

CALIFORNIA COASTAL COMMISSION

South Coast District Office
 301 E Ocean Blvd., Suite 300
 Long Beach, CA 90802-4830
 (562) 590-5071



W21a

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STAFF REPORT: MATERIAL AMENDMENT

Application No.: 5-19-1064-A1

Applicant: US 216 Pico Owner LLC

Agent: Anne Blemker

Location: 216-234 Pico Boulevard, Santa Monica, Los Angeles County (APNs: 4289-019-023; 4289-019-022; 4289-019-021; 4289-019-019; 4289-019-018; 4289-019-017)

Description of Original Project Approved Pursuant to Permit No. 5-19-1064:
 Demolition of 24,014-sq. ft. bowling alley and 6,251-sq. ft. mixed-use building; and construction of two clusters of approximately 36-ft. high (above natural grade), three-story mixed-use buildings totaling approximately 97,456-sq. ft. with 105 residential rental units (eight of which will be affordable units) and 10,606 sq. ft. of ground floor commercial space. The project includes 229 vehicle parking spaces in a two-level subterranean parking garage and 185 bicycle parking spaces. The project also includes a total of approximately 7,751 sq. ft. of patio/balcony areas, and additional landscaping and hardscape improvements.

Description of Pending Permit Amendment No. 5-19-1064-A1: Increase the height and density of the new mixed-use buildings resulting in a 125,500 sq. ft. mixed-use project to include two building clusters, 186 total residential rental units (19 units are affordable) and 10,640 sq. ft. of retail in five-

story, 58 ft. high structures. The project includes 346 parking stalls in a three-level subterranean parking structure and 249 bicycle stalls.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The applicant requests an amendment to CDP 5-19-1064 to increase the height and density of the previously approved mixed-use project to allow for additional housing units. The changes include two additional above ground stories resulting in a height increase of 22 ft. (from 36 ft. to 58 ft.), an increase in residential density from 105 rental units to 186 and from 8 affordable units to 19, a slight 34 sf. increase in retail space, another subterranean parking level providing 117 additional vehicle parking spaces (from 229 to 346 with 20 additional EV spaces) and 64 bicycle stalls (from 185 to 249) ([Exhibit 2](#)). The proposed grading associated with amended project is approximately 62,000 cubic yards, which is less than the previously approved estimate of 75,000 cubic yards.

The proposed amendment requires updates to three of the nine special conditions approved as part of CDP 5-19-1064.

Special Condition 1 and **Special Condition 9** have incorporated clerical updates to specify that the conditions listed therein are applicable to CDP amendment 5-19-1064-A1.

Special Condition 2 of the original CDP mandated that the eight (8) affordable units onsite be maintained as affordable units for the life of the development. However, submission of the proposed amended application increased the number of affordable units from eight (8) to 19. Therefore, staff recommends the Commission amend **Special Condition 2** to require the applicant to maintain 19 affordable units onsite as affordable units for the life of the development.

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The City of Santa Monica only has a certified Land Use Plan and has not exercised the options provided in 30600(b) or 30600.5 to issue its own permits. Therefore, the Coastal Commission is the permit issuing entity, and the standard of review is Chapter 3 of the Coastal Act. Any relevant policies of the certified Land Use Plan may be used for guidance. Staff recommends the Commission find that, as conditioned, the amended project can be found consistent with the Chapter 3 policies of the Coastal Act, and, thus, staff recommends the Commission **APPROVE** coastal development permit amendment

5-19-1064-A1 (US 216 Pico Owner LLC)

application 5-19-1064-A1 as conditioned. The motion and resolution can be found on Page 5.

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EXHIBITS

- [Exhibit 1 – Vicinity Map and Project Site](#)
- [Exhibit 2 – Project Plans](#)
- [Exhibit 3 – Parking Demand Study by Linscott, Law & Greenspan, Engineers \(LLG\) dated December 13, 2022](#)
- [Exhibit 4 – CoSMoS Maps](#)

I. Motion and Resolution

Motion:

I move that the Commission approve Coastal Development Permit Amendment 5-19-1064-A1 pursuant to the staff recommendation.

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

Resolution:

The Commission hereby approves the Coastal Development Permit Amendment No. 5-19-1064-A1 on the grounds that the development, as amended and subject to conditions, will be in conformity with the Chapter Three policies of the Coastal Act. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the 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. CHANGES TO CONDITIONS

NOTE: Unless specifically altered by this amendment, all regular and special conditions attached to Coastal Development Permit 5-19-1064, and reflected in **Appendix B**, remain in effect. This permit amendment is granted subject to the following amended special conditions shown in underlined. Language to be removed is shown in ~~strikethrough~~.

1. **Deed Restriction** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, as amended by CDP 5-19-1064-A1, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has 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, as amended, 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 amended, 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, as amended. 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, as amended, 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.

2. **Affordable units.** By acceptance of this permit, as amended by 5-19-1064-A1, the permittee agrees that the ~~eight (8)~~ 19 affordable units onsite shall be maintained as affordable units for the life of the development. In addition, PRIOR TO COMMENCEMENT OF CONSTRUCTION, the applicant shall provide to the Executive Director evidence that the applicant has met local requirements to record a deed restriction for the creation of affordable rental units.
9. **Permit Compliance.** All development must occur in strict compliance with the proposal as set forth in the application, subject to any special conditions imposed herein. Any deviation from the approved plans, including, but not limited to, conversion of the apartments into for-sale condominiums, must be submitted for review by the Executive Director to determine whether an amendment to this Coastal Development Permit ~~No. 5-19-1064~~, as amended by CDP No. 5-19-1064-A1, is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations.

III. FINDINGS AND DECLARATIONS

A. Project Location and Description, Prior Permit History and Standard of Review

The project site (216-248 Pico Boulevard) is a 55,689-square-foot lot, and is currently developed with a multi-story 24,014-square-foot bowling alley and a multi-story 6,251-square-foot mixed-used building, which were both constructed prior to adoption of the Coastal Act ([Exhibit 1](#)). The subject site is located approximately 0.2-mile inland of the public beach in the City of Santa Monica and is designated 'Residential – Visitor Commercial' by the City of Santa Monica certified Land Use Plan.

On July 10, 2020, the Commission approved CDP No. 5-19-1064 (GRT Portfolio Properties Santa Monica, LLC) for the demolition of the bowling alley and mixed-use building and construction of approximately 36-ft. high (above natural grade), three-story mixed-use buildings totaling approximately 97,456-sq. ft. with 105 residential rental units (eight of which were to be affordable units) and 10,606 sq. ft. of ground floor commercial space. The approved project included 229 vehicle parking spaces in a two-level subterranean parking garage and 185 bicycle parking spaces. The project also included approximately 7,751 sq. ft. of patio/balcony areas, and additional landscaping and hardscape improvements. Approximately 75,000 cu. yds. of cut was proposed. Nine special conditions were imposed regarding: 1) deed restriction; 2) affordable units; 3) transportation demand management program; 4) parking restrictions; 5) water quality; 6) landscaping – drought-tolerant, non-invasive plants; 7) cultural resource treatment and monitoring plan; 8) construction staging; and 9) permit compliance. The CDP for this project has not yet been issued. Two coastal development permit time extensions

have been issued since the approval of the project, extending the permit expiration date to July 10, 2024.

Amendment Description

The applicant is requesting a CDP amendment to increase the height of the previously approved building clusters from 36 ft. to 58 ft., increase the residential density of the proposed buildings from a total of 105 residential units to 186 residential units and from 8 affordable units to 19, increase the retail space by 34 sf. (from 10,606 sf. to 10,640 sf.), and modify the previously approved grading from 75,000 cu. yds. of cut to approximately 62,000 cu. yds. of cut to accommodate 117 additional parking spaces including 20 additional EV spaces and 64 additional bicycle stalls¹ ([Exhibit 2](#)). See Table 1, below, for a summary of the changes. The grading, while reduced, would still be required to be monitored by a qualified archaeologist and any representative of the Native American Tribes with ancestral ties to the area that accept the invitation to monitor consistent with **Special Condition 7** of the underlying permit. This ensures that the project minimizes impacts to any archaeological and/or tribal cultural deposits that may exist onsite in accordance with Coastal Act section 30244.

Table 1: Summary of Changes proposed under CDP No. 5-19-1064-A1

	Original proposal	Amendment proposal	Change
Building height	36 ft.	58 ft.	+22 ft.
Number of units	105	186	+81
Affordable units	8	19	+11
Building sq. ft.	97,456 sq. ft.	125,500 sq. ft.	+28,044 sq. ft.
Grading	75,000 cu. yds. cut	62,000 cu. yds. cut	-13,000 cu. yd.
Vehicle parking spaces	229 including 15 EV	346 including 35 EV	+117 spaces +20 EV
Bicycle parking spaces	185	249	+64 spaces
Retail sq. ft.	10,606 sq. ft.	10,640 sq. ft.	+36 sq. ft.

The amended project is not proposing any further changes to landscaping. In any case, **Special Condition 6** of 5-19-1064 would still be in effect pursuant to this amendment, which authorizes only the installation of non-invasive, drought-tolerant vegetation (low water use plants only) and water-conservative irrigation systems. Additionally, the

¹ According to the agent, the originally proposed amount of cut was overestimated, likely to allow for more flexibility during construction. The agent has confirmed that the proposed (approximately) 62,000 cu. yds. of cut is the correct amount of grading for 3 subterranean parking levels.

project site is located in close proximity to the coast and runoff from construction can impact the beach and ocean. No new water quality impacts are anticipated from the proposed changes to the project and **Special Condition 5** of 5-19-1064, which imposes construction-related requirements and best management practices in order to minimize adverse construction-related impacts upon marine resources and for erosion control, still applies. These conditions ensure the project, as amended, remains consistent with Coastal Act sections 30230, 30231, and 30232.

Standard of Review

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The City of Santa Monica's LUP was effectively certified on November 17, 1992, upon the Executive Director's report 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 determined to be legally adequate. The City does not yet have a certified Implementation Plan and, thus, no 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. Development

Section 30250 of the Coastal Act states:

(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. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels. (b) Where feasible, new hazardous industrial development shall be located away from existing developed areas. (c) Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

Section 30251 of the Coastal Act states, in pertinent part:

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

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

New development shall...

(d) Minimize energy consumption and vehicle miles traveled.

Policy 4 of the certified LUP states:

The City of Santa Monica LUP shall encourage the preservation of low and moderate income housing within the Coastal Zone consistent with the Coastal Act policies, contained herein.

As described above, the applicant is proposing to increase the height of the structures by 22 ft. (two stories) in order to accommodate an additional 81 residential units. This would result in two 58 ft. high, five-story building clusters (one comprised of two buildings and the other comprised of four buildings) totaling 125,500 sq. ft. with 186 units. Of the proposed additional units, 19 would be affordable units, and 167 would be market-rate units. 19 deed restricted affordable units, or 15% of the 124 base density units and 10% of the total number of units, are being provided at very-low-income affordability levels (compared to the originally proposed five percent provided at very very low income). Of the proposed affordable units, six units would be studio units, 12 units would be one-bedroom units, and one unit would be a two-bedroom unit.

The City's LUP designates the site as Residential – Visitor Commercial and within Subarea 8 (Ocean Park Subarea - Commercial Streets). As noted in the LUP, commercial development in the Ocean Park subarea is primarily concentrated along the south side of Pico Boulevard. The certified Santa Monica LUP limits the number of stories to three stories and the maximum height to 45 feet for development that is 50 percent (or more) residential on the project site. As part of the proposed amendment, the applicant submitted revised plans that increase the height of the approved project from a three-story development with a maximum height of 36 feet to a five-story development with a maximum height of 58 feet. Although the increase in height is inconsistent with the certified LUP, State Density Bonus law (Government Code section 65915) allows the project to qualify for an increase in FAR, a density bonus, and height increase, which was approved by the City via its Administrative Approval process.

According to the City's staff report, the proposed project incorporates a proportion of affordable housing units that makes the project eligible for incentives under state Density Bonus Law. The applicant is proposing 19 very low-income affordable units across all unit types in the project (i.e., 15% of the total number of base residential units), which qualifies the project a 50% increase (calculated from the base number of 124 units) of units within the project. Based on the percentage of affordable units provided, the City found that per state Density Bonus Law the project is eligible for three concessions, and the City approved an increase in FAR from 1.5, the maximum allowed under the certified LUP, to 2.25. This increase would accommodate the additional number of market rate units in addition to the 19 affordable units and their bedroom

counts, which translates to an overall floor area of 125,500 sq. ft. In order to implement the requested concession of an increase in FAR, the City Planning Division granted two waivers: (1) an increase in building height by 22 ft. to allow for 58 ft. high buildings and (2) an increase in the number of stories by two to allow for five stories. **Special Condition 2** of CDP 5-19-1064 requires that eight (8) affordable units onsite shall be maintained as affordable units for the life of the development. Pursuant to the subject amendment, the Commission is updating **Special Condition 2** to reflect the revised number of affordable units.

Section 30251 of the Coastal Act requires that the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. The proposed development will be located approximately 0.20-mile inland of the beach and inland of numerous multi-story buildings ranging in height from approximately two stories to 5 stories. and is not within a public view corridor. Consequently, the proposed height increase is not anticipated to adversely affect existing ocean views from public areas and is compatible with the character of the surrounding area. Therefore, the Commission finds the proposed development is consistent with Section 30251 of the Coastal Act.

As amended, the five-story, 58-ft. tall structures would not be out of character with the surrounding area. The project will be located directly across from the Santa Monica Civic Auditorium. The proposed development will be bound by Pico Boulevard and the City of Santa Monica Civic Auditorium to the northwest; an alleyway, parking lot, liquor store and multi-story commercial buildings to the southwest (seaward of the project site); an alleyway and residential properties to the southeast; and Third Street and a pet supply store to the northeast. The Viceroy Hotel, located 0.2 miles from the proposed project site, is an eight-story structure. Additionally, two five-story mixed-use projects² approved by the Commission in 2020 are located within 0.2 miles of the proposed project site (one of which consists of 83 residential units including 16 affordable units for very-low-income households). While the proposed amendment would be consistent in character with these other neighboring developments, to reduce the perceived building mass, the amended project design includes a series of distinct building masses, articulation, and open-space elements, such as open balcony guardrails. Although the amended project would increase the height of the previously approved structure by 22 ft., there would be no adverse impacts to public coastal views from this addition as no such views to or along the coast exist within the project vicinity. As explained above, the increased height is necessary to provide additional units and, more importantly, additional affordable units, furthering the goal of the Commission to encourage the provision of new affordable housing as set forth in Coastal Act section 30604(g). Thus, the proposed development is compatible with the existing character and scale of the

² See 5-19-0983 ([NXT2 Shutters, LLC](#)) and 5-19-0984 ([NXT2 Beach, LLC](#))

surrounding area and is not anticipated to have an adverse cumulative effect on surrounding development.

Additionally, the subject site is within an existing urban developed area and is adjacent to countless public transit options. The location of the proposed affordable housing project near transit and job centers helps reduce dependence on single occupancy vehicles and is consistent with the Section 30253 requirements to minimize energy consumption and vehicle miles traveled and Section 30250 to situate development in existing developed areas where it can be accommodated.

Therefore, as proposed and conditioned, the development will not adversely impact public coastal views to or along the coast, is visually compatible with the size, height and character of the surrounding area, and concentrates development in an area that can accommodate such development.

Furthermore, Section 30253 of the Coastal Act requires that new development minimize risks to life and property in hazardous areas, including areas subject to flooding ([Exhibit 4](#)). The proposed amended project raises potential hazards concerns associated with the proposed additional subterranean level. The applicant's coastal hazards consultant, Geotechnologies Inc., provided a report dated December 14, 2020 that was revised December 15, 2022, addressing the project's safety. The report addresses the proposed subterranean levels in relation to existing groundwater levels. The finished floor elevation of the lowest garage level will extend to 23.5 ft. below the site grade. The report indicates a historic, highest groundwater elevation of approximately 30-ft. below grade and a current, highest groundwater elevation of approximately 47.5-ft. below grade. As such, 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 during its anticipated design life 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. The engineering report indicates that, if all building recommendations are followed, the development will be structurally sound for the life of the development.

Thus, the Commission finds the proposed amendment consistent with Sections 30250, 30251 and 30253 of the Coastal Act.

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 30214 of the Coastal Act states, in relevant part:

- (a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:
- (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.
- (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

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 nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Policy 20 of the certified LUP states, in relevant part:

New development shall provide adequate parking to meet all demands created by the development. With the exception of development with 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...

The proposed amendment would increase the number of residential rental units from 105 to 186, an increase of 81 units. The amendment would also increase the number of automobile parking spaces by 117, from 229 spaces to 346 spaces, 298 of which would be provided for resident use.³ Spaces that are not occupied by the residents can and should be able to serve the commercial uses onsite. The applicant has provided a parking study by Linscott, Law & Greenspan, Engineers (LLG) that evaluates the anticipated parking demand for the proposed development and whether the parking ratios used by the Commission in past actions are appropriate for this project. The study found that the parking is sufficient for the proposed project and will not impact public

³ The City requires the residential units be offered “unbundled” from the parking spaces, once the building is occupied it is possible that not all 298 spaces will be used by the residents.

parking surrounding the project site or interfere with public access to the coast ([Exhibit 3](#)).

While the proposed number of parking spaces is less than what the Commission has required in past actions in Santa Monica and given that Santa Monica is a popular coastal destination, the applicant has provided a Transportation Demand Management Plan (TDMP), which includes providing an onsite Project Transportation Coordinator to manage onsite transportation information (routes, maps, schedules, rideshare opportunities, bike facilities, etc.), an employee parking cash-out program, an employee commuter matching services, transportation allowances of all residents and employees, and a customer incentive program for alternative modes of travel for the commercial uses. The TDMP includes an annual monitoring plan, which would be submitted to the City. and added additional bicycle parking (discussed below). **Special Condition 3** of 5-19-1064, which would still be in effect pursuant to this amendment, ensures the TDMP measures are implemented. Additionally, given evidence that affordable units typically do not generate the same demand for parking resources as market-rate apartments⁴, **Special Condition 2** of 5-19-1064, which would still be in effect pursuant to this amendment, requires that the proposed 19 affordable units onsite are maintained as affordable units for the life of the development. These conditions ensure protection of public access so that residents and/or patrons of the proposed development do not use on-street parking that would otherwise be available to members of the general public to access the beaches in Santa Monica.

In addition to the proposed on-site parking facilities, the proposed amendment would increase the number of bicycle spaces from 185 to 249 spaces (an increase of 64 bicycle spaces) onsite (long-term and short-term), eight of which are proposed for the commercial uses in order to ease the parking demand. Furthermore, alternative public transportation options are readily available within the project vicinity. The project site is located 0.4 miles (or a little less than a 10-minute walk) to the Downtown Santa Monica station on the Metro Expo light rail line, which facilitates transportation to job centers in Culver City and Downtown Los Angeles without the need for a car. The project site is also located approximately 320 feet away from the Pico Boulevard / 4th Street Big Blue Bus transit stop and approximately 180 feet away from the Main Street / Pico Boulevard Big Blue Bus transit stop. These stops house six local bus routes that run north, south, and east from the project site to job centers in Downtown Santa Monica, the Venice subarea and the City of Los Angeles Downtown Union Station. The nearest major transit stop is located on Colorado, between 4th and 5th Street, an approximately 0.5 mile walk from the project site. Residents could also easily bike or take ride-sharing services (i.e. Uber, Lyft) to the Third Street Promenade, which is only half a mile (or a 10-minute walk) away from the project site. Overall, the project is sited in an area where alternate forms of transportation are readily available for residents to access Downtown Santa Monica and other destinations in the greater Los Angeles Area. Thus, with the

⁴ Parking Zoning Ordinance Update prepared for the City of Santa Monica by Nelson Nygaard, dated January 2013

on-site parking, bicycle parking, the TDMP and multiple public transit options, the proposed project as amended and conditioned can be found consistent with the public access policies of the Coastal Act.

The Commission imposes **Special Condition 9** to ensure permit compliance. In addition, to ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, **Special Condition 1** requires the applicant to record a deed restriction acknowledging and imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use of the property. In light of the proposed changes to the previously approved project, both **Special Condition 1** and **Special Condition 9** have been modified to specify that the conditions listed therein are applicable to CDP amendment 5-19-1064-A1.

Therefore, as proposed and conditioned, the project, as amended, is consistent with Sections 30210, 30211, and 30252 of the Coastal Act.

D. Deed Restriction

Special Condition 1 and **Special Condition 9** have incorporated clerical updates to specify that the conditions listed therein are applicable to CDP, as amended by 5-19-1064-A1. Thus, as conditioned, any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land to which the site is subject, and the Commission's immunity from liability.

E. Local Coastal Program (LCP)

Coastal Act Section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit 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 land use plan portion of the City of Santa Monica's Local Coastal Program, except for the areas of deferred certification. 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 the determination that the City's action accepting the modifications was legally adequate. As discussed above, the proposed development, as conditioned, is consistent with Chapter 3 of the Coastal Act. Therefore, the Commission finds that approval of this amended project, as conditioned, will not prejudice the ability of the City of Santa Monica from preparing a total Local Coastal Program for the areas of deferred certification that conforms with and is adequate to carry out the Chapter 3 policies of the Coastal Act.

F. California Environmental Quality Act (CEQA)

Section 13096(a) of the Commission's regulations requires Commission approval of CDP applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). The findings above are incorporated herein by reference.

Under Section 15251(c) of Title 14 of the California Code of Regulations, the Commission's CDP regulatory process has been certified as the functional equivalent to the CEQA process. As a certified regulatory program, Section 21080.5(d)(2)(A) of CEQA still applies to the Commission's CDP regulatory process and 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. The City of Santa Monica is the lead agency for purposes of CEQA. As determined by the City on April 27, 2023, this project, as amended, is categorically exempt from CEQA as a Class 15268 (ministerial project) exemption.

The preceding coastal development permit findings in this staff report have discussed the relevant coastal resource issues with the proposal, and the permit conditions identify appropriate mitigations to avoid and/or lessen any potential for adverse impacts to said resources. The Commission incorporates these findings as if set forth here in full. As a responsible agency under CEQA, the Commission has determined that the proposed project, as conditioned, is consistent with the policies of the Coastal Act. Therefore, the Commission finds that, as conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect of the proposed project, there are no remaining significant environmental impacts within the meaning of CEQA, and the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

CDP Application File No. 5-19-1064-A1 and associated file documents

APPENDIX B – STANDARD AND SPECIAL CONDITIONS PURSUANT TO CDP NO. 5-19-1064 THROUGH CDP AMENDMENT NO. 5-19-1064-A1

Note: This Appendix B provides a list of all standard and special conditions imposed pursuant to Coastal Development Permit 5-19-1064, as approved by the Commission in its original action and modified and/or supplemented by CDP Amendment No. 5-19-1064-A1. Thus, this Appendix B provides an aggregate list of all currently applicable adopted special conditions.

STANDARD CONDITIONS:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the applicant or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the applicant to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

1. **Deed Restriction** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, as amended by CDP 5-19-1064-A1, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit amendment a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, as amended, 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 amended, 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, as amended. 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, as amended, 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.

2. **Affordable units.** By acceptance of this permit, as amended by 5-19-1064-A1, the permittee agrees that the ~~eight (8)~~ 19 affordable units onsite shall be maintained as affordable units for the life of the development. In addition, PRIOR TO COMMENCEMENT OF CONSTRUCTION, the applicant shall provide to the Executive Director evidence that the applicant has met local requirements to record a deed restriction for the creation of affordable rental units.

3. **Transportation Demand Management Program.**
 - A. The proposed project shall implement a Transportation Demand Management Program. By acceptance of this permit, the permittee agrees to maintain the program at all times which includes, but is not limited to, the following:
 - (1) The applicant and its successors and assigns shall actively encourage employee and residents and customers participation in a Transportation Ride Sharing program.
 - (2) A public transit fare reimbursement program shall be implemented by the applicant or its successors and assigns. All commercial tenants shall offer full reimbursement to one hundred percent of the employees of the development for public transit fare to and from work to all employees of the development, provided that the employee purchases a monthly regional public transit pass of the employee's choice (e.g. Big Blue Bus 30-day Pass, Metro EX Pass, Metro TAP or equivalent). An employee accepting the transportation allowance for alternative transportation to work (including bike riding) shall be required to sign a statement agreeing said employee will not utilize a single occupancy vehicle for the majority (at least 51%) of their daily commute distance more often than: (a) five working days per month or (b) 25% of their days of work per month, whichever is less. The employee's statement shall also specify the employee's alternative commute mode (e.g. transit, bike,

- walk). The employee must demonstrate compliance as reasonably required by the employer. 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.
- (3) All commercial tenants shall provide a customer incentive program for alternative modes of travel.
 - (4) The applicant and its successors and assigns shall provide secure bicycle parking, free of charge, on the property for the public, including residents, employees and visitors. Shower facilities shall also be provided for employees of the commercial uses.
 - (5) The applicant and its successors and assigns shall implement a publicity program, the contents of which is subject to the review and approval of the Executive Director, that indicates how the future occupants of the development will be made aware of the provisions of this special condition. The publicity program shall be implemented during the first month of occupancy of the new development and shall be distributed to residents and employees annually thereafter for the life of the development.
 - (6) Consistent with the City's requirement for unbundled parking, residents of the affordable units who do not own a car will be eligible for a rent discount.
- B. Any proposed changes to the measures shall be submitted to the Executive Director to determine if an amendment to the permit is legally required.
- 4. Parking Restrictions.** With the acceptance of this permit, the applicant and all future assigns acknowledge that any change in the parking proposed under this permit, including, but not limited to, the provision of the leasing or selling of parking spaces to third parties, or reserving parking spaces for other uses not approved under this permit, or change in the number of shared parking spaces between residential and commercial uses, shall be submitted to the Executive Director to determine if an amendment to the permit is legally required. In addition, **the following requirements shall apply:**
- i. A total of 229 spaces will be maintained onsite at all times.
 - ii. The applicant shall maintain a minimum of 15 EV charging stations for the life of the development.

5. Water Quality.

- A. Construction Responsibilities and Debris Removal
- 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 each day that demolition or construction occurs 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 shall be 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

- (1) During construction of the proposed project, no runoff, site drainage or dewatering shall be directed from the site to the beach or street that drains toward the beach, unless specifically authorized by the California Regional Water Quality Control Board. An annual monitoring report is required for any dewatering that occurs during construction, which shall report the volume and discharge rates. The annual monitoring reports shall be submitted for review and written approval of the Executive Director. For any dewatering that occurs post-construction, the permittee shall seek an amendment to this coastal development permit from the Coastal Commission.

- (2) All equipment and materials shall be stored and managed in a manner to minimize the potential of pollutants to coastal waters;
- (3) All runoff leaving the site shall be directed away from the beach and into the City storm drain system;
- (4) No water from any pool or spa shall be discharged toward the beach or street that drains to coastal waters.
- (5) In-lieu fees paid by the applicant to offset any water quality impacts as a result of the project in the Kenter Canyon and Pico-Caltrans sub-watersheds shall be used to fund project to improve water quality specifically in these sub-watersheds, to the extent feasible.

6. Landscaping – Drought Tolerant, Non-Invasive Plants. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, in a form and content acceptable to the Executive Director, two (2) full size sets of final revised landscaping plans, which shall include and be consistent with the following:

- A. Vegetated landscaped areas shall only consist of native plants and/or non-native drought-tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf> and <http://ucanr.edu/sites/WUCOLS/files/183488.pdf>).
- B. Use of reclaimed water for irrigation is encouraged. If using potable water for irrigation, only drip or microspray irrigation systems may be used. Other water conservation measures shall be considered, such as weather based irrigation controllers.

7. Cultural Resource Treatment and Monitoring Plan. By acceptance of this permit the applicant agrees to comply with the following:

- A. Incorporate the following into the archeological monitoring plan:
 - (i) Archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards, and a minimum of 1 Native American monitor from each tribal entity with documented ancestral ties to the area appointed consistent with the standards of the Native American Heritage Commission (NAHC), and the Native American most likely descendent (MLD) when State Law mandates identification of a MLD, shall monitor all project grading, excavation work, site preparation or landscaping activities associated with the approved development. Native American monitors shall be selected from tribal groups with documented ancestral ties to the area, and preferably from groups that participated in the tribal consultation process. Prior to the commencement and/or re-commencement of any monitoring, the permittee shall notify each archeological and Native

American monitor of the requirements and procedures, and shall provide a copy of this special condition, any archaeological monitoring or research plans, past archeological reports, and any other plans required pursuant to this condition and which have been approved by the Executive Director, to each monitor;

- (ii) The permittee shall provide sufficient archeological and Native American monitors to assure that all project grading and any other subsurface activity that has any potential to uncover or otherwise disturb cultural deposits is monitored at all times;
 - (iii) The Native American Monitor(s) shall be required until native soils have been reached.
- B. If an area of tribal cultural deposits is discovered during the course of the project:
- (i) All construction and subsurface activities that have the potential to uncover or otherwise disturb tribal cultural deposits in the area of the discovery shall cease within 50 feet of the deposit immediately;
 - (ii) the permittee shall report all discovered resources as soon as possible, by phone for by email to the Executive Director;
 - (iii) The professional archeological monitor onsite must contact all affected groups of the Native American Tribe and notify them of the discovery in order to determine the results of (iv) and (v) below;
 - (iv) Significance testing may be carried out only if acceptable to the affected Native American Tribe, in accordance with the attached "Cultural Resources Significance Testing Plan Procedures" (**Appendix B**) and in consultation with the Tribe. The Executive Director shall, in writing, determine the adequacy of the Significance Testing Plan and if it can be implemented without further Commission action, provide written authorization to proceed. The Significance Testing Plan results, if applicable, along with the project archaeologist's recommendation as to whether the discovery should be considered significant, and the comments of the Native American monitors and MLD when State Law mandates the identification of a MLD, shall be submitted to the Executive Director for a determination. If the Executive Director determines that the discovery is significant, development shall not recommence and the permittee shall submit to the Executive Director a Supplementary Archaeological Plan consistent with Appendix B.
 - (v) The treatment method or mitigation measure for the discovery shall be prepared in consultation with the Native American monitor(s), and the MLD when State Law mandates the identification of a MLD. The permittee shall inform the Executive Director of the treatment method in writing. In-situ preservation is the preferred treatment and can be achieved through such methods such as, but not limited to, project redesign, capping, and deeding the cultural resource areas in open space. The range of treatment and mitigation measures considered shall not be constrained by the approved development plan.
- C. If the Executive Director determines that the discovery is significant or that the treatment method preferred by the affected Native American tribe is in conflict

with the approved development plan, the permittee shall seek an amendment from the Commission to determine how to respond to the discovery and to protect both those and any further cultural deposits that are encountered. Development within at least 50 feet of the discovery shall not recommence until an amendment is approved, and then only in compliance with the provisions of such amendment.

- 8. Construction Staging Plan.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and approval of the Executive Director a construction staging plan that is designed to avoid or minimize impacts to public coastal access.
- 9. Permit Compliance.** All development must occur in strict compliance with the proposal as set forth in the application, subject to any special conditions imposed herein. Any deviation from the approved plans, including, but not limited to, conversion of the apartments into for-sale condominiums, must be submitted for review by the Executive Director to determine whether an amendment to this Coastal Development Permit as amended by CDP No. 5-19-1064-A1 is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations.