots and construction of a new, maximum 12-story, 130-ft. tall, 248,570 total sq. ft. mixed-use development, including 120 hotel rooms, 100 dwelling units, 36,110 sq. ft. of restaurant and retail uses, a 33,725 sq. ft. museum, a public observation deck, and 318 on-site parking spaces on a 1.9-acre project site, with 108,000 cy. of cut and no fill proposed. The applicants also request approval of a development agreement.

**Staff Recommendation:** Approval of the coastal development permit with conditions and approval of the development agreement with one condition.

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## **SUMMARY OF STAFF RECOMMENDATION**

The applicants propose construction of a new multi-structure, mixed-use development on a 1.9-acre project site in downtown Santa Monica. The project will consist of three primary components: 1) demolition of four existing mixed-use structures and two private parking lots; 2) construction of a new, maximum 12-story, maximum 130-ft. tall, 248,570 total sq. ft. mixed-use development, including 120 hotel rooms, 100 dwelling units, 36,110 sq. ft. of restaurant and retail uses, a 33,725 sq. ft. museum, a public observation deck, and 318 on-site parking spaces, and 3) approval of a development agreement (DA). The new 100 dwelling units would include 25 deed-restricted affordable units at a range of income levels. The alleyway intersecting the project site (First Court Alley) would be rerouted to convert a portion to a pedestrian accessway. Three subterranean levels are proposed across the project site, requiring 108,000 cy. of cut and no fill.

The seaward-most boundary of the project site is located 480 ft. inland of the beach. Of the existing 11 lots constituting the project site, seven are designated Residential/Visitor Commercial and four are designated Downtown Commercial by the Santa Monica certified Land Use Plan (LUP). The project exceeds the maximum height and floor-to-area ratio (FAR) allowed by the LUP, but there is a related, project-specific LUP amendment (App. LCP-5-SNM-22-0041-1) also on the current agenda. If certified, the project-specific LUP amendment would modify development standards for the project site to allow approval of the project consistent with the amended LUP.

The Coastal Act and existing LUP policies identify public recreational access—especially recreation for the visiting public—as a critically important resource that requires protection and maximization. Many visitors live in inland areas, where a coastal trip may require a lengthy car, train, or bus ride. For many low- and moderate-income visitors, affordable lodging is essential for meaningful access to the California coast. As such, Section 30210 of the Coastal Act requires public access and recreation opportunities to be maximized for all people, which includes those who do not (and/or cannot afford to) live near the coast. Section 30213 additionally requires permitted development to protect, encourage and, where feasible, provide lower-cost visitor and recreational facilities.

In past permit actions on new high-cost hotels, such as the proposed project, the Commission has applied these policies by requiring the incorporation of lower-cost overnight accommodations as a component of the development. In this case, based upon past Commission actions and the Commission's consideration of environmental justice, at least 30 lower-cost rooms should preferably be provided onsite (i.e. 25% of 120 rooms) if feasible for consistency with Coastal Act section 30213. No affordable lodging is currently proposed. The applicants' submitted analysis contends that provision of 25% of the market-rate lower-cost overnight accommodations onsite would render the project financially infeasible. However, it remains unclear whether the applicants have sufficiently demonstrated the infeasibility of providing 30 lower-cost rooms onsite. In lieu of providing affordable lodging, the applicants propose payment of \$4,342,500 to Hostelling International to partially fund expansion of a nearby, existing

hostel at 1436 Second Street in Santa Monica. The fee amount is consistent with the Commission's methodology for ensuring consistency with Section 30213 in past instances where provision of onsite or offsite affordable lodging is infeasible. But, in this case, the infeasibility of affordable lodging provision remains to be seen. Additionally, there is both historic and project-specific evidence that the fee may be insufficient to fully fund the required amount of off-site lodging.

While the Commission certified the City's LUP in 1992, the City does not yet have a certified Local Coastal Program (LCP). Therefore, the standard of review is the Chapter 3 policies of the Coastal Act, with the certified LUP providing guidance. The primary issues raised by the project relate to environmental justice, public access, visual resources, and cultural resources.

Staff has reviewed the project proposal and recommends that the Commission find the project and DA, as conditioned herein, consistent with Chapter 3 policies of the Coastal Act. Commission staff, therefore, recommends the Commission approve the coastal development permit (CDP) application and DA with **eighteen (18) special conditions**: **1)** provision or mitigation of lower-cost overnight accommodations; **2)** revision or amendment of the development agreement; **3)** submittal of marketing and monitoring plans, **4)** hotel occupancy agreement; **5)** local government approval; **6)** indemnification by permittees; **7)** submittal of a Transportation Demand Management Plan; **8)** parking restrictions; **9)** assumption of risk; **10)** no future shoreline protection; **11)** submittal of a Marine Debris Reduction Program; **12)** submittal of a Water Quality Management Plan; **13)** conformance with the Landscaping Plan; **14)** construction and water quality best management practices (BMPs); **15)** bird-strike prevention; **16)** cultural resource treatment and monitoring plan; **17)** deed restriction; and **18)** approval of the associated LUP amendment.

The motions and resolutions to adopt staff recommendations on the DA and CDP application are on Pages 5.

## TABLE OF CONTENTS

<b>I. MOTION AND RESOLUTION FOR COASTAL DEVELOPMENT PERMIT .....</b>	<b>5</b>
<b>II. MOTION AND RESOLUTION FOR DEVELOPMENT AGREEMENT.....</b>	<b>5</b>
<b>III. STANDARD CONDITIONS .....</b>	<b>6</b>
<b>IV. SPECIAL CONDITIONS.....</b>	<b>6</b>
<b>V. FINDINGS AND DECLARATIONS .....</b>	<b>20</b>
A. Project Location and Description.....	20
B. Lower-Cost Overnight Accommodations .....	24
C. Public Access.....	44
D. Visual Resources and Recreation .....	50
E. Coastal Hazards.....	53
F. Marine Resources and Water Quality .....	56
G. Cultural Resources .....	58
H. Local Coastal Program (LCP) .....	60
I. California Environmental Quality Act (CEQA).....	61
<b>APPENDIX A – SUBSTANTIVE FILE DOCUMENTS.....</b>	<b>63</b>
<b>APPENDIX B –REVISIONS TO DEVELOPMENT AGREEMENT .....</b>	<b>64</b>

## EXHIBITS

[Exhibit 1 – Vicinity Maps](#)

[Exhibit 2 – Santa Monica Certified LUP Maps](#)

[Exhibit 3 – Excerpted Project Plans](#)

[Exhibit 4 – Project Renderings](#)

[Exhibit 5 – 2015 Memorandum on Building Cost Per Lower-Cost Room](#)

[Exhibit 6 – 2023 Turner Building Cost Index](#)

## **I. MOTION AND RESOLUTION FOR COASTAL DEVELOPMENT PERMIT**

### **Motion:**

I move that the Commission **approve** Coastal Development Permit No. 5-22-0799 pursuant to the staff recommendation.

Staff recommends a **YES** vote. 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:**

The Commission hereby approves the Coastal Development Permit for the proposed project and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. 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. MOTION AND RESOLUTION FOR DEVELOPMENT AGREEMENT**

### **Motion:**

I move that the Commission **approve** Development Agreement No. 5-22-0799 pursuant to the staff recommendation.

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

### **Resolution:**

The Commission hereby approves the development agreement on the grounds that the development would be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, including the public access and recreation policies of Chapter 3, would 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 of the Coastal Act, and would not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

### III. 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 applicants 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 applicants to bind all future owners and possessors of the subject property to the terms and conditions.

### IV. SPECIAL CONDITIONS

- 1. Lower-Cost Overnight Accommodations.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall provide evidence, in a form and content acceptable to the Executive Director, that the applicants have fulfilled the obligations under the Coastal Act to provide lower-cost overnight accommodations through one of the two methods outlined in Options A and B below:
  - A. Onsite Lower-Cost Overnight Accommodations.** The applicants shall submit, for the Executive Director's review and written approval, two (2) full-size sets of revised project plans for the proposed development. The final plans shall be in substantial conformance with the plans dated July 14, 2022, but shall be revised to reflect the following modifications:
    - i.** The plans shall include the provision of lower-cost onsite rooms in an amount equal to at least 25% of all proposed market-rate accommodations at daily rates of no more than 75% of the 2023 statewide peak-season (average of July and August) average daily rate (ADR) as estimated by Smith Travel Research. This daily rate shall apply every day of the year and shall not be adjusted seasonally. These prices may be adjusted for changes in the Consumer Price Index (CPI) starting in 2024 and may be adjusted in the future according to CPI changes no more than once every year, with written notice to the Executive Director. If the permittees seek to increase rates of the subject lower-cost rooms beyond 75% of the statewide

ADR, or to reduce the number of lower-cost accommodations, the permittees shall seek an amendment to this permit to authorize these changes. No additional resort fees shall be applied to the lower-cost rooms.

- ii. The plans shall show the location of the lower-cost overnight accommodations within the proposed development footprint, in addition to the layout, size, and amenities accompanying each lower-cost overnight accommodation. The lower-cost rooms may be additive (resulting in a greater number of total rooms onsite) or replacements (resulting in no change to the total number of rooms proposed onsite).
- iii. The permittees shall submit an annual monitoring report for review and written approval by the Executive Director that provides evidence of marketing and operation of the lower-cost overnight accommodations in compliance with all requirements of this permit, including sufficient detail to demonstrate the total number of lower-cost rooms, the lower-cost room rates, implementation of the Marketing and Engagement Plan pursuant to **Special Condition 3**, and any additional costs charged to guests for the reservation of these lower-cost rooms. By the third anniversary of the issuance of a certificate of occupancy for the new multi-structure, mixed-use development on the 1.9-acre project site, and by the same date every three years thereafter, the permittees shall retain an independent auditing company, approved by the Executive Director, to perform an audit to evaluate compliance with this Special Condition. Within 30 days of preparation, a copy of the auditing report and a summary of its findings shall be submitted to the Executive Director for review and written approval.
- iv. All revised plans shall be prepared and certified by a licensed professional or professionals as applicable (e.g., architect, surveyor, geotechnical engineer), based on current information and professional standards, and shall be certified to ensure that they are consistent with the Commission's approval and with the recommendations of any required technical reports.
- v. The permittees 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.

**OR**

**B. In-Lieu Fee.** The applicants shall pay an in-lieu fee totaling \$4,342,500.00, including any increases due to inflation based on the Turner Building Cost Index from the date of Commission action up until the date of in-lieu fee payment. The in-lieu fee shall be paid per the following provisions:

- i. The required total in-lieu fee shall be deposited into one or more interest-bearing account(s) to be established and managed by Hostelling

International, or, if this entity cannot accept the in-lieu fee, one or more of the following entities approved by the Executive Director of the Coastal Commission: the California Department of Parks and Recreation (State Parks), the Mountains Recreation and Conservation Authority (MRCA), the City of Santa Monica, the State Coastal Conservancy, another governmental agency or non-profit organization, or a similar entity. The purpose of the account shall be to establish lower-cost overnight visitor accommodations, such as lower-cost hotel and motel rooms, hostel beds, tent campsites, cabins or campground units, or a similar project to promote access to the coast, at appropriate locations within the coastal area of the City of Santa Monica or the greater Los Angeles County coastal area.

- ii. Except for in-lieu fees transferred to the State Coastal Conservancy pursuant to subsection iv below, the entire fee and accrued interest shall be used for the above stated purpose, in consultation with the Executive Director, within seven years of the fee being deposited into the account. All development funded by this account will require review and approval by the Executive Director of the Coastal Commission and a coastal development permit if in the coastal zone. If any portion of the fee remains seven years after it is deposited, it shall be donated to one or more of the State Park units or non-profit entities providing lower-cost visitor-serving amenities in a Southern California jurisdiction within the coastal zone or other organization acceptable to the Executive Director. The Executive Director may extend the aforementioned deadline to expend the funds for good cause if the recipient of the funds requests an extension of the deadline in writing prior to expiration of the deadline.
- iii. Prior to expenditure of any funds contained in this account, the Executive Director shall review and approve, in writing, the proposed use of the funds as being consistent with the intent and purpose of this condition. In addition, prior to the Executive Director's approval of expenditure, the entity accepting the in-lieu fee funds required by this condition shall enter into a memorandum of understanding (MOU) with the Commission (except for the State Coastal Conservancy and State Parks, which are already party to existing MOUs (see subsections iv and v, below)), which shall include, but not be limited to, the following: 1) a description of how the funds will be used to create lower-cost accommodations in the coastal zone; 2) a requirement that the entity accepting the funds must maintain operations of the accommodations at a lower-cost rate; 3) the terms provided in subsections i and ii of this condition; and 4) an agreement that the entity accepting the funds will obtain all necessary regulatory permits and approvals, including but not limited to, a coastal development permit for development of the lower-cost accommodations required by this condition.
- iv. If the in-lieu fee is transferred to the State Coastal Conservancy, the funds shall be used pursuant to the existing MOU between the Coastal Commission and the Conservancy, dated August 2018, and for the



purposes described in subsection i, above. In addition, at least thirty days prior to the transfer of the funds, the applicant shall provide the Conservancy with any documentation necessary to the Conservancy, including information needed to effectuate transfer of the Funds to the Conservancy, unless the applicant receives a waiver of this requirement in writing from the Conservancy's Executive Officer. The terms in subsection ii shall not apply to the State Coastal Conservancy.

- v. If the in-lieu fee is transferred to State Parks, the funds shall be used pursuant to the existing MOU between the Coastal Commission and State Parks, dated December 2017, and for the purposes described in subsection i, above. As required by the existing MOU, a Project Specific Agreement shall be developed and executed by both agencies prior to the use of any funds.
- vi. The applicant shall provide evidence of payment to the Commission's Executive Director within 14 days of payment.

2. **Revised or Amended Development Agreement.** If the applicants select Option A (Onsite Lower-Cost Accommodations) of **Special Condition 1**, the applicants shall submit to the Executive Director, for review and approval, a Revised Development Agreement or Development Agreement Amendment, approved by the City of Santa Monica ("City"), consistent with the following:

- A. The Revised or Amended Development Agreement shall include the following provision: The Owner acknowledges and agrees that this Agreement pertains to local planning documents only and does not constitute approval of standards to be utilized for processing a coastal development permit application for any existing or future development of the subject site, that a coastal development permit is required to be obtained from the Coastal Commission under Section 30600 of the Coastal Act for any proposed development of the subject site, and the standard of review shall be the Chapter 3 policies of the Coastal Act.
- B. Section 2.1 shall be amended with a clause allowing for an increase in the number of hotel rooms and floor areas by the minimum necessary to provide at least 25% of all market-rate accommodations at lower-cost rates onsite.
- C. Section 2.2.(b)(2) shall be revised to allow the construction of at least 25% of all market-rate accommodations at lower-cost rates onsite, which may result in up to 150 total hotel rooms onsite.
- D. Sections 2.5.1(a) and (e) shall be revised to allow hotel uses in the Corner Building (i.e. the restaurant/retail development on the corner of Ocean Avenue and Second Street), the Second Street Buildings (i.e. the residential development), and/or the cultural use campus, if necessary to accommodate at least 30 lower-cost overnight accommodations onsite.

- E. If the total museum floor area must be decreased by more than 1,686 sq. ft. to accommodate at least 25% of all market-rate accommodations at lower-cost rates onsite, and/or the floor area available to the public must be decreased by more than 927.5 sq. ft. to accommodate at least 25% of all market-rate accommodations at lower-cost rates onsite, Section 2.8.3(b) shall be revised to allow either or both decrease(s).
- F. Section 2.10(b) shall be revised to allow the maximum structural height for each building to increase by the minimum height necessary to accommodate at least 25% of all market-rate accommodations at lower-cost rates onsite.
- G. Exhibit B shall be updated with the final project plans approved by the Executive Director pursuant to **Special Condition 1** of the subject CDP.

The applicants shall not execute the Revised Development Agreement or Development Agreement Amendment until such document has been approved by the Executive Director

- 3. **Marketing and Engagement Plan.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, should the applicants choose to implement Option A of **Special Condition 1**, the applicants shall submit, for review and written approval by the Executive Director, a Marketing and Engagement Plan to market the lower-cost rooms.
  - A. The plan shall outline how the permittees will actively promote and publicize availability of the rooms at the lower-cost rates described in **Special Condition 1** to underserved communities, such as low-income communities, communities of color, and other communities that have been historically marginalized and face greater barriers to coastal access.
  - B. The Marketing and Engagement Plan shall identify strategies for both online advertising and offline marketing efforts, which shall include targeted outreach to community organizations focused on underserved communities such as local non-profits, environmental justice groups, labor unions, or recipients of public benefits programs by coordinating with local program administrators.
  - C. Marketing and media materials shall be distributed beyond the City of Santa Monica to neighboring underserved communities in the greater Los Angeles area and acknowledge the California Coastal Commission's role in providing public access at this location through the posting of marketing materials at relevant transit stops.
  - D. The Marketing and Engagement Plan shall also include a language access protocol that outlines how materials will be developed to include non-English languages including but not limited to Spanish, tailored to be culturally relevant, and written in plain language to prevent educational and cultural barriers to access to the lower-cost rooms.

The Plan shall also identify additional actions or measures that could be taken to improve access by underserved communities (for example, including but not limited to a targeted voucher program for guests to obtain the lower-cost rooms). The Marketing and Engagement Plan shall be implemented as described above. Any changes to the Marketing and Engagement Plan shall require an amendment to this coastal development permit unless the Executive Director determines that no amendment is needed.

4. **General Occupancy Agreement.** BY ACCEPTANCE OF THIS PERMIT, the applicants agree that all hotel food, beverage, and retail facilities shall be open to the general public consistent with typical hotel operations. No timeshare or other fractional ownership or long-term occupancy of hotel rooms, including lower-cost hotel rooms, is permitted without an amendment to this permit. No hotel rooms shall be rented for more than 30 consecutive days. Hotel rooms shall be rented in accordance with any local government limitations on the length of hotel stay. Hotel rooms shall be available to the general public consistent with typical hotel operations and local, state, and federal law.
5. **Conditions Imposed by Local Government.** This action has no effect on conditions imposed by the City of Santa Monica pursuant to an authority other than the Coastal Act, including but not limited to the DA between the City and the Applicants adopted by the City on July 26, 2022, except as provided in the last sentence of this condition. The permittees are responsible for compliance with all terms and conditions of this coastal development permit in addition to any other requirements imposed by other local government permit conditions pursuant to the local government's non-Coastal Act authority. In the event of conflicts between terms and conditions imposed by the local government and those of this coastal development permit, such terms and conditions of this coastal development permit shall prevail.
6. **Liability for Costs and Attorneys' Fees.** The applicants/permittees agree to reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys' fees (including: (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys' fees that the Coastal Commission may be required by a court to pay ) that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the applicants/permittees against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.
7. **Transportation Demand Management Plan.** By acceptance of this permit, the applicants agree to adhere to the Transportation Demand Management Plan included as Exhibit H of the DA and received by the Commission on September 15, 2022. The plan shall include, at a minimum, the following components:

- A. The permittees or any successors-in-interest or tenants of the permittees shall actively encourage employee participation in a Ride Sharing/Carpooling program, schedule shifts to benefit this program, and shall offer coordination services free of charge. A commuter information area shall be provided that offers employees appropriate information on available transportation alternatives to the single-occupancy vehicle (i.e., current maps, routes and schedules for public transit; ridesharing match lists; available employee incentives; ridesharing promotional material supplied by commuter-oriented organizations, etc.). This area shall be centrally located and accessible to all employees.
- B. A public transit fare reimbursement program shall be offered to all employees onsite by the permittees or any successors-in-interest or tenants of the permittee, including provision of a "Daily Transportation Allowance" or "Parking Cash Out" to employees of the development who use a non-single occupancy vehicle to access work (such as the bus or train). The Daily Transportation Allowance shall be a daily, direct cash subsidy equal to 100% of the value of the applicable monthly regional transit pass divided by 20, to account for a 40-hour maximum work week (resulting in a maximum of 20 work days per month). The "Parking Cash Out" shall be an at least quarterly, direct cash subsidy available solely for employees of a commercial tenant of the subject development who do not use a single-occupancy vehicle at least 51% of their yearly work hours and do not ever park in the City. If an employee is eligible to receive both a Parking Cash Out and a Daily Transportation Allowance, the permittees or any successor(s)-in-interest or tenant(s) of the permittees shall offer the employee the greater of the two incentives, but is not required to provide both. Onsite parking shall be free of charge for all employees of the subject development. Posters, brochures and registration materials of the program shall be available to employees at all times. Employees shall be informed of the program upon orientation and annually thereafter.
- C. Provision of a short-term bicycle parking area for the public on the property outside of the public right-of-way. Short-term bicycle parking may be located outside or inside the building with direct access to a public street, no farther than 50 ft. of walking distance from a main pedestrian entrance. For buildings with more than one main pedestrian entrance, short term bicycle parking shall be split evenly among all main pedestrian entrances. Adequate lighting shall be provided to ensure safe access to bicycle parking facilities.
- D. Provision of employee long-term bicycle parking and facilities for employee showers and lockers, free of charge, on the property and encouragement, to the extent possible, to walk or ride bicycles to and from work. Long-term bicycle parking shall be secured from the general public and enclosed on all sides and protect bicycles from inclement weather. Acceptable examples of long-term bicycle parking include bicycle lockers, bicycle rooms, or bicycle cages.
- E. The permittees or any successors-in-interest or tenants of the permittees shall provide, to the maximum extent possible, communal bicycles or non-motorized

vehicles for employee use for work related activities that may be accomplished without a motorized vehicle.

The permittees shall undertake development in conformance with the approved Transportation Demand Management Plan 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.

8. **Parking Restrictions.** With the acceptance of this permit, the applicants and all future assigns, owners, and successors acknowledge that any change in the number of parking spaces proposed under this permit, including, but not limited to, the provision of the leasing or selling of parking spaces to third parties other than onsite commercial tenants and condominium owners, any proposed offsite parking leases that expire, or reserving parking spaces for other uses not approved under this permit, or change in the number of parking spaces, shall be submitted to the Executive Director to determine if an amendment to the permit is legally required.
9. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant(s) acknowledges and agrees (i) that the site may be subject to hazards from storm conditions, liquefaction, geologic hazards and/or sea level rise; (ii) to assume the risks to the applicant(s) 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; (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; (v) that storm flooding or sea level rise could render it difficult or impossible to provide services to the site (e.g., maintenance of roadways, utilities, sewage or water systems), thereby constraining allowed uses of the site or rendering it uninhabitable; and (vi) that the structure may be required to be removed or relocated and the site restored if it becomes unsafe or if removal is required pursuant to the Coastal Act.
10. **No Future Shoreline Protective Device.** By acceptance of this Permit, the permittees further agree, 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:
  - A. 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 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;

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

**11. Marine Debris Reduction Program.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, for the review and approval of the Executive Director, a robust plan, including a comprehensive monitoring and evaluation framework, to reduce waste and single-use items (including litter, plastic/Styrofoam foodware, containers, and packaging). The plan shall include at a minimum, all of the following, and the applicants and any lessees of the subject development shall implement the approved version of the plan:

- A. The applicants and any lessees shall install and maintain smoke-free signage in all rooms and/or areas of the proposed hotel.
- B. The applicants and any lessees shall install and maintain educational signage for staff and patrons that promotes and encourages the use of reusable items (instead of single-use items).
- C. The applicants and any lessees shall install and maintain precautionary signage to prohibit litter and debris as well as provide a Service Plan for recycling, trash bins, and compost. The plan shall specify the amount of trash and recycling bins in the proposed development and weekend maximum usage statistics to ensure that an adequate number of bins are being deployed and that the trash and recycling management program is robust and avoids over-filled bins that might result in adverse impacts to nearby natural resources.
- D. Adhere to the following criteria:
  - i. Only use reusable foodware (including dinnerware, drinkware, silverware, and ramekins/containers) for onsite dining, specifically prohibiting the use of plastic cups, utensils or any other serviceware.
  - ii. Prohibit the use of plastic straws and only provide reusable straws, paper straws, or straws made from naturally occurring materials, upon request.
  - iii. Prohibit the use of expanded polystyrene (aka Styrofoam).
  - iv. Prohibit the use of plastic bags onsite or for takeout/to-go orders.
  - v. Only provide single-use (biodegradable or compostable) utensils, straws, condiments, containers, and other accessory items upon request for takeout/to-go orders.

- vi. Prohibit the sale of beverages in plastic bottles.
  - vii. Prohibit the use of plastic, single-use shampoo, conditioner, soap and lotion bottles.
  - viii. Follow proper recycling practices.
- E. Install a microfiber filtration system for all hotel and residential laundry facilities to capture and remove microfibers from the water during the laundering process.
- F. All waste resulting from restaurant activities should be exported outside the coastal zone.
- G. Participate in a Marine Debris Reduction Program such as the ReThink Disposable Program (RTDP) or Surfrider's Ocean Friendly Restaurants (OFR) or a substantially similar program. Within 6 months of the completion of the proposed development, the applicants shall participate in an established program to reduce waste and single-use plastic foodware and packaging onsite and for takeout orders. The applicants shall be responsible for the fees needed to participate in the program.
- H. Commencing the first full calendar year after issuance of the project's final certificate of occupancy, the applicants shall provide an annual report for the review and approval of the Executive Director of the Coastal Commission which includes the Marine Debris and Reduction Program scope and metrics, and total impact of the program. The report shall be provided annually, no later than January 30<sup>th</sup>, for the preceding calendar year.

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

**12. Water Quality and Drainage Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, for the review and written approval of the Executive Director, a final Water Quality and Hydrology Plan, prepared by a qualified licensed professional, that conforms with the plan submitted to the Commission titled "Hydrology and Urban Runoff Report" dated June 2019. The final Water Quality and Hydrology Plan shall demonstrate that the project complies with the following requirements:

- A. Documentation of a polluted runoff and hydrologic characterization of the existing site (e.g., potential pollutants in runoff, soil properties, infiltration rates, depth to groundwater, and the location and extent of hardpan and confining layers) as necessary to design the proposed BMPs. Include a map showing the site's Drainage Management Areas, and calculations of the runoff volumes from these areas.

- B. A description of the BMPs that will be implemented, including documentation of the expected effectiveness of the BMPs. Include a schedule for installation or implementation of all post-development BMPs
- C. A characterization of post-development pollutant loads, and calculations, per applicable standards, of changes in the stormwater runoff flow regime (i.e., volume, flow rate, timing, and duration of flows) resulting from the proposed development when implementing the proposed BMPs.
- D. Supporting calculations demonstrating that required BMPs have been sized and designed to infiltrate, retain, or treat, at a minimum, the runoff produced by the 85th percentile 24-hour storm event for volume-based BMPs, or two times the 85th percentile one-hour storm event for flow-based BMPs.
- E. A description and calculations demonstrating that the 85th percentile design storm runoff volume will be retained onsite, giving precedence to an LID approach. If the 85th percentile runoff volume cannot be retained on site using LID, an alternatives analysis shall demonstrate that no feasible alternative project design will substantially improve runoff retention.
- F. A description and schedule for the ongoing management of all post-development BMPs (including operation, maintenance, inspection, and training) that will be performed for the life of the development, if required for the BMPs to function properly.

The permittees shall undertake development in accordance with the Water Quality and Hydrology Plan approved by the Executive Director, 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.

13. **Landscaping Plan.** The applicants shall undertake development in accordance with the landscaping plans received by Commission staff on November 17, 2022. All landscaping shall consist of native, or non-native drought tolerant non-invasive plant species, appropriate to the habitat type. No plant species listed as problematic and/or invasive by the California Native Plant Society (<https://www.cnps.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<https://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 (<https://ucanr.edu/sites/WUCOLS/files/183488.pdf>). Use of reclaimed water for irrigation is encouraged. If using potable water for irrigation, only drip or micro-spray irrigation systems may be used. Other water conservation measures shall be considered, such as weather-based irrigation controllers. The permittees shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No



changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**14. Construction Best Management Practices.**

- A. Construction Responsibilities and Debris Removal. By acceptance of this permit, the applicants agree that:
- i. No demolition or construction materials, equipment, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain or tidal erosion and dispersion;
  - ii. No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers;
  - iii. 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;
  - iv. Demolition or construction debris and sediment shall be removed from work areas regularly to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
  - v. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
  - vi. The applicant(s) shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
  - vii. 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;
  - viii. 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;
  - ix. 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;
  - x. The discharge of any hazardous materials into any receiving waters is prohibited;

- xi. 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;
- xii. 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;
- xiii. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

**B. Drainage and Water Quality**

- i. A French drain, underground cistern, or other similar drainage systems that collect and reduce the amount of runoff that leaves the site shall be installed and maintained on the project site;
- ii. All runoff leaving the site shall be directed away from the nearby bluff and beach and into the City storm drain system.

**15. Bird Strike Prevention.** Ocean-facing deck railing systems, fences, screen walls, gates, and windows subject to this permit shall use materials designed to minimize bird-strikes. Such materials may consist, all or in part, of frosted or partially-frosted glass, or other visually permeable barriers that are designed to prevent creation of a bird strike hazard. Clear glass or Plexiglass shall not be installed unless they contain UV-reflective glazing that is visible to birds, or unless the materials are provided by Ornilux™ glass or equivalent. All materials shall be maintained throughout the life of the development to ensure continued effectiveness at addressing bird strikes and shall be maintained at a minimum in accordance with manufacturer specifications.

**16. Protection of Archaeological and Tribal Cultural Resources.** The permittees shall undertake development in compliance with the following mitigation measures to protect archaeological, including tribal cultural resources:

- A. AT LEAST ONE MONTH PRIOR TO COMMENCEMENT OF ANY GROUND-DISTURBING CONSTRUCTION ACTIVITIES, the permittees shall (i) notify the representatives of Native American Tribes listed on an updated Native American Heritage Commission (NAHC) contact list; (ii) invite all Tribal representatives on that list to be present and to monitor ground-disturbing activities; and (iii) arrange for any invited Tribal representative that requests to monitor and a qualified archaeological monitor to be present to observe project activities with the potential to impact archaeological and/or tribal cultural resources. The monitor(s)

shall have experience monitoring for archaeological resources of the local area during excavation projects, be competent to identify significant resource types, and be aware of recommended Tribal procedures for the inadvertent discovery of archaeological resources and human remains.

- B. If an area of archaeological resources is discovered during ground-disturbing activities, all construction shall cease and shall not recommence except as provided in subsection (C) hereof, and the permittees shall retain an archaeologist or tribal cultural resource specialist qualified to analyze the significance of the find in consultation with the Native American Tribes listed on the NAHC list. The specialist shall immediately notify the Tribes on the NAHC list. An "exclusion zone" where unauthorized equipment and personnel are not permitted shall be established (e.g., taped off) around the discovery area that includes a reasonable buffer zone recommended by the monitor(s). Project activities may continue outside of the exclusion zone.
- C. Should human remains be discovered onsite during the course of the project, immediately after such discovery, the onsite archaeologist and Native American monitor shall notify the County Coroner within 24 hours of such discovery, and all construction activities shall be temporarily halted until the remains can be identified. The Native American group/person deemed acceptable by the NAHC shall participate in the identification process, pursuant to Public Resources Code Section 5097.98. Should the human remains be determined to be that of a Native American, the permittees shall comply with the requirements of Section 5097.98. Within five (5) calendar days of such notification, the permittees shall notify the Executive Director of the discovery of human remains.
- D. Permittees seeking to recommence construction within the exclusion zone following discovery of the archaeological resources shall submit a Supplementary Archaeological Plan (SAP) prepared by the project archaeologist in consultation with the Native American Tribes listed on the NAHC list for the review and written approval of the Executive Director. If the Executive Director approves the SAP and determines that the SAP's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after this determination is made by the Executive Director in writing. If the Executive Director approves the SAP but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission.

**17. Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant(s) shall submit to the Executive Director for review and approval documentation demonstrating that the landowner(s) have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants,

conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

18. **Consistency with the Land Use Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, certification of the City of Santa Monica Land Use Plan Amendment No. LCP-5-SNM-22-0041-1 by the Coastal Commission must be final and effective in accordance with the procedures identified in the California Code of Regulations, Title 14, Division 5.5, Section 13544.

## V. FINDINGS AND DECLARATIONS

### A. Project Location and Description

The project site is located at 101 and 129 Santa Monica Boulevard and 1327, 1333, and 1337 Ocean Avenue, in the City of Santa Monica, Los Angeles County ([Exhibit 1](#)). The project site comprises 11 lots with five assigned assessor parcel numbers, or five parcels. Each parcel is 7,500 sq. ft. in area, resulting in a 1.9-acre (82,500 sq. ft.) project area. The project site is located across Ocean Avenue from the popular Palisades Park blufftop path and approximately 480 ft. east of the inland extent of Santa Monica State Beach.

The seven western-most lots of the project site are designated Residential—Visitor Commercial by the certified LUP and zoned Ocean Transition by the uncertified Santa Monica Municipal Code (SMMC) ([Exhibit 2](#)). The four eastern-most lots of the project site are designated Downtown Commercial by the certified LUP and zoned Bayside Conservation by the uncertified SMMC. Both designations allow for a broad range of uses, including pedestrian-oriented retail, visitor-serving overnight accommodation, and residential uses.

The 11 lots are currently developed with four primary structures and two private parking lots. The four primary existing structures include a mixed-use development with 19 dwelling units and a 43-space private parking lot at 101 Santa Monica Boulevard; a commercial development at 1327 Ocean Avenue; two commercial buildings designated by the Santa Monica Landmarks Commission as historic landmarks at 1333 and 1337 Ocean Avenue; and a 93-space private surface parking lot at 129 Santa Monica Boulevard ([Exhibit 1](#)).

On February 18, 1993, the Commission approved CDP No. 5-93-40 for remodel of an existing restaurant at 101 Santa Monica Boulevard. In 2007, the Commission received CDP Application No. 5-07-198 for demolition of two existing, historic landmarks at 1327 and 1337 Ocean Avenue for construction of a four-story, 69-room hotel and 4,000 sq. ft.

restaurant. The Commission also received CDP Application No. 5-07-257 for an associated DA between the project applicant (Hill Street Partners III, LLC) and the City. Both applications were withdrawn prior to publication of staff recommendations. No other permit history exists in the Commission or City record for the subject 11 lots.

### **Proposed Development**

The project would consist of three primary components: 1) demolition of all existing development onsite except the two structures designated as historic landmarks; 2) construction of a new, 12-story-over-basement, 130-ft. tall, 248,570 sq. ft. mixed-use development, and 3) approval of a DA ([Exhibit 3](#)).

The five parcels constituting the 1.9-acre project site would remain separate legal parcels, but would be held as a single building site pursuant to a Covenant to Hold Parcels as a Single Building Site required by the City. The agreement would allow construction of new development across the parcels and prohibit separate sale of any individual parcel in the project site, but the parcels would maintain their current property lines. No subdivision or merger is currently proposed. Additionally, as stated in the DA, any future transfer of a portion of the subject project site would require a final parcel map or final subdivision map. Additionally, any division of land would require a CDP approved by the Commission.

In the northwest corner of the project site, a two-story, 60-ft. tall, 34,000 sq. ft. museum would be constructed by renovating and connecting the two existing historic landmarks with a rear addition ([Page 20, Exhibit 4](#)).<sup>1</sup> The DA requires provision of the museum to satisfy uncertified SMMC regulations that require private developers to either construct cultural facilities, or pay a contribution to the City's cultural arts fund.<sup>2</sup> The DA includes several operating requirements for the museum, including exhibition of the project architect Frank Gehry's archives in the museum for at least 15 years following initial construction, and provision of fieldtrips for Santa Monica schools and non-profit organizations.

Immediately southeast of the museum, the applicants propose construction of a 12-story, 130-ft. tall, 115,400 sq. ft. hotel ([Page 17, Exhibit 4](#)). The hotel would include restaurant and retail uses on the ground floor, 120 hotel rooms on the upper floors, and a 4,800 sq. ft. public observation deck atop the twelfth floor. No moderate or lower-cost overnight accommodations are proposed onsite or offsite. In lieu of providing affordable lodging, the applicants propose payment of a \$4,342,500 fee to Hostelling International to partially fund expansion of an existing hostel at 1436 Second Street in Santa Monica. The DA allows the applicants to charge a maximum \$1 admission fee for entry to the public observation deck, conditioned upon all proceeds being donated to a non-profit organization that supports Santa Monica public schools. The DA requires the

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<sup>1</sup> The museum is referenced in the project plans as a "Cultural Use Facility" consistent with the definition in uncertified [SMMC Section 9.30.030\(f\)](#).

<sup>2</sup> Ref. uncertified [SMMC Section 9.30.040](#).

observation deck to remain open to the public between 12 PM and 6 PM, with specified exceptions. The DA allows use of the observation deck up to five days per month, and no earlier than 5 PM, for private events unavailable to the general public. Private event closures may not occur on both Friday and Saturday evenings of the same week.

Southeast of the hotel, the applicants propose construction of a two-story, 28-ft. tall, approximately 4,000 sq. ft. restaurant and retail structure. Immediately north and east of the restaurant and retail structure, the applicants propose construction of three primarily residential-use buildings ranging from four to nine stories and up to 106-ft. tall ([Page 18, Exhibit 4](#)). The three buildings would provide restaurant and retail uses on the ground floors and 100 dwelling units on the upper floors. Of the 100 dwelling units, 25 units would be deed-restricted as affordable to households with incomes between 30% and 120% of the Area Median Income (AMI).<sup>3</sup> The project would include the following composition of affordability ranges as defined by the U.S. Department of Housing and Urban Development.

**Table 1. Proposed number of units per affordability range.**

Affordability	Percentage of AMI	Number of Proposed Units
Extremely-Low Income	30% AMI	4
Very-Low Income	50% AMI	4
Low Income <sup>4</sup>	80% AMI	6
Moderate Income <sup>5</sup>	120% AMI	11
Market-Rate	Not applicable.	75
<b>Total Proposed Units</b>		<b>100</b>

Three subterranean levels would extend below the entirety of the project site, requiring 108,000 cy. of cut and no fill. The first two subterranean levels would serve primarily as storage area and employee facilities (referenced as “back-of-house” area on the plans)

<sup>3</sup> The Area Median Income (AMI) is the midpoint of a region’s income distribution – half of families in a region (such as Santa Monica) earn more than the median and half earn less than the median. (Ref. <https://metro council.org/Handbook/Files/Resources/Fact-Sheet/HOUSING/Area-Median-Income-and-Housing-Affordability.aspx>)

<sup>4</sup> Three of the six proposed Low Income units would also serve as replacement rent-controlled units. This means tenants of the existing units onsite may relocate to the subject units regardless of their income status if all other rent-controlled units are occupied

<sup>5</sup> Five of the 11 proposed Moderate Income units would also serve as replacement rent-controlled units.

for each of the proposed uses onsite. The third subterranean level—and portions of the upper two subterranean levels—would provide 254 striped parking spaces and aisles capable of accommodating 64 additional vehicles via the use of valet parking. The proposed parking configuration would effectively provide 318 total parking spaces onsite, while still complying with the limit of 285 marked spaces imposed by the DA.

All vehicle parking spaces would be available on a first-come, first-served basis. Residential tenants and commercial employees who lease parking in the building would purchase a parking pass, rather than a particular parking space. Of these 318 parking spaces, at least 25 electrical vehicle (EV) charging stations will be provided, and a minimum of 109 spaces will be outfitted for compatibility with future EV charging station use. Additionally, 231 bicycle parking spaces will be provided onsite.

The alleyway directly east of the site, First Court Alley, currently serves as a one-way vehicle accessway between Arizona Avenue and Santa Monica Boulevard and intersects the proposed, L-shaped project site. The applicants would convert the roughly 180-ft. long portion of alley abutting Santa Monica Boulevard into a pedestrian accessway (referenced in the plans as “Pedestrian Mall”) [\(Page 8, Exhibit 2\)](#). This would be accomplished by re-routing the alley across the project site as a one-way vehicle exit onto Second Street. The DA requires the applicants to dedicate the re-routed accessway on the project site to the City prior to closure of the portion abutting Santa Monica Boulevard. Vehicles would access the proposed subterranean parking lot from First Court Alley and exit onto Second Street.

### **Development Agreement (DA)**

Sections 65864 through 65869.5 of Title 7 of the California Government Code authorize any city to enter into a DA with any person having a legal or equitable interest in real property for the development of property owned by that entity. The DA specifies the permitted uses of the property, the density or intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. Section 65869 further specifies that DAs shall not be applicable to any development project located in an area for which a certified LCP is required, unless the LCP has not yet been certified for the subject city and the development agreement has been approved by the Commission. The City of Santa Monica does not have a certified LCP—therefore, any DA that pertains to property within the City’s coastal zone must be approved by the Commission.

The subject application includes a DA between the applicants (Ocean Avenue Partners, LLC and Belle Vue Plaza) and the City of Santa Monica, adopted by the City as DA No. 13DEV-004 on July 26, 2022. The DA outlines specific limits of the City’s approval, including regulations on alcohol-serving use, timing of construction, and indemnity for the City against all project-associated legal costs. The DA requires the applicants to submit a final Transportation Demand Management Plan and Water Quality Management Plan, discussed further in the subsections below. Additionally, the DA requires the applicants to provide community benefits (such as City-sponsored childcare programs, sidewalk and street repairs, and landscaping) through payment of approximately \$126 million in fees to the City.

The DA was submitted by the applicants for inclusion in the subject CDP application. Although the DA requires certain plans and project features that would be otherwise required by the Commission, it does not restrict what may or may not be approved under the subject CDP. Furthermore, for any project that has not yet received Coastal Act authorization, the DA does not bind the Commission (or local agency with a certified LCP and delegated authority) from conducting a full analysis pursuant to the Coastal Act and any applicable certified LCP in assessing whether to approve such projects.

All project components included in the DA shall be considered by the Commission as features proposed by the applicant. However, any plans required by the DA would be submitted solely to the local government and would not be enforceable by the Commission. As such, the conditions of the subject CDP must specify requirements and submittal procedures independent of the DA in order to ensure the Commission may enforce Coastal Act and CDP compliance. Additionally, the DA requires the applicants to pay fees intended to fund future community improvement projects, as listed above. Any future projects located in the coastal zone that may result in impacts to coastal resources or constitute new development will require Commission review for Coastal Act consistency; any Commission action on the subject CDP and DA does not constitute de facto approval of any future projects described in the DA.

### **Standard of Review**

The City of Santa Monica's LUP was effectively certified on November 17, 1992, when the Executive Director reported to the Commission that the City's adoption of the Commission's suggested modifications (excluding the area west of Ocean Avenue and Neilson Way, or the Beach Overlay District) was legally adequate. The City does not yet have a certified Implementation Plan or certified LCP. Therefore, the Chapter 3 policies of the Coastal Act are the standard of review, and the certified LUP is used as guidance.

## **B. Lower-Cost Overnight Accommodations**

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 30213 of the Coastal Act states:

Lower-cost visitor and recreational facilities shall be protected, encouraged, and where feasible, provided. Developments providing public recreational opportunities are preferred. The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, hotel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income



persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

LUP Policy 35 states, in relevant part:

Lower cost visitor and recreational facilities shall be protected, encouraged, and where feasible, provided...The City shall identify sites suitable for lower-cost overnight lodging. If these alternatives are not feasible, then an in-lieu fee payment shall be made and placed in a fund established by the City for the provision of lower-cost lodging facilities within the Coastal Zone, including land acquisition, construction, and replacement... The City has estimated that 502 lower-cost over-night lodging facilities existed in the City's coastal zone as of May 1990. Notwithstanding the above, no more than 25% of these facilities may be removed from the coastal zone until or unless an equivalent number of such lodging facilities have been replaced within the City. Removal of lower-cost over-night lodging facilities shall not occur until after construction begins on replacement facilities.

The Coastal Act and existing LUP policies identify public recreational access—especially recreation for the visiting public—as a critically important resource that requires protection and maximization. Many visitors live in inland areas, where a coastal trip may require a lengthy car, train, or bus ride. For many low- and moderate-income visitors, affordable lodging is essential for meaningful access to the California coast. As such, Section 30210 of the Coastal Act requires public access and recreation opportunities to be maximized for all people, including those who do not (and/or cannot afford to) live near the coast. Section 30213 additionally requires permitted development to protect, encourage and, where feasible, provide lower-cost visitor and recreational facilities. In numerous past actions, the Commission has applied this policy to protect, and require provision of, lower-cost overnight accommodations in relevant development projects.

### **Trends in Coastal Overnight Accommodations**

The Commission has approved new hotel developments along the coastline as high-priority visitor-serving facilities—however, high room rates can render these visitor-serving hotels exclusive.<sup>6</sup> As such, the Commission has required mitigation for the use of land that would have otherwise been available for lower-cost and visitor-serving facilities.<sup>7</sup> The Commission has also approved projects and LCP amendments requiring development of overnight accommodations with facilities serving a range of incomes.<sup>8</sup>

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<sup>6</sup> [Explore the Coast Overnight- An Assessment of Lower Cost Accommodations](#), published by State Coastal Conservancy on January 8, 2019.

<sup>7</sup> [NPB-MAJ-1-06, Part A](#) (Marriott Hotel VSC)

<sup>8</sup> [HNB-MAJ-2-06](#) (Huntington Beach-Timeshares); [A-6-PSD-8-04/101](#) (San Diego-Lane Field); [A-5-RPV-2-324](#) (Rancho Palos Verdes-Long Point); [RDB-MAJ-2-08](#) (Redondo Beach); [SBV-MAJ-2-08](#) (Ventura); [5-98-156- A17](#) (Long Beach-Pike Hotel); [LOB-MAJ-1-10](#) (Long Beach-Golden Shore); [A-5-VEN-21-0011](#) (Wynkoop Properties, LLC); [A-5-LGB-21-0060](#) (Pacific Edge Hotel), and [5-18-0872](#) (Sunshine Enterprises LP).

In some past actions where the proposed development failed to facilitate a range of affordability onsite, the Commission alternatively required payment of an in-lieu fee to fund construction of lower-cost overnight accommodations offsite, including hostels, recreational vehicle (RV) parks, and campgrounds.<sup>9</sup>

In November 2016, Commission staff presented a comprehensive study of lower-cost visitor accommodations eliminated from the coastal zone since 1989.<sup>10</sup> The study found that, out of six “cost” categories ranging from “economy” to “luxury,” a total of 24,720 economy rooms were lost without replacement. Comparatively, 11,247 rooms were eliminated from the other five cost categories. These survey results indicate that nearly 70% of all hotel rooms eliminated from the coastal zone between 1989 and 2016 were economy rooms, whereas less than 10% of the rooms lost were in the upscale and luxury categories. Although statewide demand for lower-cost accommodations in the coastal zone is difficult to quantify, lower-cost hotels, camping, and hostel opportunities are in high demand in coastal areas. There is an ongoing need to provide more affordable lodging along California’s coast.

Despite being a very significant visitor-serving destination, Santa Monica has limited facilities within its coastal zone that offer lower-cost overnight accommodations for visitors. In May 1990, the City estimated that 502 lower-cost overnight accommodation units existed in the City’s coastal zone. Certified LUP Policy 35 states that “no more than 25% of these facilities may be removed from the coastal zone until or unless an equivalent number of such lodging facilities has been replaced within the City”. Despite this requirement, those 502 affordable overnight accommodation units were reduced by 59% in the following 26 years, resulting in 297 affordable overnight accommodation units in the Santa Monica coastal zone by 2018.<sup>11</sup> The City has not identified sites suitable for lower-cost overnight lodging as required by the certified LUP, resulting in no new replacement facilities.

Considering the dwindling lodging options available for low-income visitors in coastal Santa Monica, the provision of new lower-cost overnight accommodations is especially important. Furthermore, the limited supply of affordable overnight accommodations in the coastal zone is an environmental justice issue. Section 30604(h) of the Coastal Act provides that when acting on a coastal development permit, the issuing agency “may consider environmental justice, or the equitable distribution of environmental benefits.” As defined in Section 30107.3 (a) of the Coastal Act, “environmental justice” means “the fair treatment and meaningful involvement of people of all races, cultures, incomes and national origins, with respect to the development, adoption, implementation, and

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<sup>9</sup> [5-18-0872](#) (Shore Hotel); [6-13-0407](#) (McMillin-NTC, LLC); [5-14-1785](#) (Olson Real Estate Group, Inc.); A-6-ENC-22-0049 (Encinitas Beach Land Venture I, LLC), [5-20-0597](#) (Franco), and [5-21-0139](#) (Ocean Avenue LLC).

<sup>10</sup> [Public Workshop: Lower Cost Visitor Serving Accommodations](#), published by Commission staff on October 26, 2016.

<sup>11</sup> [5-18-0872](#) (Sunshine Enterprises, LP).

enforcement of environmental laws, regulations, and policies,” and, pursuant to Coastal Act section 30013, the Commission and all public agencies are charged with advancing environmental justice when implementing the Coastal Act. Thus, environmental justice considerations are relevant to the Commission’s review of new high-cost hotel proposals.

The Commission’s Environmental Justice Policy, adopted in March 2019, indicates that the Commission shall “strive for a no-net-loss of lower-cost facilities in the coastal zone, while implementing a longer term strategy to increase the number and variety of new lower-cost opportunities.”<sup>12</sup> In California, equitable coastal access and recreation opportunities for all populations has not been realized due to historic and social factors, such as discriminatory land use and economic policies and practices, with greater barriers to access experienced by low-income communities, communities of color, and underserved communities.<sup>13</sup> Spatial analysis of 2010 Census data shows a majority of Californians (70.9%) live within 62 miles of the coast, but populations closest to the coast are disproportionately white, affluent, and older than those who live farther inland.<sup>14</sup>

Additionally, a State Coastal Conservancy-commissioned survey in 2017 identified that “low and middle-income households, people of color, and young people are less likely than higher-income, white, or older Californians to stay overnight at the California coast” and states: “Respondents cited financial concerns as the primary reason they do not stay overnight at the coast. Over 45% of Californians said that overnight accommodations at the coast were inconvenient or unaffordable.”<sup>15</sup>

The limited supply of lower-cost accommodations in the coastal zone exacerbates access inequities related to socioeconomic status. A lack of affordable lodging in coastal cities disproportionately prevents individuals from low-income communities from staying on the coast overnight. The majority of new hotels developed in the coastal zone constitute high-cost hotels, while the remaining moderate and lower-cost hotels in the coastal zone may constitute older structures that become less economically viable as time passes. It is often more lucrative for developers to replace these older structures with higher-cost accommodations. Such trends have thus made it difficult for

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<sup>12</sup> [California Coastal Commission Environmental Justice Policy](#), published by Commission staff March 8, 2019.

<sup>13</sup> “[Free the Beach! Public Access, Equal Justice, and the California Coast](#)”, Robert Garcia & Erica Flores Baltodano, 2 Stanford Journal of Civil Rights and Civil Liberties. 143 (2005) ); [Report on Coastal Act Affordable Housing Policies and Implementation](#), published by Commission staff on February 10, 2015; [Report on the Historical Roots of Housing Inequity and Impacts on Coastal Zone Demographic Patterns](#), published by Commission staff on June 9, 2022.

<sup>14</sup> [Coastal Access Equity and the Implementation of the California Coastal Act](#), Reineman, et al., (2016) Stanford Environmental Law Review Journal, v. 36. Pages 96-98.

<sup>15</sup> [Explore the Coast Overnight- An Assessment of Lower Cost Accommodations](#), published by State Coastal Conservancy on January 8, 2019.

visitors with limited means to access the coast; many of these visitors are traveling from inland locations and cannot easily make the trip to the coast and back home again in a single day. Therefore, by protecting and providing lower-cost lodging for the price-sensitive visitor, the Commission can remove barriers and increase access to a segment of the population facing inequities when visiting the coast. This in turn enhances access to coastal recreational facilities, like piers, boardwalks, and harbors.

To facilitate provision or retention of lower-cost accommodations in new development with overnight accommodations for consistency with Coastal Act section 30213, the Commission has required that applicants either: A) ensure a percentage of the proposed onsite overnight accommodations are provided at lower-cost; B) establish an equivalent number of lower-cost accommodations offsite or nearby; and/or C) ensure an adequate in-lieu fee is paid to a fund designated for creation of new lower-cost overnight accommodations.

To implement any of these options, the Commission has first defined lower-cost overnight accommodations (or “lower-cost units”). The Commission has then determined how many lower-cost units are required per a given development project and whether provision onsite, or at a nearby offsite location, is feasible. If necessary, the Commission has gone on to determine whether an in-lieu fee can be found appropriate to facilitate provision of offsite units when the provision of onsite or offsite lower-cost overnight accommodations was determined infeasible. Under such circumstances, the Commission has devised methods to calculate the adequate amount for an in-lieu fee.

### **Defining Lower-Cost Accommodations**

In a market subject to constant change, it can be difficult to define what price points correspond to lower-, moderate-, and high-cost accommodations for a given area. The Commission has utilized varying approaches to define such terms, including considering the unique circumstances for each project and applying a quantitative methodology for determining what is considered “lower-cost.” The quantitative methodology relies on a formula based on California hotel and motel accommodations (from single up to double occupancy) and does not account for hostels, RV parks, campgrounds or other alternative accommodations into the equation, as these facilities do not typically provide the same level of accommodation as hotels and motels. Rather, hostels and campgrounds are generally inherently lower-cost and are the type of facilities that might be required as a compensatory measure for the loss of lower-cost overnight accommodations.

The formula calculates the average daily rate (ADR) of lower-cost hotels and motels—generally during the peak summer months of July and August—based on the ADRs of hotels and motels across the entire State of California. Under this formula, “lower-cost” is defined as overnight accommodation room rates equivalent to 75% or less than the calculated statewide ADR for the given peak period. To obtain data inputs for the formula, statewide ADRs are collected monthly by Smith Travel Research and are

available on the “Visit California” webpage.<sup>16</sup> The formula uses peak-season (summer) rates for standard, double occupancy rooms. To ensure that the lower-cost hotels and motels surveyed meet a minimally acceptable level of quality, including safety and cleanliness, standard use of the formula only includes AAA Auto Club-rated properties scoring a one- or two-diamond rating.<sup>17</sup> This approach has been recently corroborated by the Coastal Conservancy’s 2019 Explore the Coast Overnight Study, in which lower-cost coastal accommodations were defined as those having a daily rate of 75% or less of the statewide ADR. As discussed in greater detail below, the lower-cost rate for the 2023 season equals \$150.39 (calculated as 75% of the statewide peak-season ADR).

Following this formula, the Commission has determined that the high-cost rates are generally priced 125% or higher than the statewide average daily room rate. By definition, the hotel rooms that are more expensive than lower-cost rooms, but less expensive than high-cost rooms, qualify as moderate-cost rooms. For example: if \$100 was the daily statewide average room rate, lower-cost rooms would be \$75 per night (75% of the statewide ADR); high-cost rooms would be \$125 per night (125% of the statewide ADR); and moderate-cost rooms would range between \$75 to \$125 per night (between 75% and 125% of the statewide ADR).

### **Required Number of Lower-Cost Rooms**

After defining the project as low-, moderate-, or high-cost, the Commission must next determine how many, if any, lower-cost rooms/units should be provided for a given project to mitigate impacts to existing (or potential) lower-cost visitor accommodations caused by the proposed development. In past projects, the Commission has found that one method of encouraging and providing lower-cost accommodations, as required by Section 30213, is to ensure at least 25% of the total proposed hotel rooms are provided at lower-cost rates.<sup>18</sup>

Sections 30210 and 30213 of the Coastal Act support the Commission’s approach that development providing lower-cost accommodations onsite is the preferred method of protecting and maximizing public coastal access and recreation. Only where onsite provision is determined infeasible has the Commission alternatively required offsite provision or fee payments in lieu of the construction of an equivalent number of lower-cost rooms/units (such as hostel beds) offsite.<sup>19</sup> The in-lieu fee funds are paid into an account managed by an appropriate entity acceptable to the Commission, which can include the local government, State Coastal Conservancy, California State Parks,

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<sup>16</sup> <https://www.visitcalifornia.com>.

<sup>17</sup> <https://www.aaa.com/diamonds/diamond-ratings-definitions.html>

<sup>18</sup> Ref. [5-20-0181](#) (B&J Capital Group Investments); [A-5-LGB-21-0060](#) (Highgate Hotels); [5-18-0872](#) (Sunshine Enterprises, LP); [A-5-DPT-18-0046](#) (Lancor); [5-20-0597](#) (Franco); [Public Workshop: Lower Cost Visitor Serving Accommodations](#), published by Commission staff on October 26, 2016.

<sup>19</sup> Ref. [5-20-0181](#) (B&J Capital Group Investments); [5-20-0597](#) (Franco), [5-21-0139](#) (Ocean Avenue, LLC).

Hostelling International, or a similar agency familiar with lower-cost accommodations management, to ensure that such funds are spent on new lower-cost units, including new lower-cost hotel or motel, campground, or hostel facilities.

### **Proposed Project**

First, using the Commission's methodology described above to define the lower-cost room price threshold, Commission staff obtained statewide ADRs for July and August 2023 to reflect the peak vacation season. Statewide ADRs are collected monthly by Smith Travel Research and available on the "Visit California" webpage, which were \$203.66 for July 2023 and \$197.37 for August 2023.<sup>20</sup> Averaging these ADRs provides the following estimates: the 2023 statewide peak-season ADR is \$200.52, the lower-cost rate is \$150.39, the high-cost rate is \$250.64, and moderate-cost rates are between \$150.39 and \$250.64.

However, the subject CDP application was received in September 2022. As such, the applicants' submitted affordable lodging feasibility analysis considers ADRs averaged from July and August 2022. Averaging these ADRs provides the following estimates: the 2022 statewide peak-season ADR would be \$204.16; the lower-cost rate would be \$153.12; the high-cost rate would be \$255.20; and moderate-cost rates would be between \$153.12 and \$255.20. This amounts to a difference of \$2.73 between the lower-cost rates in 2022 and 2023. To facilitate consistency with the applicants' submitted analysis, the below findings use rates based on the statewide ADR from 2022.

The applicants' economic consultant, Maurice Robinson & Associates, published five reports, dated December 8, 2022 through October 17, 2023, analyzing the financial feasibility of providing lower-cost rooms onsite. The applicants' consultant assumed the project would be built in 2025 and thus projected future lower-cost rates in 2025 by adding a positive 3% average annual rate of inflation to the 2022 lower-cost rate, resulting in a \$167 lower-cost room rate by 2025.

Next, as set forth above, the Commission must determine how many lower-cost rooms the proposed project would require for consistency with Section 30213. No overnight accommodations currently exist onsite, and the project would construct 120 new high-cost hotel rooms. Therefore, based upon past Commission actions and the Commission's consideration of environmental justice, at least 30 lower-cost rooms should be provided (i.e., 25% of 120 rooms), preferably onsite if feasible, for consistency with Section 30213. The 30 lower-cost rooms may be additive (resulting in 150 total rooms onsite) or replacements (resulting in 120 total rooms onsite) as discussed further below.

### **Feasibility of Onsite Lower-Cost Rooms**

The applicants' consultant primarily considered the feasibility of replacement rooms, in which the provision of 25% of 120 market-rate rooms at lower-cost rates would result in

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<sup>20</sup> Ref. <https://industry.visitcalifornia.com/research/researchdashboard>

a lesser number of market-rate rooms. Or, in other words, 120 total hotel rooms onsite consisting of 90 market-rate rooms and 30 lower-cost rooms. The reports include hypothetical operating bills projected for the proposed hotel over six years based on typical hotel expenses, occupancy projections, and anticipated ADRs. The typical hotel expenses, or “operating costs”, were based on estimates published by the Hospitality Valuation Services to determine typical hotel expenses. Operating costs were defined to include daily housekeeping, room service, room supplies (like bedding and furniture), in-room maintenance, out-of-room maintenance (like upkeep of the pool and business center), utility fees, insurance fees, and real estate taxes. The report findings rely primarily on “2022 dollars”, or rates that do not reflect inflation since 2022, unless otherwise specified.

Commission staff requested analysis of several alternatives detailed below. While the applicants’ consultant provided analysis, not all alternatives were adequately considered.

1. Provision of 90 market-rate rooms and 30 lower-cost rooms.

The applicants’ consultant estimated that each proposed hotel room with access to the full range of amenities (including room service and daily housekeeping) would incur a \$361 operating cost per night. Market-rate rooms would be provided at an average of \$800 per night. Based on these rates, the report predicts a +5% internal rate of return on investment (IRR) if the applicants provide 120 market-rate rooms and no lower-cost rooms onsite. This would produce a total cash flow of approximately \$163 million (and a net profit of approximately \$55.5 million) by the end of a hypothetical six-year period. Lower-cost rooms would be provided at an average of \$153 per night. The report predicts a resulting -5.8% IRR if the applicants provide 90 market-rate rooms and 30 lower-cost rooms onsite. The report states that a negative IRR would render the project economically infeasible.

2. Reduce operating costs for 30 rooms.

Commission staff requested analysis that reduced the operating costs for 30 lower-cost rooms to determine if that would render the project economically feasible. This could include decreasing room sizes; eliminating and/or reducing in-room amenities, like room service and daily house-keeping; and restricting access to out-of-room amenities (like the pool and business center) to market-rate customers. The applicants’ consultant found that these changes would not be substantial enough to facilitate profit, considering the difference between the anticipated operating cost and lower-cost ADR.

Specifically, the report states that narrowing the scope of amenities available to the lower-cost rooms, like elimination of room-service and daily housekeeping, would reduce the operating cost to an average of \$339 per night in variable operating costs as compared to the previously estimated \$361. The report differentiates between fixed and variable operating costs as expenses that can be lowered and those that cannot, respectively. Fixed costs are characterized in the report as “property taxes, insurance, utilities, marketing, and most of the staff at the Hotel,” while variable costs include

“maintenance, management, cleaning, supplies and reservations, as well as other costs.”<sup>21</sup> The report states that reducing variable operating costs has little to no effect on fixed costs. In summary, the report states that Alternative 2 would be insufficient to generate a positive IRR. The report did not analyze the effect of combining Alternative 2 with additional alternatives.

3. Provide 30 rooms at rates equal to operating costs.

Commission staff requested feasibility analysis of whether provision of 30 rooms at ADRs equivalent to operating costs would render the project economically feasible. The reports considered a scenario in which 30 rooms were provided at \$339 per night (which is still above the high-cost ADR threshold in 2022 dollars) instead of \$153 per night (i.e., the lower-cost rate in 2022 dollars). Alternative 3 assumes that operating costs for each room would be reduced from \$361 to \$339 per night. The report finds that provision of 30 rooms at \$339 per night and 90 market-rate rooms at \$800 per night would result in a -1% IRR, rendering the project financially infeasible. The report did not analyze the effect of combining Alternative 3 with additional alternatives, like providing a lesser number of rooms at \$339 per night as analyzed in Alternative 4.

4. Provide the minimum number of lower-cost rooms possible onsite for a positive IRR.

Commission staff requested feasibility analysis that considered whether the provision of the minimum number of lower-cost rooms possible onsite to yield a positive IRR would render the project economically feasible. The reports considered the below select scenarios in which lower-cost rooms would be provided at \$153 per night and market-rate rooms would be provided at \$800 per night with a total of 120 rooms.

**Table 2. Consultant’s projected IRR per ratio of room rates.**

<b>Number of Lower-Cost Rooms</b>	<b>Number of Market-Rate Rooms</b>	<b>Projected IRR</b>
20	100	-0.9%
17	103	+0.2%
10	110	+2.7%
0	120	+5.0%

The applicants’ consultant acknowledges that a combination of 17 lower-cost rooms and 103 market-rate rooms would result in a positive IRR (+0.2%). However, the reports indicate that a +0.2% IRR would provide cash distributions roughly equaling the

<sup>21</sup> Hotel staff were considered a fixed cost based on the applicants’ union contract, which the report assumes would preclude the applicants from significantly reducing staffing hours.



applicants' cash investments, resulting in little to no net profit. The reports cite an IRR range between +12% and +15% as the typical minimum profit margins necessary to draw investors and finance development. The reports contend that the applicants' current proposal (i.e. solely market-rate rooms) will already result in an IRR lower than the typical profit margin at +5%, based, in part, on the \$126 million community benefits package required by the City during a local review period of several years.

While the community benefits expenses do not negate the need for provision of adequate lower-cost overnight accommodations, they are relevant to understanding why the applicants' consultant concluded that the development of a new, luxury, mixed-use compound would struggle to maintain a profit margin if additional land onsite were required to serve lower-cost overnight accommodations. The reports contend that the applicants are accepting a high degree of risk by demolishing the existing, income-generating development onsite and constructing a multi-structure mixed-use development. The reports dated December 8, 2022 and January 27, 2023 state:

[E]ven in the absence of providing lower-cost lodging, the Applicant's *[sic]* financial feasibility analysis forecasts below market-rate returns and modest profit margins for a project of this scale and complexity, despite aggressive assumptions on performance levels.

...A construction loan will be needed to redevelop the Project. For a lender to provide adequate debt financing for the Project, its underwriting needs to indicate that the Project will generate sufficient Net Operating Income once completed. ... Additionally, lenders evaluate the Project for its collateral value, in case they end up with the improvements in the event of a foreclosure or default, and no lender would want to own such a rate-restricted hotel. Under these circumstances, it would be unlikely that a lender could find a new borrower, or a brand, to purchase the Hotel at a price that refunds its debt, so most lenders would pass on the opportunity to finance the Project if any lower-cost rooms were mandated.

In consideration of "feasibility," the applicants' consultant factors in the likelihood of obtaining financing. The reports state that a project containing a set number of lower-cost rooms onsite would render it difficult to obtain financing from lenders and investors. The reports acknowledge that a combination of 10 lower-cost rooms and 110 market-rate rooms would result in a +2.7% IRR, which would produce an average \$5 million net profit each year in a hypothetical six-year period. Still, the reports contend that \$5 million per year is too low to draw investors and the project would not be financeable, thus infeasible.

##### 5. Provide 30 lower-cost rooms and 120 market-rate rooms onsite.

Alternatives 1 through 4 described above have assumed the lower-cost rooms would replace currently proposed market-rate rooms and still result in 120 total hotel rooms onsite. But the lower-cost rooms may also be additive and result in 150 total hotel rooms onsite. Commission staff requested that the applicants consider the provision of 30 lower-cost rooms in addition to 120 market-rate rooms, rather than as replacements.

This would allow the applicants to retain all currently proposed market-rate rooms while still providing affordable lodging onsite.

Provision of 30 additional hotel rooms could be accomplished by reallocating uses in the proposed development and/or increasing massing and scale onsite. The proposed site is 1.9 acres and includes several proposed structures capable of facilitating either method. One example could be locating the 30 lower-cost rooms in the rear portion of the proposed 34,000 sq. ft. museum, which would still leave the two historic landmark structures and two subterranean levels for museum uses. Another example may be adding floors to the proposed five- and three-story residential structures. These are only some of the many potential methods for accommodating lower-cost rooms onsite.

The applicants' consultant estimated that the provision of 30 lower-cost rooms and 120 market-rate rooms onsite would yield a +3.8% IRR at the end of six years. The report estimates that a +3.8% IRR would result in a \$7.2 million average net profit each year in a hypothetical six-year period: in other words, a \$43.2 million total net profit at the end of the six-year period. Considering the applicants' current proposal of solely market-rate rooms would yield a positive 5% IRR, Alternative 5 would reduce the estimated IRR by 1.2%.

The report reiterates that securing financing would be difficult with any IRR less than +12%. The report also cites project implementation delays, increasing interest rates, and "the risk of losing high quality luxury hotel brands, due to lack of desire to affiliate with a project that has competing lower cost lodging on-site" as additional economic constraints. However, the applicants have demonstrated that an IRR of less than +12% is still feasible, as their current proposal has an IRR of only +5%. Furthermore, Alternative 5 would only lower the currently proposed IRR by 1.2%, while still generating a \$43.2 million total net profit at the end of the six-year period. The applicants' consultant does not acknowledge the minor scale of the decrease or specify how it would render the project financially infeasible. Regardless, the report asserts that Alternative 5 would render the project financially infeasible.

Beyond profit margins, the applicants dispute the feasibility of Alternative 5 based on five additional contentions:

- 1) Revising the proposed project design would require time-consuming and costly amendments to the DA;
- 2) Revising the proposed project design would require a second LUP amendment, since the currently proposed amendment (App. No. LCP-5-SNM-22-0041-1) limits the project site to a maximum 130-ft. height and 2.95 cumulative FAR;
- 3) Reallocating uses in the proposed museum would limit the scope of exhibits shown, and increasing the museum structure's size would require elimination of the skylights;

- 4) There is no practical way to provide lower-cost rooms alongside \$800-per-night rooms in the absence of any legal ability for the hotel to verify the income levels of guests; and
- 5) The project should not have to provide onsite affordable lodging for consistency with Coastal Act section 30213 and certified LUP Policy 35.

Regarding the applicants' first contention, it is true that the local review period has already taken several years and may be further extended by DA revisions. The DA would require an amendment for any change to the museum floor area and number of hotel rooms (among other categories of revisions). Per [Appendix B](#), construction of an additional 30 lower-cost rooms would require at least six revisions to the DA. The applicants initially submitted the project for local approval in 2013 and received approval nine years later. There would be no restriction on how long the City's process may take to make these revisions. However, the DA is part of the subject CDP application (App. No. 5-22-0799), and the Commission is not required to approve the project and DA as submitted. Both the project and the DA may be revised if necessary to ensure consistency with Chapter 3 policies of the Coastal Act. In this case, the City failed to consider the provision of affordable overnight accommodations as required by the Coastal Act and the City's LUP during the nine-year local review process. Commission staff were not given the opportunity to advise on the project during those nine years. The City did require valuable visitor-serving uses onsite (like a public observation deck and museum), but the current scarcity of affordable lodging options in the City's coastal zone means these amenities would not be meaningfully accessible to lower-income visitors who arrive from inland locations and wish to spend more than a day at the coast.

Regarding the applicants' second contention, increasing development standards for the subject site would not require a second LUP amendment. The currently proposed amendment (App. No. LCP-5-SNM-22-0041-1) does limit the project to a maximum 130-ft. height and 2.95 cumulative FAR, but the amendment request is subject to Commission review and may be revised with suggested modifications. Furthermore, the applicants requested that the City propose the current LUP amendment to reflect the applicants' proposal—the cumulative FAR may therefore be increased to facilitate consistency with Section 30213 of the Coastal Act without changing the intent of the proposed LUP amendment. Increasing the 130-ft. maximum height would not be strictly necessary, as there are several structures of lesser height onsite.

Regarding the applicants' third contention, the proposed museum would include at least three galleries ranging between 1,800 and 8,500 sq. ft. in size and a lobby/gift-shop area roughly 4,000 sq. ft. in size. The applicants argue that the proposed size is already small for its intended use, comparing the proposed gallery sizes to a 24,000 sq. ft. Frank Gehry exhibit shown at the Los Angeles Museum of Art. The applicants cite a lack of museums in the Santa Monica coastal zone and state that the inclusion of an exhibit from renowned architect Frank Gehry will draw international visitors. The museum footprint is also constrained by the two west-facing historic landmarks and First Court Alley, meaning an increase in size would require building on top of the second

floor and elimination of sky-lights. However, a decrease in the number and/or size of galleries resulting from reallocation of uses would not prevent the museum from functioning. Eliminating the sky-lights to construct additional floors would also not prevent the museum from providing visitor-serving uses.

Regarding the applicants' fourth contention, it is true that lower-cost rooms could be monopolized by high-income customers seeking rate discounts. Notably, Section 30213 prohibits the Commission from approving any method of income identification for lower-cost room eligibility. However, there are other ways to encourage the use of lower-cost rooms for low- and moderate-income visitors. One method may be targeted outreach to community organizations focused on environmental justice communities, such as local non-profits, environmental justice groups, labor unions, or recipients of public benefits programs. The Commission has required marketing and engagement plans to address this exact concern for projects that provided onsite lower cost rooms in the past. Another method may be limiting the luxury amenities included with the lower-cost rooms (like access to the pool, room-service, and daily housekeeping) to disincentivize luxury visitors from capitalizing on the lower-cost rooms. This is especially feasible considering the lower-cost rooms may be constructed in a separate building from the market-rate rooms.

Regarding the applicants' fifth contention, the applicants argue that Section 30213 and certified LUP Policy 35 only require the provision of affordable overnight accommodations in instances where a project would remove existing affordable rooms. However, this is not consistent with the Commission's interpretation and application of Section 30213. Considering how few affordable rooms exist in the Santa Monica coastal zone, this interpretation would have a significant adverse impact on public access to the coast.

The bulk of LUP Policy 35 focuses on the preservation of existing lower cost lodging facilities, but it still requires new provision of lower cost visitor and recreational facilities when feasible. Furthermore, the policy has not been adhered to by the City. As mentioned above, the 502 affordable overnight accommodations totaled in 1990 were reduced by 59% in the following 26 years, and the City has not identified sites suitable for new or replacement lower-cost overnight lodging as required by the certified LUP. Considering the fact that no replacement facilities have been constructed, and affordable lodging options available for low-income visitors have dwindled in coastal Santa Monica, the provision of new lower-cost lodging facilities is especially important.

In summary, the applicants have not adequately demonstrated that Alternative 5 (provision of 30 lower-cost rooms and 120 market-rate rooms) is economically or practically infeasible. Nor have the applicants adequately demonstrated that Alternative 4 (provision of 10 lower-cost rooms and 110 market-rate rooms) is economically or practically infeasible. Alternative 5 is consistent with the Commission's intent of ensuring a range of affordability in new overnight accommodation projects and would enhance public access to the Santa Monica coastal zone. It is therefore preferable to Alternative 4, which would result in a lesser number of affordable lodging units (with the remainder addressed through a proportionate in-lieu fee) and a lesser IRR for the

applicants. As such, there is still the potential that the applicants choose a final design of the project that would provide the required affordable overnight accommodations onsite in order to meet the requirements of Coastal Act sections 30210 and 30213 and the LUP.

### **Feasibility of Offsite Lower-Cost Rooms**

During the review process, Commission staff also requested analysis of whether the provision of 30 lower-cost rooms offsite was financially feasible. The applicants' consultant determined this alternative economically infeasible based on the cost of acquiring land in Los Angeles County. The report states that land acquisition costs in Santa Monica range from approximately \$200,000 to \$300,000 per room. The report adds an estimated construction cost of \$150,000 per room to result in an overall development cost of \$350,000 to \$450,000 per room in Santa Monica. The report states that this cost range could not be recouped by lower-cost room rates and would result in a negative IRR. The report concludes from these costs that provision of 30 lower-cost overnight accommodations offsite in the Santa Monica coastal zone is not financially feasible. The applicants did not consider the possibility of directly partnering with a land-holding third party entity to construct lower-cost units at a specific location offsite. Regardless, the applicants can achieve consistency with Section 30213 (and certified LUP Policy 35) by contributing adequate in-lieu fees to fund the offsite provision of lower-cost units near the project site. This option is discussed below.

### **In-Lieu Fee**

The preferred method to ensure consistency with Coastal Act sections 30210 and 30213 is provision of new lower-cost rooms onsite. If not feasible, the next preferable method is provision of new lower-cost rooms near the project site. If this is also infeasible, then the Commission may determine that an in-lieu fee option is appropriate to facilitate the future construction of offsite lower-cost units by an acceptable third party entity. Despite the numerous suggested alternatives outlined above to provide some form of lower-cost overnight accommodations at or near the subject site, the applicants are not amenable to the provision of any affordable lodging onsite or offsite. In lieu of providing affordable lodging, the applicants propose payment of a \$4,342,500 fee, which reflects recent inflationary increases using the Turner Building Cost Index (TBCI).<sup>22</sup>

The applicants' in-lieu fee calculation is consistent with the method used by the Commission in past actions. In 2014, Hostelling International published a report estimating an average construction cost of \$42,120 per new hostel bed excluding the cost of land acquisition.<sup>23</sup> The Commission retained the services of Maurice Robinson & Associates (the applicants' current consultant) to verify the estimate. In 2015, the Commission's consultant confirmed that new hostel accommodations would cost an

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<sup>22</sup> The Turner Building Cost Index is used widely by federal and state governments to measure costs in the nonresidential building construction market in the United States. (Ref. <https://www.turnerconstruction.com/cost-index>)

<sup>23</sup> [5-18-0872](#) (Sunshine Enterprises, LP).

average of \$42,120 per bed, but found that new motel or hotel rooms would cost an average of \$100,000 per room considering the difference in sizes, occupancies, and amenities ([Exhibit 5](#)). The Commission's consultant recommended both estimates be adjusted on an annual basis by comparing the Consumer Price Index (CPI) or TBCI of 2015 to future years. The applicants' proposed in-lieu fee is consistent with this approach, using the most recent (second quarter 2023) TBCI to produce a per-room fee of \$144,750 ([Exhibit 6](#)).<sup>24</sup> Multiplying this per-room fee by the minimum of 30 required lower-cost rooms produces the proposed total in-lieu fee of \$4,342,500.

It is worth noting that certified LUP Policy 35, which provides guidance, requires that in-lieu fees include additional land acquisition costs. The Commission's consultant also recommended that land costs be calculated separately from construction in the in-lieu fee. But the subject case is unique in that the applicants have proposed directing the in-lieu fees to a specific hostel expansion project located at 1436 Second Street in Santa Monica owned and operated by Hostelling International, known as the HI Los Angeles – Santa Monica Hostel ("Santa Monica Hostel"). In this case, Hostelling International is considered a third-party entity that already owns land for providing lower-cost visitor amenities in the Santa Monica coastal zone. As such, it is not necessary for the in-lieu fee to include the cost of land acquisition because in this case, the fee would not be needed or used to purchase land.

The Santa Monica Hostel currently provides at least 260 lower-cost beds and is owned by Hostelling International (also known as American Youth Hostels, Inc.). To date, Hostelling International has received in-lieu fees as a requirement of at least five CDPs in Los Angeles County.<sup>25</sup> The fees were used to partially fund original construction of the 200-bed Santa Monica Hostel in 1986 and the addition of 60 beds to the hostel in 2005. The applicants of the subject CDP application propose the following:

...[T]he Applicant [*sic*] could be directed to put its entire mitigation fee into an escrow account or other dedicated funding mechanism specifically targeted for use by Hostelling International to aid in implementation of its expansion project at 1436 2nd Street, Santa Monica. In addition, based on preliminary conversations with the Hostelling organization, the Applicant is willing to provide free construction costing/evaluation services to help Hostelling International with moving the ball forward toward implementation. The Applicant can provide no assurance that expansion of their existing facility will be accomplished by Hostelling International. However, it seems to us that if Hostelling International knew there was a significant sum of money specifically set aside for its expansion project at 1436 2nd Street in Santa Monica, that may provide them with additional incentive and/or security to move ahead.

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<sup>24</sup>  $1,365$  (TBCI in Q2 2023) -  $943$  (TBCI in 2015) =  $422$  /  $943$  (TBCI in 2015) =  $0.4475$  \*  $\$100,000$  cost per room in 2015 =  $\$44,750$  increase +  $\$100,000$  cost-per-room in 2015 =  $\$144,750$  cost-per-room in Q2 2023.

<sup>25</sup> Ref. CDP Nos. A-49-79, A-207-79, 5-83-560, 5-89-240 and 5-89-941.

Commission staff confirmed with a representative of Hostelling International that an expansion was proposed for the Santa Monica Hostel prior to the COVID-19 pandemic. The pandemic's impact on tourism forced Hostelling International to stay their plans for expansion. Hostelling International recently communicated a renewed interest in adding 40 new rooms in a combination of dormitory (or "dorm") and private styles, accommodating a total of 160 new occupants in the existing hostel. The Hostelling International representative confirmed their need to use the proposed, approximate \$4.3 million in-lieu fee towards the total estimated project cost of approximately \$21.8 million. The remaining approximate \$17.4 million necessary to facilitate the expansion is anticipated to be filled by previously assessed in-lieu fees, grants from the City of Santa Monica, and financing. The Hostelling International representative did not confirm whether the beds in the 40 new rooms would be provided at lower-cost rates, but the new rooms would likely be provided at rates consistent with the adjacent, existing lower-cost rooms (although private rooms may be provided at a higher price point than dorm-style beds). This expansion would require a CDP from the Commission, and Commission staff have not yet received a CDP application.

While in-lieu fees have been approved as compensation for a lack of affordable lodging provision in past Commission actions, this is generally not the preferred method of consistency with Coastal Act sections 30210 and 30213. This is because, despite their intention, the payment of in-lieu fees does not automatically or immediately translate to the provision of lower-cost overnight accommodations in the coastal zone. In fact, the Commission estimates that only about one-third of all collected in-lieu fees to date have been expended to fund lower-cost overnight accommodation projects within the coastal zone. The remaining two-thirds have not yet been spent for various reasons, including a lack of suitable sites or targeted projects, land acquisition costs, planning and design delays, etc. In the meantime, the impacts to lower-cost public access and recreation opportunities that these fees were collected for continue to go unmitigated.

Moreover, construction costs in California's coastal zone have ballooned over the past few years, and therefore in-lieu fees are oftentimes insufficient in fully funding lower-cost overnight accommodation projects within the coastal zone, even for shovel-ready projects that do not require land acquisition and even when adjusting to account for increases in the TBCI.

Using the example of the Santa Monica Hostel above, construction for the 160-occupant expansion is expected to cost approximately \$21.8 million total. The applicants of the Ocean Avenue Mixed-Use Development Project propose an in-lieu fee of \$4,342,500 total, which is consistent with the Commission's typical methodology for calculating in-lieu fees (i.e., providing 25% of the total number of proposed market-rate rooms, which for a 120 market-rate room hotel would be 30 lower-cost rooms, multiplied by the estimated construction cost of \$100,000 per room in 2015 and adjusting for increases in the TBCI). The \$4,342,500 in-lieu fee would therefore only account for approximately 20% of the total anticipated hostel expansion project cost of \$21.8 million. Based on the assumption that one hotel room has a two-person occupancy, the 30 required lower-

cost rooms can also be thought of in terms of 60 occupants.<sup>26</sup> Scaling the anticipated construction costs of \$21.8 million for 160 hostel occupants, construction costs for 60 hostel occupants would be approximately \$8,175,000. Therefore, the proposed in-lieu fee would only cover about half (53%) of the construction costs that are estimated to equate to accommodations for 60 hostel occupants.

In other cases where compensatory projects do require the acquisition of land to provide lower-cost rooms, in-lieu fees assessed on the basis of the TBCI alone become even more acutely deficient. For example, here the applicants' consultant acknowledged that with land acquisition, the per-room cost would be somewhere between \$350,000 and \$450,000. This would mean land acquisition and construction of 30 rooms would cost between \$10.5 million and \$13.5 million. In-lieu fees are therefore typically approved only when the applicants demonstrate that provision of lower-cost rooms onsite or nearby is economically infeasible, which has not been adequately demonstrated in this case.

The applicants for this project state that the Commission has approved the payment of an in-lieu mitigation fee for similar past hotel projects, contending that these examples support the applicants' current proposal to pay an in-lieu fee. But as described below, the cited examples differ from the subject project in scope and in the form of proposed mitigation.

#### The Shore Hotel

In 2019, the Commission approved CDP No. 5-18-0872 for after-the-fact approval of demolition of two lower-cost motels with 87 total rooms and construction of a new 164-room hotel at 1515-1525 Ocean Ave and 1530 Second Street in Santa Monica.<sup>27</sup> The applicant (Sunshine Enterprises LP) initially proposed payment of an in-lieu fee and no provision of affordable lodging onsite under CDP Application No. 5-15-0030, but the Commission found in-lieu fees inadequate as compensation and denied the application in 2015. The applicant demonstrated with professional analysis that the provision of 95 total lower-cost rooms (i.e. 72 replacement rooms plus 25% of the new 164 high-cost rooms) would be financially infeasible. The applicant revised the proposal to provide 164 market-rate hotel rooms, 14 lower-cost hostel rooms with 34 beds, and payment of an in-lieu fee. By comparison, the subject CDP application does not propose any affordable overnight accommodations and has not adequately demonstrated the infeasibility of providing lower-cost rooms onsite.

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<sup>26</sup> This assumption is consistent with the Commission's approach with using statewide ADRs to determine lower cost rate thresholds, as the data collected by Smith Travel Research to inform statewide ADRs is based on rates for standard double-occupancy (two-person) rooms at the equivalents of AAA one- and two-diamond rated hotels. This assumption is also consistent with the Commission's approach for calculating in-lieu fees, which is based on the Commission's consultant's methodology in 2015 that the hostel bed construction cost estimate provided by Hostelling International in 2014 should be roughly doubled to estimate the construction cost of a hotel/motel room based on size and occupancy differences ([Exhibit 5](#)).

<sup>27</sup> Ref. <https://documents.coastal.ca.gov/reports/2019/12/Th10a/Th10a-12-2019-report.pdf>



### The Miramar Hotel

In 2021, the Commission approved CDP No. 5-21-0139 for redevelopment of an existing mixed-use development at 1133 Ocean Avenue in Santa Monica.<sup>28</sup> The applicant (Ocean Avenue, LLC) proposed demolition of 191-room, market-rate hotel and construction of a new 201-room, market-rate hotel. The project also included the remodel of a historic landmark building with 111 existing market-rate rooms, but the improvements did not constitute new development. The applicant demonstrated that the provision of 51 lower-cost rooms onsite (i.e. 25% of the 201 new rooms) was infeasible, as the applicant's consultant determined that provision of even a single lower-cost room onsite would result in financial infeasibility. The Commission approved payment of an in-lieu fee reserved for use by an entity approved by the Executive Director, including the California Department of Parks and Recreation and the Mountains Recreation and Conservation Authority.

The economic constraints facing the Miramar Hotel Project were due, in part, to the applicant's voluntarily provision of a 100% Affordable Housing Project with 42 units restricted for Extremely-Low, Very-Low, and Low Income households in the location of the existing hotel's offsite parking lot. By comparison, the currently proposed project includes 14 units restricted to Extremely-Low, Very-Low, and Low Income households onsite. Additionally, the Miramar Hotel Project proposed construction of a single, 130-ft. tall "Ocean Building" spanning more than half of the project site and a smaller, 79-ft. tall "California Building" reserved solely for hotel uses. Increasing mass and scale onsite would have meant either exceeding the 130 ft. height or increasing the 79-ft. tall California Building's height. By comparison, the currently proposed project includes multiple independent structures onsite that may be increased in height and massing, like the 28-ft. tall restaurant and retail structure or the 50-ft. tall museum ([Page 16, Exhibit 4](#)). The current applicants also have not adequately demonstrated the infeasibility of providing lower-cost rooms onsite.

### Venice Place

In 2022, the Commission approved CDP No. A-5-VEN-21-0011 for demolition of multiple existing commercial, residential, and restaurant structures and construction of a new mixed-use development with 78 market-rate hotel rooms and 21 lower-cost lodging units at 1011 Electric Avenue; 1021-1033 Abbot Kinney Boulevard; and 1047-1051 Abbot Kinney Boulevard in Venice.<sup>29</sup> The applicant (Wynkoop Properties, LLC) proposed a 78-room hotel, 10 of which would be lower-cost rooms. The 68 new, market-rate hotel rooms included in the proposal required the provision of at least 17 lower-cost rooms onsite for consistency with Section 30213. Because the applicant proposed only 10 lower-cost rooms, the Commission required payment of \$889,000 as an in-lieu fee to address the failure to provide the remaining 7 lower-cost rooms onsite. By comparison, the currently proposed project does not propose any affordable lodging onsite.

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<sup>28</sup> Ref. <https://documents.coastal.ca.gov/reports/2022/3/Th15b/Th15b-3-2022-report.pdf>

<sup>29</sup> Ref. <https://documents.coastal.ca.gov/reports/2022/12/Th16a/Th16a-12-2022-report.pdf>

The current project applicants contend that the Venice Place Mixed-Use Project was able to provide lower-cost rooms ranging between 70 and 120 sq. ft. in size “due to the unique, long and narrow dimensions of the Wynkoop property which allowed a separate wing of the three-story hotel in which the small rooms were located” and state: “The Applicant does not have any portion of the Project in which such a small room configuration could be applied.” However, considering the current project site is 1.9 acres and includes a diverse range of proposed structural sizes, shapes, and heights—nearly all of which could be increased in mass, scale or have uses reallocated—lot dimensions are not a major constraint on the currently proposed project.

### **Conclusion**

The availability of affordable lodging in the coastal zone is a major determinant of public access. New visitor-serving amenities built along the coast are not meaningfully available to inland communities if those communities cannot afford to visit the coast for longer periods of time or overnight. The applicants contend that onsite provision of lower cost overnight accommodations is infeasible, and that the provision of a new museum and public observation deck onsite and payment of an in-lieu fee is sufficient to comply with Section 30213 of the Coastal Act.

However, it remains unclear whether the applicants have demonstrated the infeasibility of providing lower-cost overnight accommodations onsite. Much of the submitted analysis seems to focus on the project’s ability to maximize profit, rather than its strict financial feasibility. Investors do play a significant role in allowing an expensive project to be constructed and operated over time, and higher profits would better draw investors. Even so, per Coastal Act section 30213 and considering the call under Coastal Act sections 30210 and 30013 to maximize public access for all and advance environmental justice principles, the Commission’s duty is to analyze whether a project with lower-cost overnight accommodations onsite would be feasible or not. The applicants have not adequately demonstrated that the +3.8% IRR produced by 30 lower-cost rooms and 120 market-rate rooms is strictly financially infeasible.

The potential for delays in project construction during revision to the DA is also not sufficient to demonstrate infeasibility, nor is the potential reduction in museum exhibits and/or elimination of museum sky-lights. Additionally, the past Commission actions cited by the applicants as examples of compliance via payment of an in-lieu fee differ from the subject project in terms of the scope of work, the proposed affordable lodging onsite, and/or the financial feasibility analyses. The three past Commission actions described above do not demonstrate a waiver of the need for the applicants to provide affordable lodging onsite if feasible.

That said, in this case, the applicants propose to direct their in-lieu fee towards a viable hostel expansion project that would directly result in new, lower-cost overnight accommodations within close proximity of the subject site. Hostelling International, the owner and operator of the hostel and expansion project, has indicated that preliminary planning and design for the expansion project is underway and that Commission staff can expect a CDP application in the near future. Thus, in this specific case, where the

in-lieu fee can be directed to a specific project, it can be found consistent with Coastal Act sections 30210 and 30213.

**Special Condition 1** requires the applicants to comply with either Option A or Option B. Under Option A, the applicants would submit revised project plans that substantially conform with the plans dated July 14, 2022, but include the number of lower-cost rooms equivalent to or greater than 25% of all market-rate overnight accommodations onsite within the proposed development, for the Executive Director's review and written approval prior to CDP issuance. The plans would show the location, layout, size, and amenities of each lower-cost room onsite. Under Option A, to ensure the rooms remain affordable but allow for inflation over time, the lower-cost room rates may be adjusted for changes in the CPI no more than once every year with written notice to the Executive Director. Any proposed increase to the rates of the subject 30 rooms beyond 75% of the peak-season statewide ADR, or any reduction in the number of affordable overnight accommodations, would require a CDP amendment and mitigation to account for the loss of affordable lodging. Option A requires the permittees to submit annual monitoring reports and independent auditing reports demonstrating operation of lower-cost overnight accommodations for Executive Director review and approval. If the applicants opt to satisfy Option A, provision of the in-lieu fee in Option B would not be required.

Alternatively, the applicants may comply with Option B. Under Option B, the applicants shall deposit a minimum of \$4,342,500 as an in-lieu fee for the 30 lower-cost rooms that are not provided onsite (consistent with the applicants' proposal) into an interest-bearing account within 60 days of the Commission's action on the subject CDP application. This in-lieu fee would be adjusted for any increases due to inflation based on the Turner Building Cost Index from the date of Commission action up until the date of in-lieu fee payment. In order of priority, the applicants would deposit the in-lieu fee into an account established and managed by Hostelling International for the expansion of existing affordable overnight accommodations at the Santa Monica Hostel. If the account cannot be used for the preferred use, the in-lieu fee may be deposited with one or more of the following entities approved by the Executive Director of the Coastal Commission: State Parks, the MRCA, the State Coastal Conservancy, or a similar entity approved by the Executive Director. The purpose of the account shall be to establish lower-cost overnight visitor accommodations, such as lower cost hotel and motel rooms, hostel beds, tent campsites, cabins or campground units, at appropriate locations within the coastal area of Santa Monica or the greater Los Angeles County coastal area, or a similar project to promote access to the coast.

If the applicants choose Option A, **Special Condition 2** requires the applicants to revise or amend the DA to allow the applicants to revise the final project design to include the number of lower-cost rooms equivalent to or greater than 25% of all market-rate overnight accommodations onsite. Further detail on the required revisions of the DA may be found in [Appendix B](#).

The applicants raised concerns that if any lower-cost rooms are provided, there is the potential for savvy high-income clients to capitalize on affordable lodging and render it

unavailable for low-income visitors. To mitigate this possibility, **Special Condition 3** requires a marketing and engagement plan with provisions for active promotion and publicization of the onsite lower-cost overnight accommodations. The marketing and engagement plan shall ensure that underserved communities are made aware of the resource and encourage utilization of the lower-cost rooms by such underserved communities to the maximum extent feasible.

**Special Condition 4** is required to ensure that all hotel rooms shall be available to the general public as visitor-serving accommodations and not privatized by long-term occupancy or otherwise restricted from public use. (This condition excludes the 100 dwelling units proposed onsite.)

To ensure the above conditions are adhered to, the Commission imposes **Special Condition 5** stating that this CDP does not negate any conditions imposed by the City, but stipulates that the conditions of the subject CDP shall prevail in the event of conflicts between terms and conditions imposed by the local government and the Commission. In consideration of the significant impact this project will have on the community, **Special Condition 6** requires the applicants to reimburse the Commission in full for any attorney fees incurred as a result of the subject CDP. 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 17**, requiring that the property owners record a deed restriction against the property, referencing all of the Special Conditions of this permit.

Therefore, only as conditioned can the proposed development be found to be consistent with Sections 30210 and 30213 of the Coastal Act and certified LUP Policy 35.

## C. Public Access

Section 30210 of the Coastal Act states:

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

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

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

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

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of on-site recreational facilities to serve the new development.

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

New development shall do all of the following:

(d) Minimize energy consumption and vehicle miles traveled.

LUP Policy 20 states, in relevant part:

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

Section 30210 of the Coastal Act requires the provision of maximum access for the public, while Section 30211 requires that new development be sited and designed to avoid interference with the public's ability to access the coast. Sections 30250(a) and 30252 specifies design methods that serve this goal, including siting new development contiguous with already-developed areas and provision of adequate parking facilities and public transit. These methods also ensure consistency with Section 30253(d), which requires new development to minimize energy consumption and vehicle miles traveled (VMT). Certified LUP Policy 20 mirrors the requirements summarized above.

The Downtown Santa Monica area surrounding the proposed development is a major visitor destination for recreational purposes. Public access to Santa Monica State Beach is available less than 400 ft. south of the project site via the historic Beach Crossing Staircase, which leads to a public beach parking lot. The blufftop Palisades Park is approximately 200 ft. west of the project site, and the popular Third Street Promenade is approximately 400 ft. east of the project site. The project does not include any existing or proposed encroachments that would interfere with the public's ability to access the coast on foot or by bicycle. However, for those traveling by car, public access to the

coast is largely limited by the amount of on-street parking. There is already significant competition for parking in the downtown area surrounding the project site, as residents and visitors must rely on a limited pool of metered, on-street parking and public parking lots. Preservation of existing public beach lots and metered street parking is especially important when considering that these spaces are intended to serve all coastal visitors, including those who may not have the means to afford overnight accommodations in the coastal zone.

### **Vehicle and Bicycle Parking**

The existing project site includes two surface parking lots that provide a total of 136 private parking spaces onsite. The applicants propose construction of a new, three-level subterranean parking lot with 318 parking spaces, including 64 un-striped valet spaces ([Exhibit 3](#)). As such, the project would not result in the loss of any public parking spaces.

Of the 318 parking spaces, at least 25 EV charging stations would be provided, and a minimum of 109 spaces would be outfitted for compatibility with future EV charging station use. There is no established standard for the minimum ratio of EV charging spaces per standard vehicle spaces in public parking lots, but the California Green Building Code requires four EV charging spaces for parking lots with greater than 201 parking spaces. The City also requires 10% of parking spaces for new development to be provided as current or future EV charging stations. The project satisfies both requirements.

In addition to vehicle parking spaces, the applicant proposes, and the DA requires, the project to provide 231 bicycle parking spaces onsite. This would include at least 47 long-term bicycle parking spaces for employees<sup>30</sup> and 100 long-term bicycle spaces for residents<sup>31</sup>. The resident bicycle parking spaces will be available on a first-come, first-serve basis. Long-term bicycle parking would include a locker and a space in an enclosed bicycle parking rack on the ground level or subterranean levels. In Los Angeles County, where bicycle theft is fairly common, locating long-term bicycle parking on the subterranean levels may help reduce bicycle theft, as well as weather damage. The applicants propose establishment of a free bikeshare program onsite if a free local program is not already available within a two-block radius of the project site. The project includes employee facilities with showers and lockers for those who commute via bicycle (or any other employees) in the subterranean parking levels. The DA also requires 49 short-term bicycle parking spaces on the ground level for visitors.

The certified LUP does not specify parking requirements, but the City's uncertified SMMC does provide specific parking requirements based on square footage and use. Although not part of the Commission's standard of review, the SMMC is a reasonable

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<sup>30</sup> (120 hotel rooms \* 0.2 spaces) + (70,110 sq. ft. cumulative retail, restaurant, and museum area / 3,000 sq. ft. \* 1 space) = 47 bicycle parking spaces.

<sup>31</sup> 1 bicycle parking space per residential bedroom = more than 100 bicycle parking spaces, depending on how many bedrooms are proposed for each dwelling unit.

way to assess the amount of parking typically required for the proposed development. In order to discourage driving and reduce CO<sup>2</sup> emissions, the City recently enacted an ordinance with parking maximums for commercial development. In the downtown area, SMMC Section 9.28.060 limits projects to 0.5 parking spaces per hotel room, plus one space for each 250 sq. ft. of meeting/banquet area in the hotel. Under the SMMC, retail, bar, and restaurant uses that are associated with the hotel but open to the general public must provide half the parking required for the individual use. This would result in the following local parking requirements: 0.5 spaces per 500 sq. ft. of retail area, 0.5 spaces per 500 sq. ft. for bar area, and 0.5 spaces per 300 sq. ft. for restaurant area. The SMMC would thus allow a maximum of approximately 351 parking spaces onsite as currently proposed (determined by the City based on nuances specified in some of the relevant codes). The proposed number of onsite parking spaces (318 spaces) is under the City's uncertified maximum (351 spaces) and, therefore, consistent with uncertified SMMC requirements.

In the past few years, the City has adopted revised parking standards for new development where all off-street private parking spaces are “unbundled” (offered separately) from the dwelling units, to provide more flexibility for those who do not require parking. This supports the City's recently enacted ordinance to require parking maximums, rather than minimums, for development with the intent of discouraging driving and reducing carbon dioxide emissions. The project provides all commercial and residential tenants with the option of A) bundled parking or B) no parking and a discount, consistent with the City's requirement. The project also includes measures to facilitate resident transportation with lesser CO<sup>2</sup> emissions (specifically, bicycles and EVs).

In past actions, the Commission has required provision of parking spaces based on calculations for each proposed use: up to one space per hotel room, two spaces per market-rate dwelling unit (plus one additional space per three units), 0.5 space per affordable dwelling unit, one space per 200 sq. ft. of retail, and one space per 50 sq. ft. of restaurant service floor area. The Commission has not specified parking requirements for museums or public observation decks in recent actions. For the subject project, this would result in a requirement of approximately 849 parking spaces not including the museum or public observation deck.<sup>32</sup> The proposed 318 parking spaces fail to meet this minimum requirement based on past Commission actions by an approximate 531-space deficit. However, the calculation based on past Commission precedent does not consider several project-specific factors likely to mitigate parking demand onsite.

### **Project Parking Demand**

The applicant's parking consultant, Walker Consultants, provided two reports, dated

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<sup>32</sup> (120 hotel rooms \* 1 space) + (75 market-rate dwelling units \* 2 spaces) + (1 / 3 market-rate units \* 1 space) + (25 affordable units \* 0.5 spaces) + (12,040 sq. ft. retail area / 200 sq. ft. \* 1 space) + (24,070 sq. ft. restaurant/bar area / 50 sq. ft. \* 1 space) = 849 parking spaces

December 6, 2022 and January 26, 2023. The two reports analyze the anticipated parking demand generated by all proposed uses onsite. The reports state that overlapping relationships between land uses can result in one vehicle parking space necessary for clients of multiple uses. For example, the proposed restaurants onsite are likely to primarily serve guests of the 120 hotel rooms, museum and observation deck visitors, and residents of the 100 dwelling units proposed onsite. The reports also describe the effects of differing peak parking demand hours between multiple onsite uses. The report states that the proposed hotel and residential uses would generate peak demand overnight, while retail and restaurant uses would generate peak demand in the daytime and evenings. The museum and observation deck are likely to pose similar peak hours to the retail uses.

The minimum parking requirement based on past Commission actions also does not account for the pedestrian-focused project design. The applicants state that the architect, Frank Gehry, has sited the proposed development to optimize open space and pedestrian uses onsite. This has been accomplished, in part, by converting a portion of the First Court Alley to a pedestrian area. The design also locates visitor-serving uses on the ground floor to draw pedestrians and bicyclists from Ocean Avenue, Second Street, and the popular Third Street Promenade located within a few blocks of the site.

The applicants' parking consultant estimated the likely parking demand for each proposed land use on an hourly and daily basis. The applicants' consultant started with parking ratios that assumed parking occupancies in the 85<sup>th</sup> percentile (except for retail, which was estimated from the 99.5<sup>th</sup> percentile) and adjusted these relatively high occupancy rates to reflect overlapping amenity uses, varying peak hours, and trends reflected in U.S. industry parking data over the last few decades. The reports estimate that at least 243 parking spaces would satisfy the project's onsite parking demand. The proposed 318 parking spaces exceed the applicants' consultant's estimated minimum parking requirement by 75 spaces.

In addition to the overlapping uses and pedestrian-focused design described above, the project site is located partially within the certified LUP's Downtown Parking Assessment District (Assessment District). The Assessment District is bounded by Fourth Court, Broadway, First Court, and Wilshire Boulevard; it was formed to levy additional business license taxes on development within the area to fund and provide parking for all businesses within the district boundaries. The Assessment District includes at least six public parking structures within a four-block long area. Businesses located within the boundaries of the Assessment District are not required to provide any onsite parking per certified LUP Policy 20.

Less than half of the project site (i.e. the two mixed-use buildings located east of First Court Alley) is located within the Assessment District. The subject buildings would each provide restaurant and retail uses on the ground level, and dwelling units on the upper levels. The project's partial location in the Assessment District does not waive its requirement for onsite parking consistent with past Commission actions, and private uses cannot rely on public parking lots to satisfy their parking demand. But the proximity



of the proposed development to the Assessment District supports the goal of drawing customers from Third Street Promenade to reduce the parking demand generated from the proposed uses onsite.

### **Transit Incentive Program**

Among several other requirements, the City's DA requires the applicants to monitor average employee vehicle ridership, a value estimated by dividing the number of employees by the number of employee cars entering the project site.<sup>33</sup> The DA specifies a target of at least 2.2 average daily ridership (i.e. more employees than vehicles), with a penalty fee for failing to achieve the target within three years of the issuance of a Certificate of Occupancy. The 2.2 average daily ridership must be maintained thereafter in annual reports submitted by the applicants to the City.

To meet this target ratio, employees would have to commute via some method other than a single-occupancy vehicle (such as walking, biking, carpooling, or public transit). The project includes two primary incentives: issuance of a Daily Transportation Allowance or a Parking Cash-Out for employees. The Daily Transportation Allowance is a direct, daily cash subsidy for the entire cost of a monthly regional transit pass divided by 20 (to account for the typical 20 work-days in a calendar month), available for all employees using a method of transit other than a single-occupancy vehicle. The Parking Cash-Out is a subsidy solely for employees of commercial tenants of the subject development who do not use single-occupancy vehicles at least 51% of the year and do not ever use on-street City parking. The employees will self-report their method of transportation and any dates on which they used on-street City parking in order to qualify for this subsidy. The applicants have not specified the proposed amount of the Parking Cash-Out subsidy but has specified that employees eligible for both will receive whichever subsidy is the greater amount. The City's DA also requires the applicants to pay into a City fund reserved for multi-modal street improvements, such as bike lanes, curb improvements, and lane markings for improved access and safety. Additionally, the DA requires the applicants to provide "unbundled" onsite parking to residents. This means that residents who opt not to lease a parking space can forgo the associated cost.

The proposed incentive program summarized above outlines overall requirements but fails to specify the subsidy amount associated with the Parking Cash-Out (i.e. the subsidy available for employees) and does not constitute a formal Transportation Demand Management Plan. Therefore, the Commission imposes **Special Condition 7** requiring submittal of two sets of a Transportation Demand Management Plan that includes a ridesharing/carpooling program, the Daily Transportation Allowance, and further information on the Parking Cash-Out. The Transportation Demand Management

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<sup>33</sup> For example, 10 employees and five cars with employee authorization would produce an average daily ridership of 2 for the hotel, while 10 employees and 10 employee cars would produce an average daily ridership of 1. A higher average daily ridership corresponds to lesser VMT and related greenhouse gas emissions.

Plan shall also require the permittees and any successor(s)-in-interest to provide and maintain the short-term and long-term bicycle parking spaces required.

**Special Condition 8** ensures that, with acceptance of the subject CDP, the applicants acknowledge that no future changes to the proposed parking are authorized under the subject CDP. This includes a prohibition on leasing parking spaces to third parties, which would impact the applicants' ability to provide adequate parking for visitors, hotel guests, employees, and residents. The applicants propose to submit final parking plans prior to commencement of construction, as changes to the configuration of parking may or may not be necessary (given the placement of columns, installation of electrical infrastructure, and appropriate spacing) through the final design plans. The overall number of parking spaces shall remain the same.

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 17**, requiring that the property owners record a deed restriction against the property, referencing the Special Conditions of this permit.

### **Conclusion**

While the proposed project provides fewer parking spaces per use than the number required by the Commission in past actions, the applicants have provided sufficient site-specific analysis to show the proposed project will pose a lesser parking demand. The project's proximity to the Third Street Promenade and pedestrian-focused design will reduce parking demand onsite. Additionally, the project's transportation demand management measures summarized above will incentivize employees to use alternative methods of transportation, like public transit, bicycles, and carpooling. The DA is consistent with the relevant coastal access and recreation policies of the Coastal Act and would not hinder the Commission's ability to modify the project to assure consistency if such revision were deemed necessary. The proposed new development would not put added strain on the surrounding stock of coastal zone parking.

Therefore, the Commission finds that, as proposed and conditioned, the project and DA conform with sections 30210, 30211, 30220, 30252, and 30253 of the Coastal Act and certified LUP Policy 20.

## **D. Visual Resources and Recreation**

Section 30251 of the Coastal Act states:

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

prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Certified LUP Policy 46 states:

The scenic and visual qualities of the Coastal Zone shall be considered and protected as an important public resource. Public views to, from, and along the ocean, the Pier, Inspiration Point and Palisades Park shall be protected. Permitted development including public works of art shall be sited and designed to:

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

Certified LUP Policy 49 states:

The City shall develop standards to assure that new development along Adelaide Drive and all other scenic corridors and designated viewing areas, as identified in the Scenic and Visual Resources Map #13, is designed and sited to be visually compatible with the character of the surrounding area, restores and enhances visual quality in visually degraded areas, and protects public views to the coast and scenic coastal areas. Public views shall mean views to the ocean from the public right of way of streets and designated public viewing areas.

Certified LUP Policy 67 states:

Development standards shall not exceed 3 stories 45 feet, 2.0 F.A.R. on Ocean Avenue.

Section 30251 of the Coastal Act specifies that the visual qualities of coastal areas are resources protected by the Coastal Act and requires preservation of public views, minimization of landform alteration, and maintenance of overall visual compatibility. Policy 46 of the Santa Monica certified LUP also requires these methods of visual resource preservation, emphasizing the importance of views from Palisades Park among other scenic locations. Policy 49 requires local design standards be developed to regulate the visual resource impacts of new development located in the scenic corridors identified in the certified Scenic and Visual Resources Map No. 13. One such standard is Policy 67, which limits height and FAR for new development sited on Ocean Avenue to a maximum 45 ft. and 2.0 FAR per building.

The project site is located in a scenic view corridor as designated by LUP Scenic and Visual Resources Map No. 13, as well as immediately east of Palisades Park. The bluffs supporting Palisades Park provide a distinct horizontal corridor separating the beach from commercial development in Downtown Santa Monica—this separation supports the preservation of public views, as the major concentration of buildings is located

behind Ocean Avenue and set back from this view corridor. Regardless, LUP height and massing limitations are still necessary to protect views from vertical accessways, such as California Avenue and Wilshire Boulevard ([Exhibit 1](#)).

The proposed 130-ft. maximum height and 2.95 cumulative FAR are inconsistent with certified LUP Policy 67. The applicants proposed that the City of Santa Monica submit a project-specific LUP amendment application revising Policy 67, Policy 71, and Map 15 to allow a maximum 130-ft. height and 2.95 cumulative FAR for the project site. The City submitted Application No. LCP-5-SNM-22-0041-1 on September 6, 2022 as proposed by the applicants.

To consider whether the proposed height and scale will adversely impact visual resources, the Commission must first consider the surrounding area. FAR may be a more effective measure of mass and scale compared to simply considering building area, since FAR divides the number of floors by the subject lot area. For example, the proposed development may have a greater floor area than nearby development, but the floor area is distributed across a larger property with more space for development concentration than many other sites. Development with a significant number of floors concentrated in a small lot area will produce a larger FAR, while development with the same number of floors distributed throughout a larger lot area will produce a smaller FAR. The former development would likely result in a more significant mass and scale than the latter development.

Taller buildings with greater massing on smaller parcels may be found in the area near the subject site, including a 201-ft. tall building at 201 Santa Monica Boulevard, a 180-ft. tall building at 1431 Ocean Avenue, and a 160-ft. tall building at 1111 Second Street ([Page 16, Exhibit 3](#)). These developments are not unique in the surrounding area—Downtown Santa Monica is characterized by a mix of high-rises and development of lesser scale, with most lots maximizing FAR to the greatest extent possible to accommodate multiple businesses and visitor-serving uses. The proposed project is visually compatible with the surrounding neighborhood with regard to height, mass, and scale.

Additionally, the project will not impact any existing coastal views: the site is currently developed with multi-story buildings extending nearly the full length of the site facing Ocean Avenue. The proposed project would increase development heights on the project site, but new structures would be staggered to protect open space onsite and facilitate pedestrian areas. Public coastal views from Ocean Boulevard, the California Incline, and Pacific Coast Highway will be unaffected by the subject project, and views from those streets looking towards the project will be improved.

The applicants have also incorporated community and City feedback in selecting an architectural style for the new buildings. During the review process in 2013, the applicants adhered to the City's request and reduced the initially proposed 244-ft. height and cumulative 4.0 FAR. The applicants retained the services of architect Frank Gehry to incorporate glass windows, curved lines, and an increase in landscaped, open area to avoid the oppressive effect potentially associated with large FARs and heights

[\(Exhibit 4\)](#). The applicants will also preserve the Spanish Colonial Revival and Queen Anne architectural-style buildings in the north-west corner of the project site. Overall, the project has been designed to restore and enhance onsite visual quality, which may be currently degraded by the existing perimeter wall and aging buildings.

Considering the scale of development in the surrounding downtown area, as well as the proposed design and use of open space, the proposed development with an increased height and FAR will not impact the visual character of the surrounding community. The proposed development will also be consistent with the LUP should the Commission approve the City's proposed LUP Amendment scheduled for a public hearing at the same meeting. The proposed project does not impact existing view corridors in the two adjacent rights-of-way, nor does it adversely impact views at Palisades Park.

Additionally, the DA requires the applicants to contribute \$2,160,000 to a local fund designated in part for restoration of character-defining features in Palisades Park, such as the art installations and pedestrian pathways. The project provides publicly-accessible open space and architectural design, as well as new, visitor-serving retail and hotel development, a museum and new coastal views offered from the public observation deck, with a positive impact on visual resources. The proposed dwelling units will not impact the proposed visitor-serving uses, as all proposed units would be constructed on upper levels in structures separate from the hotel and museum [\(Exhibit 3\)](#). To ensure the project's proposed height and mass is consistent with the certified LUP, **Special Condition 18** requires certification of LUP Amendment No. LCP-5-SNM-22-0041-1 prior to issuance of the subject CDP.

Therefore, as proposed and conditioned, the project and DA are consistent with Section 30251 of the Coastal Act and relevant visual resource protection policies of the certified LUP.

## E. Coastal Hazards

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

New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Certified LUP "Bluff Stability" on Page 53 states, in relevant part:

Potential hazards in the Santa Monica Coastal Zone are created by a fault zone that crosses the Coastal Zone roughly from Montana Avenue north, by erosion and instability in the Palisades Bluffs and by the possibility of liquefaction in the sandy

beach area. ...No further development except small park-related projects will be permitted closer to the bluff edge than the inland side of Ocean Avenue. The inland side of Ocean Avenue is about 200 feet to 300 feet from the bluff edge, so new private development on Ocean Avenue will be limited to 320 feet from the bluff edge due to the required front yard setback.

Section 30253 of the Coastal Act requires that new development minimize risks to life and property in hazardous areas, including areas subject to flooding. New development must also not significantly contribute to erosion or destruction of the site or surrounding area or require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The certified LUP describes "erosion and instability in the Palisades Bluffs" and requires a minimum 320-ft. bluff edge setback for all development located on Ocean Avenue. The proposed project raises potential hazards concerns associated with the site proximity to the bluffs, as well as the proposed subterranean levels.

The proposed development is setback approximately 200 ft. from the bluffs and 20 ft. from Ocean Avenue ([Exhibit 1](#)). While this is a lesser setback than the LUP-required 320-ft., this is a result of the lesser width of Ocean Avenue in the project area: Ocean Avenue is 200 ft. wide in the immediate vicinity of the project site, rather than 300 ft. wide. The project still provides the minimum 20-ft. setback from Ocean Avenue and is thus consistent with the intent of the LUP policy.

The applicants' coastal hazards consultant, Geotechnologies Inc., provided a report dated August 30, 2022, addressing the project safety. The report states that while the proposed demolition will require vibration-producing activities (like construction vehicles and jackhammering equipment), the project setback means the work will not affect the stability of the Palisades bluffs. The report indicates that the proposed excavation and shoring necessary to construct three subterranean levels will also have a negligible effect on the bluffs.

The report also addresses the proposed subterranean levels in relation to existing groundwater levels:

It is anticipated that the finished floor elevation of the lowest subterranean level will extend to a depth of 35 feet below the ground level elevation. Based on the research... actual groundwater below the subject site likely occurs at a depth below 62½ feet, and the historically highest groundwater level for the site corresponds to a depth of 30 feet. The proposed subterranean levels are not expected to extend below the actual groundwater level but are expected to extend [5-ft.] below the historically highest groundwater level. The portion of the structure extending below the historically highest groundwater level must be designed to withstand hydrostatic forces and must be waterproofed.

The project would result in a 27.5-ft. buffer between the lowest level and actual groundwater levels onsite, but the lowest subterranean level would encroach five-feet below the historically highest groundwater level. The applicants have designed the

subterranean levels for consistency with geotechnical recommendations and waterproofing measures in the lowest level.

The project must also be evaluated for changes to groundwater associated with sea level rise. On November 7, 2018, the Commission adopted a scientific update to its Sea Level Rise Policy Guidance. The guidance document serves as interpretive guidelines to help ensure projects are designed and built in a way that minimizes risks to the development associated with sea level rise and avoids related impacts to coastal resources. The document indicates that sea level rise may cause an associated rise in the groundwater table and encourages planners to “use the identified sea level rise scenarios to establish the zone of likely changes to groundwater.” The guidance suggests using the Medium-High Risk Aversion scenario to best reflect current greenhouse gas emissions and the current best available science. According to the Our Coast Our Future (OCOF) model, which uses Coastal Storm Modeling System (CoSMoS) data, sea level in Santa Monica may rise by 2.5 ft. in the next 40 years and 6.8 ft. in the next 75 years under the Medium-High Risk Aversion scenario. This risk aversion scenario does not account for ice sheet loss and may be exceeded within the anticipated 75-year lifespan of the proposed development but serves as a reasonable metric when considering design safety.

The 27.5-ft. buffer between the lowest proposed development elevation and the current groundwater elevation may reduce to 20.7-ft. within the new development’s 75-year lifespan, but this is a sufficient buffer to minimize the risk of emergent groundwater and parking lot inundation. The project’s five-foot encroachment below the historically highest groundwater level would increase to a 13.8-ft. encroachment: in other words, the lowest floor elevation would be 13.8-ft. below the historically highest groundwater level. But waterproofing the lowest subterranean level and building it to withstand hydrostatic pressure will adequately mitigate the associated risk. No temporary or long-term dewatering measures are proposed for the project. Regarding other sea level rise associated hazards, CoSMoS does not predict any wave impacts or inundation affecting the project site in the event of 6.6 ft. of sea level rise (the closest projection available to 6.8 ft.) and a 100-year storm event. This is due to the substantial width of Santa Monica State Beach and the elevation of the site atop the bluffs. The engineering report indicates that, if all building recommendations are followed, the development will be structurally sound for the life of the development.

In summary, the project has been designed to minimize risks to life and property in an area associated with some geologic instability (i.e. the Palisades bluffs) and historically high groundwater levels. The applicants do not propose any shoreline protection, as the new development is setback at least 200 ft. from the bluffs and 480 ft. from the sandy beach. However, future tectonic movement and bluff erosion could reduce the distance between the development and the bluff. Thus, the Commission imposes **Special Condition 8** requiring the applicants to assume the risk of development.

Additionally, **Special Condition 9** requires the applicants to acknowledge that the new development approved by this permit is not entitled to shoreline protection and to waive rights to future shoreline protection. 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 16**, requiring that the property owners record a deed restriction against the property, referencing all of the Special Conditions of this permit.

Therefore, as proposed and conditioned, the Commission finds the project consistent with Coastal Act section 30253, and relevant portions of the certified LUP, with regard to coastal hazards.

## **F. Marine Resources and Water Quality**

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states, in relevant part:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation...

Certified LUP Policy 37 states, in relevant part:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological, archaeological or economic significance.

Sections 30230 and 30231 of the Coastal Act, echoed by LUP Policy 37, require protection of marine resources for both terrestrial and marine development. Much of the pollutants entering the ocean come from land-based development. Environmental Resources and Hazards Map No. 12 of the certified LUP shows the major storm drains nearest to the project site are located on Wilshire Boulevard and Pico Boulevard, located approximately 0.1 and 0.7 miles from the project site, respectively. The proposed development's relative proximity to at least one major storm drain renders it especially important for the applicants to incorporate design measures for reduction of production of polluted runoff and plastic debris. This will minimize the potential impacts of such pollutants leaving the subject site and entering Santa Monica Bay through the storm drains.



The applicants' hydrology consultant, KPFF Consulting Engineers, has submitted a hydrology and urban runoff report dated August 30, 2022. The report estimates that the portion of the project site east of First Court Alley is currently 100% impervious (i.e. hardscape that doesn't allow water infiltration) and would be reduced to 87% impervious area. The project site portion west of First Court Alley is currently 95% impervious and would remain essentially the same with 94% impervious area. The project site is located within the "Downtown Drainage and Infiltration Device Prohibition Zone," an area west of Fourth Street in which onsite infiltration is prohibited by the City's Department of Public Works to avoid bluff destabilization. The DA requires the applicants to capture 100% of the runoff volume generated by an 85<sup>th</sup> percentile storm event and use the stored water directly for non-potable applications, like low-flow toilet fixtures and landscape irrigation.<sup>34</sup>

While these are effective measures to reduce water use and avoid water quality impacts, there are additional steps possible to further minimize the proposed development's impact on water quality of surrounding waters. Hotels and any associated bars and restaurants can be a major source for single-use plastics, such as to-go containers, plastic utensils, and Styrofoam containers that pollute storm drains and end up in open waters.

To minimize the risk of marine debris, the Commission imposes **Special Condition 10** which requires the applicants to submit a Marine Debris Reduction Plan for Executive Director approval prior to CDP issuance. The plan must prohibit the applicants and lessees from providing patrons with single-use foodware (unless biodegradable and specifically requested for take-out orders), plastic straws, plastic bags, and other specified plastic products. The applicants must install a microfiber filtration system for all hotel and residential laundry facilities to remove microfibers from the water; install smoke-free and educational recycling signage; provide specific estimations of how much trash and recycling will be produced onsite to ensure an adequate number of receptacles are employed; and participate in an existing Marine Debris Reduction Program, such as the ReThink Disposable Program or Surfrider's Ocean Friendly Restaurants. The applicants shall provide an annual report summarizing actions taken under the Marine Debris Reduction Program, for the review and approval of the Executive Director.

The applicants have not submitted plans for the stormwater capture devices required by the DA. Thus, **Special Condition 11** requires the applicants to submit a Water Quality Management Plan for Executive Director approval prior to CDP issuance. The Water Quality Management Plan will include a description of all proposed BMPs, including the increase in onsite permeable area described above, and calculations demonstrating that required BMPs have been sized and designed to infiltrate, retain, or treat, at a minimum, the runoff produced by the 85<sup>th</sup> percentile 24-hour storm event for volume-based BMPs, or two times the 85<sup>th</sup> percentile one-hour storm event for flow-based BMPs. The

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<sup>34</sup> Uncertified SMMC [Section 7.10.090\(d\)](#) and [Section 7.10.030\(tt\)](#).

applicants will also provide a map showing all Drainage Management Areas onsite, including the proposed rainwater retention tanks.

To ensure all landscaping onsite uses reclaimed water, **Special Condition 12** requires the applicants to adhere to the Landscaping Plans dated November 17, 2022. All landscaping shall include a plant palette limited to native—or non-native, drought tolerant, non-invasive—plant species. No plant species listed as problematic and/or invasive by the State of California shall be planted or allowed to persist onsite.

Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. Sediment discharged into coastal waters may cause turbidity, which can inhibit light penetration and reduce habitat quality and foraging success for avian and marine species. **Special Condition 13** thus requires the applicants to adhere to construction BMPs.

As previously described, the proposed development includes a substantial amount of glass in the architectural design. The proximity of the site to Palisades Park and the beach may make Ocean Avenue a form of avian wildlife corridor, despite the traffic and concentrated development. Section 30230 of the Coastal Act requires the maintenance of healthy marine species populations, which includes shorebirds, in addition to preservation of water quality. Thus, the Commission imposes **Special Condition 14** requiring the applicants to use materials designed to minimize bird-strikes (such as opaque glass or UV-reflective glazing) for all ocean-facing structures.

Thus, as proposed and conditioned, the project will adhere to construction best practices, minimize the use of single-use plastics, utilize drought-tolerant, non-invasive landscaping, and treat/manage stormwater runoff onsite in a manner consistent with sections 30230 and 30231 of the Coastal Act, as well as marine and biological resource protection policies of the certified LUP.

## **G. Cultural Resources**

Section 30244 of the Coastal Act states:

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

The project involves 108,000 cy. of cut and no fill for the construction of three subterranean levels. It is unclear whether the subject site has undergone prior grading. Such ground disturbing activities have the potential to impact archaeological, paleontological, and/or tribal cultural resources.

The project site is located within the Los Angeles Basin. The applicants' submitted geology report describes the Los Angeles Basin as an originally deep basin filled with over five miles of marine and non-marine sedimentary rock, before the basin and surrounding mountain ranges were uplifted over two million years to form the current landscape. The Environmental Impact Report (EIR), approved for the project by the City on July 14, 2022, requires the applicants to retain a qualified paleontological monitor for any construction activities involving soil disturbance at depths greater than six feet below grade. The proposed scope of work includes excavation up to 35 ft. below natural grade, meaning a qualified paleontological monitor will be required to monitor the excavation for any fossil discovery.

The EIR describes the results of a Cultural Resources Survey published by Wood Environmental & Infrastructure Solutions, Inc. in 2019. No archeological resource discoveries have been recorded within the project site, but the survey results identify seven archaeological resources found within a one-mile radius of the project site. The FEIR states that, in highly developed urban settings, the natural ground surface containing archaeological resources is often buried by subsequent fill and development. Archaeological deposits may therefore be preserved beneath more recent earth materials. The FEIR requires the applicants to halt all work within a 50 ft. of an archaeological discovery and immediately retain a registered professional archaeologist to evaluate the significance of the discovery prior to resuming construction activity. The FEIR requires additional steps, including notification of the City and potential long-term impact avoidance measures during construction if determined necessary by the registered archaeologist.

The California Native American Heritage Commission (NAHC) maintains a confidential Sacred Lands File (SLF) that contains records of sites of traditional, cultural, or religious value to the Native American community. On June 13, 2019, the City of Santa Monica contacted the NAHC to request a SLF search. On June 26, 2019, the City received an affirmative response from the NAHC. The City submitted letters requesting consultation to all Tribal representatives on the City's Tribal Consultation List and received a response via email from Chair Andrew Salas of the Gabrieleno Band of Mission Indians – Kizh Nation. On an unspecified date, the City held a consultation meeting and Chairman Salas indicated that a representative of the Gabrieleno Band of Mission Indians – Kizh Nation should be present to monitor excavation activities for potential tribal cultural resources. Commission staff also requested a SLF search from the NAHC and contacted all representatives listed on the NAHC's provided Tribal Consultation Contact List. Commission staff did not receive responses from the contacted representatives.

In past permit actions on projects located near potential heritage sites, the Commission has required applicants to retain appropriate monitors for all project activities with the potential to impact archaeological, paleontological, and/or tribal cultural resources and prepare and implement monitoring and treatment plans for appropriate recovery and mitigation measures regarding excavation, reporting and curation.

To ensure that the proposed project is consistent with the protection of any found cultural deposits, the Commission imposes **Special Condition 15** requiring the applicants to submit plans for monitoring of ground disturbing activities by a qualified archaeologist, any Native American monitor that accepts the invitation to monitor, and a qualified paleontologist.

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

## H. Local Coastal Program (LCP)

Section 30604(a) of the Coastal Act states:

Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

Coastal Act Section 30604(a) states that, prior to certification of an LCP, a CDP can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. In August 1992, the Commission certified, with suggested modifications, the LUP portion of the City of Santa Monica's LCP, excluding the area west of Ocean Avenue and Neilson way (Beach Overlay District). On September 15, 1992, the City of Santa Monica accepted the LUP with suggested modifications, and on November 17, 1992, the Executive Director reported to the Commission that the City's action accepting the modifications was determined to be legally adequate.

The proposed project, as conditioned, will adequately provide lower-cost overnight accommodations on the project site; provide sufficient vehicle and bicycle parking onsite to ensure the project will not impact public access with regard to beach parking; establish a new coastal viewpoint accessible to the public and improve visual resources onsite without impacting any existing coastal views; and incorporate design measures to avoid and minimize risks from any coastal hazards posed by the site location. As discussed above, the LUP amendment associated with the subject project will not impact the visual compatibility of Downtown Santa Monica or adversely impact visual resources, in conformity with Chapter 3 of the Coastal Act. The project, as proposed and conditioned, is consistent with the intent of all relevant coastal resource protection policies of the LUP. To ensure the project's consistency with the certified LUP, **Special Condition 17** requires certification of LUP Amendment No. LCP-5-SNM-22-0041-1 prior to issuance of the subject CDP.

Therefore, approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

## **I. California Environmental Quality Act (CEQA)**

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by findings showing the approval, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

In this case, the City of Santa Monica is the lead agency, and the Commission is a responsible agency for the purposes of CEQA. The City began preparing an EIR for the project in 2018. That same year, prior to formal local permit issuance, the Title 14, Section 15182 (Projects Pursuant to a Specific Plan) of the California Code of Regulations was amended by the State Legislature to include mixed-use and commercial development, rather than solely residential development. Section 15182 states that residential and/or mixed-use projects are exempt from CEQA if the project is: A) located within a transit priority area as defined by Public Resources Code Section 21099(a)(7); B) consistent with a specific project plan for which an EIR was certified; and C) consistent with the overall policies of a planning strategy accepted by the State Air Resources Board as adequate to reduce greenhouse gas emissions. The project meets all the criteria above. The City determined the project to be legally exempt per Section 15182 in the local approval findings but approved the EIR that had already been drafted for the project via Resolution No. 11442 on July 14, 2022.

The following key environmental issues were evaluated in the EIR: increased traffic congestion, parking, and impacts to circulation; massing of the buildings: size, density, height and setback compatibility; neighborhood compatibility and preservation of community character; calculation of FAR with regard to the public right-of-way at the Ocean Front Walk Site; relationship of the project to historic resources adjacent to their respective project sites; and potential impacts to cultural resources. The EIR determined that the project avoided and minimized all adverse impacts to the greatest extent feasible.

The Commission's regulatory program for reviewing and granting CDPs has been certified by the Resources Secretary to be the functional equivalent of CEQA. (14 CCR § 15251(c).) Additionally, the CDP findings in this staff report, incorporated herein by reference, have analyzed the relevant coastal resources issues raised by the subject proposal. The Commission has also determined that the project, as proposed and conditioned, has avoided and/or lessened the potential for adverse impacts to said resources to the greatest extent feasible. As conditioned, there are no additional, feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact, individual or cumulative, which the proposed project

would have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.

5-22-0799 (Ocean Avenue Partners, LLC and Belle Vue Plaza)

## **APPENDIX A – SUBSTANTIVE FILE DOCUMENTS**

Policies of the City of Santa Monica Land Use Plan, certified on November 17, 1992, referenced in report.

CDP Application No. 5-22-0799 and associated file documents.

LUP Amendment Application No. LCP-5-SNM-22-0041-1 and associated file documents.

## **APPENDIX B –REVISIONS TO DEVELOPMENT AGREEMENT**

DA Section 2.4.3, Modifications Requiring Amendment to this Agreement, lists the types of project revisions that would require an amendment to the DA. Some relevant revisions requiring a DA amendment include, but are not limited to:

- i. Any increase in structural heights beyond a maximum 130 ft. height for the hotel, 60 ft. for the museum, 58 ft. for the restaurant and retail building, and 106 ft. for the residential buildings as required by DA Section 2.10(b);
- ii. Any increase in the number of hotel rooms exceeding 120 rooms, as approved by DA Section 2.2(b)(2);
- iii. Any increase in total floor area onsite exceeding 316,750 sq. ft., or increase in total, above-ground floor area onsite exceeding 248,570 sq. ft., as approved by DA Section 2.2(f);
- iv. A more than 5% reduction in the 33,725 sq. ft. cultural use campus size—or the minimum 18,550 sq. ft. floor area available to the public—as required by DA Section 2.8.3(b), unless the more than 5% reduction in size is required by the local Design Review Board or Coastal Commission);
- v. Any elimination or addition of uses inconsistent with the cultural facility, hotel, retail, restaurant, residential, and accessory uses approved by DA Section 2.5;
- vi. Any revision resulting in significant changes to the project features approved by DA Section 2.7; and
- vii. Any variation in project design, including mass and scale, that would raise substantial non-conformance with the plans included as Exhibit B of the DA.

DA Section 2.1, General Description, states that in the event of any conflict between the DA and the project plans, the plans shall prevail if they maintain consistency with DA requirements. Section 2.1 also lists the floor area and number of units allowed per use. The table in Section 2.1 shall be amended with a clause allowing for an increase in the number of hotel rooms and floor areas by the minimum necessary to accommodate at least 30 lower-cost overnight accommodations onsite.

DA Section 2.2(b)(2), Ocean Avenue Parcel Buildings, allows construction of the hotel building with 120 hotel rooms. Section 2.2.(b)(2) shall be revised to allow the construction of at least 30 additional lower-cost hotel rooms within the proposed development, resulting in up to 150 hotel rooms onsite.

DA Section 2.5.1(a), Permitted Uses, allows solely cultural facilities and accessory uses, like retail and restaurant facilities, in the cultural use campus. Hotel uses are allowed on the rooftop connection between the museum and hotel. DA Section 2.5.1(e) allows solely residential units, accessory residential uses, and commercial uses accessory to the hotel in the Second Street buildings. Section 2.5.1(a) and (e) shall be



revised to allow hotel uses in the Corner Building (i.e. the restaurant/retail development on the corner of Ocean Avenue and Second Street), the Second Street Buildings (i.e. the residential development), and/or the cultural use campus, if necessary to accommodate at least 30 lower-cost overnight accommodations onsite.

DA Section 2.8.3(b), Operating Parameters for the Cultural Uses Campus, requires a minimum 33,725 sq. ft. cultural uses campus with at least 18,550 sq. ft. of floor area available to the public. But Section 2.8.3(b) also states that the minimum floor area requirements “shall automatically be lowered to match the resulting Floor Area” approved by the Coastal Commission. Thus, Section 2.8.3(b) of the DA shall be revised if A) the total museum floor area must be decreased by more than 1,686 sq. ft. to accommodate at least 30 lower-cost rooms onsite, and/or B) the floor area available to the public must be decreased by more than 927.5 sq. ft. to accommodate at least 30 lower-cost rooms onsite.<sup>35</sup>

DA Section 2.8.3(g) requires the museum to show pieces from the Frank Gehry archive in one or more permanent exhibits at the museum for at least 15 years after issuance of the project’s Certificate of Occupancy. The applicants state that the required Frank Gehry exhibit will require a minimum gallery size of 8,500 sq. ft. with room for six to ten-foot tall architectural models (as currently proposed on the lowest subterranean level). But the applicants may reallocate uses in the museum or increase upper floor area sizes without reducing the lower gallery area. Thus, Section 2.8.3(g) of the DA would not require an amendment for any reallocation of uses or additions to the cultural uses campus.

DA Section 2.10(b), Building Height, specifies maximum heights for each building: 130 ft. for the hotel, 60 ft. for the museum, 58 ft. for the restaurant and retail building, and 106 ft. for the residential buildings. Section 2.10(b) shall be revised to allow the maximum structural height for each building to increase by the minimum height necessary to accommodate at least 30 lower-cost overnight accommodations onsite.

Exhibit B of the DA shows the project plans approved by the City with adoption of the DA on July 26, 2022. Exhibit B shall be updated with the final project plans approved by the Executive Director pursuant to Special Condition 2 of the subject CDP.

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<sup>35</sup> 33,725 sq. ft. minimum total floor area \* 0.05 = 1,686 sq. ft.  
18,550 sq. ft. minimum public floor area \* 0.05 = 927.5 sq. ft.